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**State of Indiana  
Office of the Secretary of State**

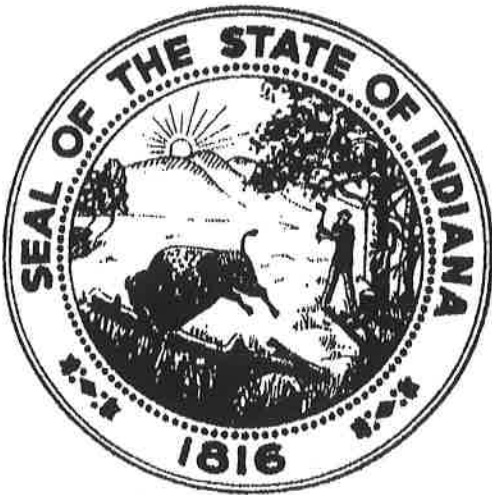
**CERTIFICATE OF INCORPORATION**

of

**FLAT ROCK CREEK COMMUNITY ASSOCIATION, INC.**

I, SUE ANNE GILROY, Secretary of State of Indiana, hereby certify that Articles of Incorporation of the above Non-Profit Domestic Corporation have been presented to me at my office, accompanied by the fees prescribed by law and that the documentation presented conforms to law as prescribed by the provisions of the Indiana Nonprofit Corporation Act of 1991.

NOW, THEREFORE, with this document I certify that said transaction will become effective Thursday, July 26, 2001.



In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, July 26, 2001.

*Sue Anne Gilroy*

SUE ANNE GILROY,  
SECRETARY OF STATE

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### **ARTICLE III**

#### **Period of Existence/Type of Corporation**

The period during which the Corporation shall continue is perpetual.

The Corporation is a public benefit corporation.

### **ARTICLE IV**

**Section 1. Resident Agent.** The name and address of the Resident Agent in charge of the Corporation's principal office is Gary D. Sallee, 9247 North Meridian Street, Suite 215, Indianapolis, Indiana 46260.

**Section 2. Principal Office.** The post office address of the Principal Office of the Corporation is 110 North Main Street, Culver, Indiana 46511.

### **ARTICLE V**

#### **Membership**

**Section 1. Classes.** There shall be two (2) classes of membership which shall be called respectively "Class A" and "Class B"/ "Person", as used in this Article V, shall include a partnership, trust, firm or other business entity recognized in this state.

**SECTION 2. Rights, Preferences, Limitations and Restrictions of Classes.** The members of the Corporation shall be persons who at any time are owners (legal or equitable) of numbered residential lots in the Development. A person who has no interest in real estate in the Development other than an interest that is held merely as security for the performance of an obligation to pay money (e.g. the interest of a mortgage or a land contract vendor) shall not by that interest be entitled to membership in the Corporation.

**Class A Membership.** The Class A members shall be those persons who own single-family residential lots in the Development, with the exception of the Developer or its successor in title. Class A membership in the Corporation shall terminate when any member shall cease to be the owner of a single-family residential lot in the Development.

**Class B Membership.** The Class B members shall consist of the Developer and any person or persons who shall hereinafter succeed to the Developer's interest in the Development substantially as a whole. The Class B

membership shall cease and terminate upon the first of the following to occur: (a) on the date the Developer sells the last lot which it owns in the Development, and the Developer no longer owns any lots or land in the Development; or (b) on December 31, 2011 ("Applicable Date").

From and after the happening of those events, whichever occurs earlier, the Class B member shall be deemed to be a Class A member entitled to one (1) vote for each unit in which it holds the interest required for membership.

From and after the happening of those events, whichever occurs earlier, the Class B member shall be deemed to be a Class A member entitled to one (1) vote for each unit in which it holds the interest required for membership.

No member may be expelled from membership in the Corporation for any reason whatsoever; provided, however, that the Board of Directors of the Corporation shall have the right to suspend the voting rights of any member (i) for any period during which any Corporation charge owed by the member remains unpaid, and (ii) during the period of any continuing violation of the restrictive covenants of the Development, after the existence of the violation shall have been declared by the Board of Directors.

