

**ARTICLES OF INCORPORATION  
OF  
BRANDYWINE ESTATES HOMEOWNER'S ASSOCIATION, INC.**

In compliance with the requirements of the Florida Corporation Law, the undersigned, all of whom are residents of the State of Florida and all of whom are of full age, have this day voluntarily associated themselves together for the purpose of forming a corporation not for profit and do hereby certify:

ARTICLE I.

The name of the Corporation shall be BRANDYWINE ESTATES HOMEOWNER'S ASSOCIATION, INC., hereinafter called the "Association".

ARTICLE II.

The principal office of the Association is located at P.O. Box 121695 West Melbourne FL 32912-1695 ~~2210 S. Front Street, Suite 301, Melbourne, Florida 32901.~~

ARTICLE III.

H.J. Underill, III, whose address is 2210 S. Front St., Suite 301, Melbourne, FL 32901, is hereby appointed initial registered agent of the Association.

ARTICLE IV.

PURPOSE OF THE ASSOCIATION

The Association is organized as a corporation not for 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 Common Area within that certain tract of property described on Exhibit A attached hereto 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 Association for this purpose.

The foregoing paragraph enumerates the specific purposes of the Association, but it is expressly provided hereby that such enumeration shall not be held to limit or restrict, in any manner, the purposes or powers of the Association otherwise permitted by law.

ARTICLE V.

POWERS AND DUTIES

The Association shall have all of the powers and duties set forth in the Statutes of the State of Florida, as lawfully limited by these Articles of Incorporation, the Bylaws or the Declaration, which powers shall specifically include, but not be limited to, the following items:

A. To exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Restrictions, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded, in the Office of Clerk of the Circuit Court, Brevard County, Florida, 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. To 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

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other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

C. To 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 Association;

D. To borrow money, and with the consent of two-thirds (2/3) of each class of members, if more than one, mortgage, pledge, deed in trust, or hypothecate any or all of its real debts incurred;

E. To 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 two-thirds (2/3) of each class of members, if more than one, agreeing to such dedication, sale or transfer; subject to the advance written approval of Brevard County Board of County Commissioners;

F. To participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and Common Area;

G. To have and to exercise any and all powers, rights and privileges which a corporation organized under the corporation not for profit law of the State of Florida by law may now or hereafter have or exercise.

## ARTICLE VI.

### MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any lot which is subject by restrictions of record to assessment by the Association, including contract sellers, shall be a member of the Association. 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 Association.

## ARTICLE VII.

### VOTING RIGHTS

The Association shall have two classes of voting membership:

Class A. Class A members shall be all Owners, with the exception of 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 determine, but in no event shall more than one vote be cast with respect to any lot. When more than one person holds an interest in any lot and such persons cannot jointly agree as to how the vote should be cast, no vote shall be allowed with respect to such lot.

Class B. The Class B member(s) shall be the Declarant and shall be entitled to three (3) votes for each lot owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of the following event, whichever occurs earlier:

- (a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership or on
- (b) December 31, 1988.

## ARTICLE VIII.

### BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of three (3) Directors, who need not be members of the Association. The number of directors may be changed by amendment of the Bylaws of the Association. The initial Board of Directors shall be composed of three (3) directors. The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

H.J. UNDERILL III, 2210 S. Front Street, Suite 301, Melbourne, Florida 32901

A.T. ROSSETTER, 268 Babcock Street, Melbourne, Florida 32935

MONA J. ROSSETTER, 268 Babcock Street, Melbourne, Florida 32935

At the first annual meeting, and at each annual meeting thereafter, the members shall elect three (3) directors for a term of one year.

#### ARTICLE IX.

##### OFFICERS

The officers of this Association shall be a president and vice-president who shall, at all times, be members of the Board of Directors, a secretary, and a treasurer, and such other officers as the Board may, from time to time, by resolution create.

