

**ARTICLES OF INCORPORATION  
OF  
THE COMMONS AT VALLEY LAKES HOMEOWNERS' ASSOCIATION, INC.**

The undersigned incorporator desiring to form a corporation (hereinafter referred to as "Corporation") pursuant to the provision of the Indiana Nonprofit Corporation Act of 1991 (hereinafter referred to as the "Act"), executes the following Articles of Incorporation.

**ARTICLE I**

The name of the Corporation is THE COMMONS AT VALLEY LAKES HOMEOWNERS' ASSOCIATION, INC

**ARTICLE II**

The principal office of the Corporation is located at 8355 Rockville Road, Indianapolis, Indiana 46234

**ARTICLE III**

The Corporation is a Mutual Benefit corporation.

**ARTICLE IV**

Timmy J. Shrout, whose address is 8355 Rockville Road, Indianapolis, Indiana 46234, is hereby appointed the initial registered agent of this Corporation.

**ARTICLE V  
PURPOSE AND POWERS OF THE CORPORATION**

This Corporation 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, preservation and architectural control of the residence Lots and Dwelling Units, Common Areas and Easement Areas within that certain tracts of property described as:

See Exhibit "A" attached.

hereinafter called the "Development" and to promote the health, safety and welfare of the residents within the above described property and any additions thereto as may hereafter be brought within the jurisdiction of this Corporation for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the CORPORATION AS SET FORTH IN THAT CERTAIN Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration," applicable to the property and recorded or to be recorded in the Office of Recorder of Tippecanoe County, Indiana and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length,

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments 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 Corporation, including all licenses, taxes or governmental charges levied or imposed against the property of the Corporation;

(c) 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 in connection with the affairs of the Corporation;

(d) borrow money, and with the assent of sixty-seven percent (67%) of each class of members mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the

members. No such dedication or transfer shall be effective unless an instrument has been signed by sixty-seven percent (67%) of each class of members, agreeing to such dedication, sale or transfer.

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have the assent of sixty-seven percent (67%) of each class of members;

(g) have and to exercise any and all powers, rights and privileges which a corporation organized under the Nonprofit Corporation Act of 1991 of the State of Indiana (as amended) by law may now or hereafter have or exercise

#### **ARTICLE VI MEMBERSHIP**

Every person or entity who is record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Corporation, including contract sellers, shall be a member of the Corporation ("Owner"). The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Corporation.

#### **ARTICLE VII VOTING RIGHTS**

The Corporation shall have two (2) classes of voting membership:

1. Class A: Class A members shall be all Owners with the exception of Cedar Run Limited, Inc., the "Declarant," and shall be entitled to one vote for each Lot owned.  
When more than one person holds an interest in any Lot, all such persons shall be

members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

2 Class B: The Class B member(s) shall be the Declarant, who shall be entitled to three (3) votes for each Lot owned, and the members of the first Board of Directors during their respective terms, who shall have no voting rights. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following events, whichever occurs earlier:

- a. When the total votes outstanding in the Class A membership equal seventy-five percent (75%) of the total votes of Class A and Class B members; or
- b. On June 1, 2012.

#### ARTICLE VIII BOARD OF DIRECTORS

The affairs of this Corporation shall be managed by an initial Board of two (2) Directors, who need not be members of the Corporation. The control and management of the affairs of the Corporation shall be vested in a Board of not less than two (2) nor more than eight (8) Directors. The exact number of Directors within the above limits, shall be prescribed from time to time in the By-Laws of the Corporation. The names and addresses of the persons who are to act in the capacity of the initial board of directors until the selection of their successors are:

<u>Name</u>	<u>Address</u>
Timmy J. Shrout	8355 Rockville Road, Indianapolis, IN 46234
Randy W Prock	8355 Rockville Road, Indianapolis, IN 46234

Any vacancy occurring on the Board of Directors caused by a death, resignation or otherwise, shall be filled until the next annual meeting through a vote of a majority of the remaining members of the Board.

The Corporation shall make no advancement for services to be performed in the future nor shall it make any loan of money or property to any Director or Officer of the Corporation.

Members of the Board of Directors may only be removed for cause, as defined by the By-Laws of the Corporation, by a vote of majority of the members entitled to vote at an election of Directors at a meeting of the members called expressly for the purpose.

The Board of Directors may designate a person to exercise some or all of the powers that would otherwise be exercised by the Board of Directors.

#### **ARTICLE IX INCORPORATOR**

Name and Post Office address of the Incorporator of the Corporation is: Timmy J. Shrout, P. O. Box 34297, Indianapolis, IN 46234.

#### **ARTICLE X**

The Corporation shall be deeded the Common Area which is defined in the Declaration. The value of the Common Area is of a nominal amount.

#### **ARTICLE XI DISSOLUTION**

The Corporation may be dissolved with the assent given in writing and signed by not less than sixty-seven percent (67%) of the members. Upon dissolution of the Corporation, other than incident to a merger or consolidation, the assets of the Corporation shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Corporation was

created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

#### ARTICLE XII DURATION

The Corporation shall exist perpetually.