**Section 3. Voting Rights of Classes.** On matters coming before the membership after the Applicable Date, Class A members shall have one (1) vote for each single-family residential lot within the development owned by such member. If two or more Class A members have owner's rights in a single-family residential lot within the Development, such members shall among them be entitled to only one (1) vote for each such single-family residential lot. Class A members shall have no voting rights until after the Applicable Date. Class B members shall be entitled to five (5) votes for each numbered residential lot in the development that is owned by the member. Any member (whether a Class A member or a Class B member) shall have the power to cast his vote or votes by proxy or voting trust.

## **ARTICLE VI**

### **Directors**

**Section 1. Number of Directors.** The business and affairs of the Corporation shall be conducted, managed, and controlled by a Board of Directors. The initial Board of Directors is composed of two (2) members. The exact number of Directors shall be prescribed from time to time in the Bylaws of the Corporation, but under no circumstances shall the minimum number be less than two (2).

**Section 2. Names and Post Office Addresses of the Directors.** The names and post office addresses of the initial Board of Directors are:

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Richard L. Fisher  
110 North Main Street  
Culver, Indiana 46511

Jennifer Shea  
110 North Main Street  
Culver, Indiana 45611

## **ARTICLE VII**

### **Incorporator**

**Name and Post Office Address.** The name and post office address of the Incorporator of the Corporation is as follows:

Richard L. Fisher  
110 North Main Street  
Culver, Indiana 45611

## **ARTICLE VIII**

### **Property at Incorporation**

No property is to be taken over by the Corporation at or upon its incorporation, but this fact shall in no manner restrict the Corporation in respect of its later receiving property by donation, grant, purchase or other means.

## **ARTICLE IX**

### **Provisions for Regulation and Conduct of the Affairs of the Corporation**

**Section 1. General.** In furtherance of, and not in limitation of, the powers conferred upon the Board of Directors by statute, the Board of Directors is expressly authorized, without any vote or other action by members other than such as at the time shall be expressly required by statute or by these Articles of Incorporation or by the Bylaws, as from time to time amended, to exercise all of the powers, rights and privileges of the Corporation (whether expressed or implied herein or conferred by statute) and to do all acts and things which may be done by the Corporation.

**Section 2. Indemnification.** To the extent not inconsistent with Indiana law as in effect from time to time:

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(a) Every person (and the heirs and personal representatives of such person) who is or was a director, officer or employee of the Corporation shall be indemnified by the Corporation against all liabilities and reasonable expenses that may be incurred by him in connection with or resulting from any claim, action, suit, or proceeding (i) if such director, officer or employee is wholly successful with respect thereto, or (ii) if not wholly successful, then if such director, officer, or employee is determined, as provided in paragraph (e), to have acted in good faith in what he reasonably believed to be the best interest of the Corporation and, in addition, with respect to any criminal action or proceeding is determined to have had no reasonable cause to believe that his conduct was unlawful. The termination of any claim, action, suit, or proceeding by judgment, settlement (whether with or without court approval) or conviction, or its equivalent, shall not create a presumption that a director, officer or employee did not meet the standards of conduct set forth in this section.

(b) The terms "claim", "action", "suit" or "proceeding" shall include every claim, action, suit or proceeding and all appeals thereof (whether brought by or in the right of this Corporation or any other corporation or otherwise), civil, criminal, administrative or investigative, or threat thereof, in which a director or officer or employee of the Corporation (or his heirs and personal representatives) may become involved, as a party or otherwise:

(1) By reason of his being or having been a director, officer or employee of this Corporation or of any other corporation which he has served as such at the request of this Corporation;

(2) By reason of his acting or having acted in any capacity in a partnership, association, trust or other organization or entity where he served as such at the request of this Corporation; or

(3) By reason of any action taken or not taken by him in any such capacity, whether or not he continued in such capacity at the time such liability or expense shall have been incurred.

(c) The terms "liability" and "expense" shall include, but shall not be limited to, counsel fees and disbursements and amounts of judgments, fines or penalties against, and amounts paid in settlement by or on behalf of a director, officer or employee.

(d) The term "wholly unsuccessful" shall mean (i) termination of any action, suit or proceeding against the person in question without any finding of liability or guilt against him, (ii) approval by a court, with knowledge of the indemnity herein provided, of a settlement of any action, suit or proceeding, or (iii) the expiration of a reasonable period of time after the making of any claim or threat of an action, suit or proceeding without the institution of the same; without any payment or promise made to induce a settlement.