The names and addresses of the persons who are to act as the initial officers until the selection of their successors are:

President:

H.J. UNDERILL III, 2210 S. Front Street, Suite 301, Melbourne, Florida 32901

Vice-President

A.T. ROSSETTER, 268 Babcock Street, Melbourne, Florida 32935

Secretary-Treasurer:

MONA J. ROSSETTER, 268 Babcock Street, Melbourne, Florida 32935

The election of officers shall take place at the first meeting of the Board of Directors and the first meeting of the Board of Directors following the first annual meeting of the members thereafter.

#### ARTICLE X.

##### AMENDMENTS TO BYLAWS

Section 1. The Bylaws may 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.

Section 2. In the case of any conflict between the Articles of Incorporation and the Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and the Bylaws, the Declaration shall control.

#### ARTICLE XI.

##### DISSOLUTION

The Association may be dissolved with the consent given in writing and signed by not less than two-thirds (2/3) of each class of members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets and property of the Association, whether real or personal and whether

owned by virtue of gift, conveyance, dedication to the Association, or otherwise, shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created, or shall be dedicated in undivided proportionate interests to all lot owners for purposes of carrying out the intent as stated herein and in the Declaration of Restrictions; provided, however, that if the municipal service taxing or benefit district shall be created, all property and assets of the Association shall be offered to said Municipal Service Taxing or benefit district of Brevard County prior to any offer to any other public agency or to said lot owners.

A municipal service taxing or benefit district shall be established at the discretion of the Board of County Commissioners, Brevard County, with tax to be levied or special assessment fixed as determined by the Board of County Commissioners of Brevard County, in accordance with that Interlocal Agreement executed between the City of Melbourne, Florida and Brevard County, Florida. Tax or special assessment proceeds shall be utilized to perform bridge tending and maintenance, road maintenance and maintenance of the drainage system. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes as are set out in this document.

ARTICLE XII.

DURATION

The corporation shall exist perpetually.

ARTICLE XIII.

AMENDMENTS

Amendment of these Articles shall require the consent of seventy-five (75%) percent of the entire membership.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Florida, we, the undersigned, constituting the incorporators of this Association, have executed these Articles of Incorporation this 2<sup>nd</sup> day of July, 1985.

\_\_\_\_\_  
H.J. UNDERILL, III  
Sole Incorporator

STATE OF FLORIDA  
COUNTY OF BREVARD

I HEREBY CERTIFY that on this day before me, an officer duly authorized in the State and County first aforesaid, to take acknowledgments, personally appeared, H.J. UNDERILL III.

WITNESS my hand and official seal in the State and County last aforesaid this 2<sup>nd</sup> day of July, 1985.

\_\_\_\_\_  
Notary Public, State of Florida  
My Commission Expires:

CERTIFICATE OF RESIDENT AGENT

Pursuant to Chapter 48.091, Florida Statutes, the following is submitted in compliance with said Act:

BRANDYWINE ESTATES HOMEOWNER'S ASSOCIATION, INC., a corporation not for profit, desiring to organize under the laws of the State of Florida, with its principal office, as indicated in the Articles of Incorporation, at the City of Melbourne, County of Brevard, State of Florida, has named H.J. UNDERILL, III, located at 2210 S. Front Street, Ste. 301, Melbourne, Florida 32901, as its agent to accept service of process for the above-stated corporation, at the place designated in this Certificate. I hereby accept to act in this capacity, and agree to comply with the provisions of said Act relative to keeping open said office.

\_\_\_\_\_  
H.J. UNDERILL, III  
Resident Agent

**FILED JULY 8, 1985 – SECRETARY OF STATE – TALLAHASSEE, FLORIDA**

EXHIBIT "A"

Lots 1 through 57 inclusive, Block 1; Lots 1 through 39 inclusive, Block 2; and Tract A, of Brandywine Estates according to the Plat thereof recorded in Plat Book 31, Page 75, Public Records of Brevard County, Florida.