#### ARTICLE XIII AMENDMENTS

Amendment of these articles shall require the assent of sixty-seven percent (67%) of the entire membership.

#### ARTICLE XIV

Other provisions consistent with the laws of this state, for the regulation and conduct of the affairs of the Corporation, and creating, defining, limiting or regulating the powers of the Corporation, the directors or the members of any class or classes of members are as follows:

Section 1. Liability of Members. Neither the Individual Members of the Corporation nor their individual property shall be subject to any liability for any debts of the Corporation.

Section 2. Code of By-Laws. The power to make, alter, amend or repeal the Code of By-Laws and the rules and regulations for the conduct of the affairs of the Corporation, including the power to elect officers of the Corporation, shall be vested in the Board of Directors of the Corporation without the assent or vote of the members; provided, however, that no acts of the Board of Directors shall be inconsistent with or contradictory to these Articles of Incorporation, the Declaration, or any provision of law.

Section 3 No Private Benefit. No money or property received or held by the Corporation shall ever inure, directly or indirectly, to the private benefit of any Member, Director, or officer of the Corporation or any other person whomsoever except for reasonable compensation for services actually rendered to the Corporation

Section 4 Non-Liability of Directors. The Directors shall not be liable to the Members of the Corporation for any error or mistakes of judgment exercised in carrying out their duties and responsibilities as Directors, except for their own individual willful misconduct, bad faith or gross negligence. The Corporation shall indemnify and hold harmless each of the Directors against any and all liability to any person, firm or corporation arising out of contracts made by the Board on behalf of the Corporation, unless any such contract shall have been made in bad faith or contrary to the provisions of the Articles of Incorporation or Code of By-Laws. It is intended that the Directors shall have no personal liability with respect to any contract made by them on behalf of the Corporation and that in all matters the Board is acting for and on behalf of the Corporation and as its agent. Every contract made by the Board or the Managing Agent on behalf of the Corporation shall provide that the Board of Directors and the Managing Agent, as the case may be, is acting as agent for the Corporation and shall have no personal liability thereunder.

Section 5. Additional Indemnity of Directors. The Corporation shall indemnify any person, his heirs, assigns and legal representatives, made a party to any action, suit or proceeding by reason of the fact that he is or was a Director, officer or employee of the Corporation, against the reasonable expenses, including attorney's fees, actually and necessarily incurred by him in connection with the defense of such action, suit or proceeding, or in connection with any appeal therein except as otherwise specifically provided herein in relation to matters as to which it shall be adjudged in such

action, suit or proceeding that such Director is liable for gross negligence or misconduct in the performance of his duties. The Corporation shall also reimburse to any such Director the reasonable costs of settlement of or judgment rendered in any action, suit or proceeding, if it shall be found by a majority of the committee composed of the Directors not involved in the matter in controversy (whether or not a quorum) in their judgment reasonably exercised that such Director, officer or employee was not guilty of gross negligence or misconduct. In making such findings and notwithstanding the adjudication in any action, suit or proceeding against a Director, officer or employee, no Director, officer or employee shall be considered or deemed to be guilty of or liable for negligence or misconduct in the performance of his duties where, acting in good faith, such Director, officer or employee relied on the books and records of the Corporation or statements or advice made by or prepared by the Managing Agent of the Corporation's property or any officer or employee thereof, or any accountant, attorney or other person, firm or corporation employed by the Corporation to render advice or service unless such Director had actual knowledge of the falsity of incorrectness thereof; nor shall a Director be deemed guilty of or liable for negligence or misconduct by virtue of the fact that he failed or neglected to attend a meeting or meetings of the Board of Directors.

The rights of indemnification and reimbursement set forth above shall not be deemed exclusive of any other rights to which such officers, Directors or employees may be entitled apart from the provisions of this Article

Section 6. Reliance by Directors on Books of Account, etc. Each Director of the Corporation shall be fully protected in relying in good faith upon (a) the books of account of the Corporation, or (b) statements prepared by any of its officers and employees as to the value and



amount of the assets, liabilities, and net profits of the Corporation, or any of such items, or (c) statements or advice made by or prepared by an officer or employee of the Corporation or any accountant, attorney, other person of firm, employed by the Corporation to render advice or service.

Section 7 Declaration Controls. In the event of any conflict between the provisions of these Articles and Declaration, the provisions of the Declaration shall govern.

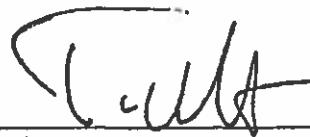
**ARTICLE XV  
FHA/VA APPROVAL**

As long as Declarant controls the Corporation, the following actions will require the prior approval of the Federal Housing Administration or the Veterans Administration or sixty-seven percent (67%) of the members. annexation of additional properties, mergers and consolidations, mortgage of Common Area, dedication of Common Area, dissolution and amendment of these Articles

IN WITNESS WHEREOF, I, the undersigned, do hereby execute these Articles of Incorporation and certify the truth of the facts herein stated, this 12th day of August, 2002.

  
\_\_\_\_\_  
Timmy J. Shrout

I affirm under the penalties for perjury that the above and foregoing representations are true and correct to the best of my knowledge and belief.

  
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Timmy J. Shrout