(e) Every person claiming indemnification hereunder (other than one who has been

## **Board of Directors**

**Section 1. Number and Qualification.** Prior to the Applicable Date, the number of Directors comprising the Board shall be three (3), which number may from time to time be increased by resolution adopted by not less than a majority of the Board of Directors. From and after the Applicable Date, the number of Directors comprising the Board shall be five (5), which number may from time to time be increased or decreased by resolution adopted by not less than a majority of the Board of Directors. In no event shall the number of Directors be less than two (2) nor more than five (5) and no reduction in the number of Directors shall have the effect of removing a Director from office prior to the expiration of his term. In the event the number of Directors is increased subsequent to the Applicable Date, the election of the additional Director or Directors shall be by a vote of the members entitled to elect such additional Director or Directors according to a procedure established by the Board by resolution.

### **Section 2. Board of Directors.**

**2.1. Election of Board of Directors Before Applicable Date.** The first Board of Directors named in the Articles of Incorporation shall maintain, manage and administer the affairs, the real estate and other property of the Corporation until the first meeting of the members occurring on or after the Applicable Date, and until their successors have been duly elected and qualified, unless said Directors sooner resign, are removed or otherwise are disqualified to serve in which case the Class B members shall elect their replacement(s).

**2.2. Election of Board of Directors After Applicable Date.** Subsequent to the Applicable Date, Directors shall be elected at the annual meeting provided in Article 3. The Board may, by resolution, establish such election procedures as it deems appropriate. Voting for the Board of Directors shall be by secret written ballot. The ballot shall be prepared by the Elections Committee and shall contain the name of each person nominated for election. Those persons receiving the highest number of votes shall be elected.

**2.3. Term.** Except for the Initial Board which shall serve until the Applicable Date, each Director shall serve for a term of one (1) year or until his successor is elected and qualified. Incumbent Directors shall be eligible for re-election.

**Section 3. Powers.** The Board of Directors shall have such powers as are reasonable and necessary to accomplish the performance of their duties, which powers include, but are not limited to, the power:

- (a) To adopt and publish rules and regulations governing the use of the facilities, if any, of the Corporation, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;

(b) To suspend the voting rights of Class A members and the right to use any Corporation facilities by a member, but not rights to access and easements necessary for the use of his Lot, during any period in which such member shall be in default for a period of thirty (30) days in the payment of any assessment levied by the Corporation, or the payment of any other amount or the performance of any other term of the Declaration of these Bylaws. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days, for infraction of published rules and regulations;

(c) To exercise for the Corporation all powers, duties and authority vested in or delegated to this Corporation and not reserved to the membership by other provisions of these Bylaws, or the Articles of Incorporation, or by statute;

(d) To declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) To employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties, subject to the limitations set forth in the Declaration; and

(f) To do and take all such action as is or may be necessary, desirable or appropriate to perform the duties, obligations and responsibilities of the Board as required by the Declaration, other provisions of these Bylaws, or the Articles, or by statute.

**Section 4. Duties.** The Board of Directors shall have the following duties:

(a) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by members holding one-fourth (1/4) of the total votes of the membership entitled to vote;

(b) To supervise all officers, agents and employees of this Corporation, and to see that their duties are properly performed;

(c) To establish the annual assessment period and fix the amount of the annual assessment against each member for each Lot owned, all in accordance with the terms of the Declaration and these bylaws.

(d) To fix the amount of any special assessment against each member for each Lot owned, all in accordance with the terms of the Declaration and these Bylaws;

(e) After the Applicable Date, to send written notice to all members of any meeting of the members called for the purpose of voting upon changes in annual assessments or voting upon a proposed special assessment, as and to the extent required by the Declaration;

(f) To send written notice of each assessment to every Owner in accordance with the Declaration;

(g) To foreclose the Corporation's lien for assessments against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner or other person personally obligated to pay the same;

(h) To issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment.

(i) To procure and maintain liability and fire and other hazard insurance on property owned by the Corporation which shall include fire and extended coverage on insurable common property on a current replacement cost basis in an amount not less than 100% of the insurable value (based on current replacement only), and to use the proceeds of such hazard insurance solely for the repair, replacement or reconstruction of such insurable common property including insured improvement; and to procure and maintain other insurance as required or authorized by the Declaration, and to use the proceeds thereof for their intended purposes;

(j) After the Applicable Date, to cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate, and at least as required by the Declaration;

(k) To cause all of the Common Areas to be maintained; and

(l) To perform, or cause to be performed, all duties and obligations imposed upon the Corporation and the Board of Directors under the Declaration.