**FILED JULY 8, 1985 – SECRETARY OF STATE – TALLAHASSEE, FLORIDA**

**FIRST AMENDMENT TO  
THE ARTICLES OF INCORPORATION  
FOR BRANDYWINE ESTATES HOMEOWNER'S ASSOCIATION, INC.**

THIS AMENDMENT, made and given the 26<sup>th</sup> day of April 1989, by BRANDYWINE ESTATES HOMEOWNER'S ASSOCIATION, INC., a Florida corporation not for profit (hereinafter referred to as "Association"):

WITNESSETH:

WHEREAS, Article XIII states that these Articles may be amended upon the consent of seventy-five percent (75%) of the entire membership; and

WHEREAS, the members of the Association met on the 8<sup>th</sup> day of September, 1988 at their annual meeting; and

WHEREAS, seventy-five percent (75%) of the members of the Association agreed to amend Article VIII.

NOW, THEREFORE, Article VIII is hereby amended to read as follows:

The Association will be managed by a Board of Directors composed of not less than three nor more than five directors. Said directors to be elected at the annual meeting of the Association by the members of the Association.

All other provisions of the Articles shall remain in full force and effect except as otherwise expressly modified herein.

IN WITNESS WHEREOF, the President of the Association has hereunto set his hand and seal as of the day and year first written above.

BRANDYWINE ESTATES  
HOMEOWNER'S ASSOCIATION, INC.

BY: \_\_\_\_\_  
its President

\_\_\_\_\_  
Witness

\_\_\_\_\_  
Witness

STATE OF FLORIDA  
COUNTY OF BREVARD

Sworn to and subscribed before me,  
this 26<sup>th</sup> day of April, 1989.

\_\_\_\_\_  
Notary Public  
My commission expires:  
Notary Public; State of Florida at Large  
My Commission Expires September 24, 1990  
Bonded thru Huckleberry & Associates

**SECOND AMENDMENT TO  
THE ARTICLES OF INCORPORATION  
FOR BRANDYWINE ESTATES HOMEOWNER'S ASSOCIATION, INC.**

THIS AMENDMENT, made and given the 26<sup>th</sup> day of April 1989, by BRANDYWINE ESTATES HOMEOWNER'S ASSOCIATION, INC., a Florida corporation not for profit (hereinafter referred to as "Association"):

WITNESSETH:

WHEREAS, Article IX states that these Articles may be amended upon the consent of seventy-five percent (75%) of the entire membership; and

WHEREAS, the members of the Association met on the 8<sup>th</sup> day of September, 1988 at their annual meeting; and

WHEREAS, seventy-five percent (75%) of the members of the Association agreed to amend Article IX.

NOW, THEREFORE, Article IX is hereby amended to read as follows:

The officers of this Association shall be a president who shall, at all times, be a member of the Board of Directors, a vice president, a secretary, and treasurer, and such other officers as the Board may, from time to time by resolution create.

The names and addresses of the persons who are to act as the initial officers until the selection of their successors are:

President:  
H.J. UNDERILL, III, 2210 S. Front  
Street, Suite 301, Melbourne, FL 32901

Vice-President  
A.T. ROSSETTER, 268 Babcock Street,  
Melbourne, Florida 32935

Secretary-Treasurer  
MONA J. ROSSETTER, 268 Babcock  
Street, Melbourne, Florida

The election of officers shall take place at the annual meeting of the membership.

All other provisions of the Articles shall remain in full force and effect except as otherwise expressly modified herein.

IN WITNESS WHEREOF, the President of the Association has hereunto set his hand and seal as of the day and year first written above.

BRANDYWINE ESTATES  
HOMEOWNER'S ASSOCIATION, INC.

BY: \_\_\_\_\_  
its President

\_\_\_\_\_

\_\_\_\_\_  
Witnesses

STATE OF FLORIDA  
COUNTY OF BREVARD

SWORN TO AND SUBSCRIBED before me, this 26<sup>th</sup> day of April, 1989.

\_\_\_\_\_  
NOTARY PUBLIC  
My Commission Expires:  
Notary Public; State of Florida at Large  
My Commission Expires September 24, 1990  
Bonded thru Huckleberry & Associates