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Articles

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Whaley Creek Homeowners' Association, Inc.
(CORPORATE NAME AND DOCUMENT #)

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SPECIAL INSTRUCTIONS:

ARTICLES OF INCORPORATION OF
WHALEY CREEK HOMEOWNERS' ASSOCIATION, INC.

In compliance with the requirements of Florida Statutes, Chapter 617, the undersigned, a resident of the State of Florida, and of full age, this day executed these Articles of Incorporation ("Articles") for the purpose of forming a corporation not-for-profit, and does hereby certify:

NAME OF CORPORATION

The name of the corporation is WHALEY CREEK HOMEOWNERS' ASSOCIATION, INC., a Florida not-for-profit corporation (hereafter called the "Association").

PRINCIPAL OFFICE OF THE ASSOCIATION

The principal office of the Association is located at 1750 W. Broadway, Suite 111, Oviedo, Florida 32765.

REGISTERED OFFICE AND REGISTERED AGENT

The street address of the initial registered office of the Association is 1750 W. Broadway, Suite 111, Oviedo, Florida 32765 and John Kraynick is hereby appointed the initial registered agent of this Association at that address. The registered agent shall maintain copies of all permits, including, but not limited to, the District, for the benefit of the Association.

DEFINITIONS

All terms used in these Articles of Incorporation shall have the same meaning as defined in the Declaration of Covenants, Conditions, Easements and Restrictions for Whaley Creek, as the same may be amended and supplemented from time to time ("Declaration"), unless these Articles of Incorporation specifically provide otherwise, or unless the context dictates a contrary meaning.

PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, operation, preservation, and architectural control of the Common Property, Recreation Amenities, private roads and sidewalks (if any) within the Property and all street lights and landscaping on and around such private roads, and to promote the health, safety and welfare of the residents of the Property for the following purposes:

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Exercise all of the powers and privileges and to perform all of the rights, duties and obligations of the Association as set forth in the Declaration applicable to the Property and recorded in the Public Records of Osceola County, Florida, as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

Fix, levy, collect and enforce payment by any lawful means all charges or assessments against members of the Association pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including, but not limited to the costs for maintenance and operation of the Surface Water Management System, costs for all licenses, taxes and governmental charges levied or imposed against the Property of the Association, if any;

Acquire (by gift, purchase or otherwise), own, hold improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property of the Association, if any, in connection with the affairs of the Association;

Borrow money, and with the approval of at least two-thirds (2/3) of the Board and the consent of Declarant (to the extent Declarant still owns any portion of the Property), the power and authority to mortgage the property of the Association, if any, and to pledge the revenues of the Association as security for loans made to the Association which loans shall be used by the Association in performing its functions;

Pledge Association revenues as security for the performance of any obligation to any governmental agency or authority;

Dedicate, sell or transfer all or any part of the Common Property, if any, to any governmental unit, public utility, or private party approved by at least two-thirds (2/3) of the Board and (to the extent Declarant still owns any portion of the Property) Declarant;

Operate and maintain the Common Property in accordance with the Declaration;

Have and exercise any and all powers, rights and privileges which a corporation organized under the Florida Not For Profit Corporation Act by law may now or hereafter have or exercise:

Have and exercise any and all powers, rights and privileges set forth under the Declaration and the Bylaws; and

Operate, maintain and manage the Surface Water Management System in a manner consistent with the District Permit, its requirements and applicable District rules, and shall assist in the enforcement of this Declaration which relate to the Surface Water Management System;

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MEMBERSHIP

Every Owner of a Lot other than the Association shall be a Member of the Association. Membership shall be appurtenant to, run with, and may not be separated from ownership of a Lot.

VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A: Class A Members shall be all Owners, with the exception of Declarant and Builders, and shall be entitled to one vote for each Lot owned. When any Lot entitling the Owner to membership in the Association is owned of record in the name of two or more persons or entities, whether fiduciaries, joint tenants, tenants in common, tenants by the entirety or any other manner of joint or common ownership, or if two or more persons or entities have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Association, such Owner shall select one official representative to qualify for voting in the Association and shall notify in writing the Secretary of the Association of the name of such individual. The vote of that individual shall be considered to represent the will of all the Owners of that Lot. In the circumstance of such common ownership, if the Owners fail to designate their voting representative, then the Association may accept the person asserting the right to vote as the voting Owner until notified to the contrary by the other Owners of such Lot. Upon such notification, the Owner may not vote until the Owner(s) appoint their representative pursuant to this paragraph.

Class B: The Class B Member(s) shall be Declarant and all Builders, who shall be entitled to five (5) votes for each Lot owned. The Class B membership shall cease and be converted to Class A membership once Turnover has occurred in accordance with Article 9 of the Declaration.