**Section 5. Term of Office.** At the first meeting after the Applicable Date, and at each annual meeting thereafter, the members shall elect Directors for a term of one (1) year to fill the vacancies created by expiring terms. There shall be no limit on the number of times a Director may serve.

**Section 6. Vacancies.** Except for vacancies in the Board of Directors occurring prior to the first meeting of members following the Applicable Date, any vacancy in the Board of Directors shall be filled by vote of the majority of remaining Directors, even though they may constitute less than a quorum. Each person so elected shall be a Director for the unexpired term of his predecessor, or until his successor is elected.

**Section 7. Compensation.** No Director shall receive compensation for any service he may render to the Corporation as such Director. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties, and any Director may be paid and compensated for services to the Corporation in a capacity other than as a Director.

**Section 8. Organization Meeting.** The first meeting of a newly elected Board of Directors shall be held within ten (10) days of its election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order legally to constitute such meeting, provided a majority of the whole Board shall be present.

**Section 9. Regular Meetings.** Regular meetings of the Board of Directors shall be held at such regular intervals, without notice, at such place and hour as may be determined from time to time by resolution by the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

**Section 10. Special Meetings.** Special meetings of the Board of Directors may be called by the President on three (3) day's notice to each Director, given personally, by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two-thirds (2/3) of the Directors.

**Section 11. Waiver of Notice.** Before or at any meeting of the Board of Directors, any Director may, in writing, waive notice of such meeting, and such waiver shall be deemed equivalent to the giving of such notice. Attendance by a Director at any meeting of the Board shall be deemed a waiver of notice by him of the time and place thereof. If all the Directors are present at any meeting of the Board, no notice shall be required and any business may be transacted at such meeting.

**Section 12. Quorum.** At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which quorum is present shall be the acts of the Board of

Directors except as otherwise provided in or required by the Declaration, Articles, these Bylaws or by statute. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting from time to time. At any such adjourned meeting, any business that might have been transacted at the meeting as originally called may be transacted without further notice.

**Section 13. Action Taken Without a Meeting.** The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Director. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

## **ARTICLE VI**

### **Officers and Their Duties**

**Section 1. Enumeration of Offices.** The officers of this Corporation shall be a President, a Vice President, a Secretary, and a Treasurer, all of whom shall be members of the Board of Directors, and such other officers as the Board may from time to time by resolution create. Any two or more offices may be held by the same person except the offices of President and Secretary.

**Section 2. Election of Officers.** The election of officers shall take place at the first meeting of the Board of Directors following each annual meeting of the members.

**Section 3. Term.** The officers of this Corporation shall be elected annually by the Board and each shall hold office for one (1) year unless they shall sooner resign, be removed or otherwise be disqualified to serve.

**Section 4. Special Appointments.** The Board may elect such other officers as the affairs of the corporation may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

**Section 5. Resignation and Removal.** The Board may remove any officer from office with or without cause. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

**Section 6. Vacancies.** A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

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**Section 7. Multiple Offices.** The office of Vice President and any other office (other than that of President) may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

**Section 8. Duties.** The duties of the officers are as follows:

(a) **President.** The President shall preside at all meetings of the Board of Directors; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments; and, unless other signatory authority is provided by resolution of the Board, shall co-sign all checks and promissory notes. The President shall have the power to appoint committees from among the members of the Corporation from time to time as he may in his discretion deem appropriate to assist in conducting the affairs of the Corporation. The President shall have and discharge all the general powers and duties usually vested in the office of the president or chief executive officer of an association or a stock corporation organized under the laws of the State of Indiana.

(b) **Vice President.** The Vice President shall act in place and stead of the President in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board or as are delegated to him by the President.

(c) **Secretary.** The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Corporation (if any is adopted) and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Corporation together with their addresses; and shall perform such other duties as required by the Board.

(d) **Treasurer.** The Treasurer shall receive and deposit in appropriate bank accounts all monies of the Corporation and shall disburse such funds as directed by resolution of the Board of Directors; unless other signatory authority is provided by resolution of the Board, shall sign all checks and promissory notes of the Corporation; keep proper books of account; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.