BOARD OF DIRECTORS

Number. Until Turnover, the affairs of this Association shall be managed by a Board of not less than three (3) Directors, who need not be Members of the Association and who shall be appointed by the Declarant. After Turnover and for so long as Declarant holds any portion of the Property for sale in the ordinary course of business, the Declarant shall be entitled (but not obligated) to appoint at least one member of the Board, unless otherwise required by law. At such time as Declarant no longer owns any Lots within the Property, the number of Directors may be increased or decreased by amendment to these Articles, provided there shall never be less than three (3) Directors. All affairs of the Association shall be governed by the affirmative vote of a majority of the Directors in attendance at a duly called meeting unless otherwise specifically provided for in the Declaration.

Term. Directors shall be appointed to serve for three (3) year terms, unless a Director sooner dies, resigns or is removed. There shall be no limit to the number of terms any one Member may serve as a director.

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Initial Directors. The names and addresses of the person who are appointed by Declarant to act in the capacity of directors are:

John Kraynick	1750 W. Broadway, Suite 111, Oviedo, Florida 32765
Richard A. Jerman	1750 W. Broadway, Suite 111, Oviedo, Florida 32765
Barbara Corkery	1750 W. Broadway, Suite 111, Oviedo, Florida 32765

DISSOLUTION

The Association may only be dissolved upon termination of the Declaration as set forth therein. Upon such dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association, if any, including, but not limited to the Common Property, if any, shall be transferred to another not-for-profit corporation or appropriate public agency having similar purposes (the "Non SWMS Property") and the Surface Water Management System of the Neighborhood (the "SWMS Property") shall be transferred to and accepted by an entity which would comply with Section 40C-42.027, F.A.C., and be approved by the District prior to such termination, dissolution or liquidation. If the local government agency declines to accept such SWMS Property, then the SWMS Property shall be dedicated to a similar non-profit corporation. If no other not-for-profit corporation or agency will accept such Non SWMS Property or SWMS Property, then any Member or affected governmental instrumentality or agency, including the District, may petition the Circuit Court of the County in which the Property is located to appoint a receiver or trustee to conduct the affairs and fulfill the obligations of the Association with respect to such applicable portions of the Common Property, or otherwise dispose of the Common Property or portions thereof as the Circuit Court may deem appropriate. If a receiver or trustee is appointed, the Association shall be responsible for court costs, attorney's fees, and all other expenses of the receivership or trust shall constitute Common Expenses of the Association and shall be assessed against its Members. If the Association has been dissolved, or if the Association shall not have a sufficient number of directors, the receiver or trustee shall have all powers and duties of a duly constituted board of directors. The receiver or trustee shall serve until such time as the Circuit Court may deem appropriate.

DURATION

Existence of the Association shall commence with the filing of these Articles of Incorporation with the Secretary of State, Tallahassee, Florida. The Association shall exist in perpetuity.

INCORPORATOR

The name and address of the incorporator is as follows:

John Kraynick	1750 W. Broadway, Suite 111, Oviedo, Florida 32765
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SECRETARY
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AMENDMENTS

Prior to Turnover, amendment of these Articles of Incorporation shall require the assent of two-thirds (2/3) of the Board of Directors. Following Turnover, these Articles of Incorporation shall be amended at a regular or special meeting of the Members, by a vote of a majority of a quorum of Members present in person or by proxy.

FHA/VA APPROVAL

Notwithstanding anything herein to the contrary, as long as Residential Units are being developed on the Property, Declarant may (but shall not be required to) require the following actions to be approved in advance by the Department of Housing and Urban Development and the Federal Housing Administration (and/or the Veterans Administration): (i) annexation of additional real property to the Property other than the Additional Property defined herein, (ii) dedication of Common Area, and (iii) amendment of this Declaration. Furthermore, to the extent it is required as a condition of obtaining approval by the Department of Housing and Urban Development, FHA and/or the VA that Declarant make modifications to this Declaration, then Declarant shall have the right to so modify this Declaration without the necessity of joinder or approval of the Association or any Owner or other party who may be affected.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, the undersigned, constituting the incorporator of this Association, has executed these Articles of Incorporation this 31st day of December 2015. ...



JOHN KRAYNICK

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ACCEPTANCE BY REGISTERED AGENT

The undersigned, having been designated as agent for service of process on the Whaley Creek Homeowners' Association, Inc. within the State of Florida, at the place designated in ARTICLE 3 of the foregoing Articles of Incorporation, accepts the appointment as registered agent for Whaley Creek Homeowners' Association, Inc. and is familiar with and accepts the obligations of this position.

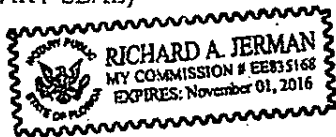

JOHN KRAYNICK

STATE OF FLORIDA

COUNTY OF Seville

The foregoing instrument was acknowledged before me this 24 day of January, 2016, by JOHN KRAYNICK. He ☒ is personally known to me or ☐ has produced _____ as identification.

(NOTARY SEAL)




Notary Public Signature

Richard A. Jerman
(Name typed, printed or stamped)

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CLERK OF DISTRICT COURT
JANUARY 1, 2016