

State of Indiana  
Office of the Secretary of State

CERTIFICATE OF INCORPORATION

of

WAKEROBIN ESTATES II HOMEOWNERS 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 Wednesday, August 08, 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, August 8, 2001.

*Sue Anne Gilroy*

SUE ANNE GILROY,  
SECRETARY OF STATE

APPROVED  
AND  
FILED  
IND. SECRETARY OF STATE

ARTICLES OF INCORPORATIONOFWAKEROBIN ESTATES II HOMEOWNERS ASSOCIATION, INC.ARTICLE IName

The name of this corporation is Wakerobin Estates II Homeowners Association, Inc. (the "Corporation"). The Corporation is a mutual benefit corporation organized under the Indiana Nonprofit Corporation Act of 1991, Ind. Code § 23-17-1 et. seq. (the "Act").

ARTICLE IIDefinitions

Section 1. "Articles" or "Articles of Incorporation" mean the Articles of Incorporation of the Corporation, as amended from time to time.

Section 2. "Board of Directors" means the Board of Directors of the Corporation.

Section 3. "Bylaws" means the Bylaws of the Corporation, as amended from time to time.

Section 4. "Common Expense" means expenses for administration of the Corporation and expenses for the upkeep, maintenance, repair and replacement of the real estate as authorized in the Restrictive Covenants and provided for in the Articles of Incorporation and the Bylaws.

Section 5. "Corporation" means Wakerobin Estates II Homeowners Association, Inc.

Section 6. "Lot" means any plot of ground designated as such upon the recorded Final Plat of any phase of Wakerobin Estates II Subdivision, or any part thereof.

Section 7. "Member" means a member of the Corporation.

Section 8. "Owner" means a person, firm, corporation, partnership, association, trust or other legal entity, or any combination thereof, who owns fee simple title to a Lot.

Section 9. "Real Estate" means the landscape, storm drainage, and sign easements designated as such upon the recorded Final Plat of any phase of Wakerobin Estates II Subdivision, or any part thereof.

Section 10. "Restrictive Covenants" means collectively the declarations of Restrictive Covenants for Wakerobin Estates II Subdivision, as the same may be amended or supplemented from time to time.

### ARTICLE III

#### Purposes

The purposes for which the Corporation is organized, and will at all times be operated, are exclusively:

Section 1. To maintain the Real Estate, including, without limitation, all signs, landscaping, and storm water detention facilities upon the Real Estate and any associated appurtenances not maintained by the Tippecanoe County Drainage Board pursuant to the Restrictive Covenants.

Section 2. To provide, as a "homeowners association" described in Section 528 of the Internal Revenue Code of 1986, as amended (the "Code"), or corresponding provisions of any future United States Internal Revenue laws, for the acquisition, construction, management, maintenance, repair, replacement and upkeep of the Real Estate.

Section 3. To promote the recreation, health, safety and welfare of all residents of the Wakerobin Estates II Subdivision.

### ARTICLE IV

#### Powers

The Corporation shall have the following rights, privileges and powers, so long as the same are in furtherance of the purposes for which the Corporation is organized and are not contrary to any limitation or restriction imposed by the Act, Section 528 of the Code or any successor provision thereof, any other law, or any provisions of the Restrictive Covenants:

Section 1. To exercise all of the rights, privileges, powers and authority, and to perform all of the duties and obligations, of the Wakerobin Estates II Subdivision Homeowners Association, as set forth in the Restrictive Covenants.

Section 2. To fix, levy, collect and enforce payment by any lawful means of all charges and assessments pursuant to the terms of the Restrictive Covenants; and to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Corporation including, but not limited to, all licenses, taxes or governmental charges levied or imposed against the property of the Corporation.

Section 3. To sue and be sued in its corporate name, and to enforce by legal means the provisions of the Restrictive Covenants, these Articles of Incorporation and the Bylaws.

Section 4. To indemnify any person who was or is a party or is threatened to be made a party to any proceeding, whether civil, criminal, administrative or investigative, by reason of the fact that he is or was a director, officer, employee or agent of the Corporation, against expenses (including attorneys' fees), judgments, fines and amounts paid in settlement reasonably incurred by him in connection with such action, suit or proceeding or in connection with any appeal therein, except in relation to matters as to which it shall be adjudged in such action, suit or proceeding that such officer, director, employee or agent is liable for negligence or misconduct in the performance of his duties to the Corporation. The termination of any action, suit or proceeding by judgment, order, settlement, conviction, or upon a plea of nolo contendere or its equivalent shall not, or itself, create a presumption that the person was liable for negligence or misconduct in the performance of his duties to the Corporation.

Section 5. To purchase and maintain insurance on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee, or agent of another corporation, partnership, joint venture, trust or other enterprise against any liability asserted against him and incurred by him in any such capacity, or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against liability.

Section 6. To have the capacity to act possessed by natural persons, and to have authority to perform those acts necessary, convenient or expedient to accomplish the purposes for which the Corporation is organized.

Section 7. To carry out its purposes in this State and elsewhere.

Section 8. To have, possess, exercise and enjoy any and all of the rights, privileges and powers granted to corporations by the Act, as now existing or hereafter amended, and by the common law.

Section 9. Notwithstanding any other provisions of these Articles of Incorporation, the Corporation is and shall at all times be a nonprofit corporation, and no part of its activities shall result in pecuniary benefit to its Members or directors, and no part of its net earnings shall inure to the benefit of any Member or other private individual.

#### ARTICLE V Period of Existence

The period during which the Corporation shall continue is perpetual.

ARTICLE VIRegistered Agent and Principal Office

Section 1. Registered Agent. The name and address of the Corporation's Registered Agent for service of process is Thomas R. McCully.

Section 2. Principal Office. The post office address of the principal office of the Corporation is 300 Main Street, Suite 800, Lafayette, Indiana 47901.

ARTICLE VIIIncorporator

The name and post office address of the incorporator of the Corporation is as follows:

<u>Name</u>	<u>Number and Street</u>	<u>City</u>	<u>State</u>	<u>Zip Code</u>
Thomas R. McCully	300 Main Street Suite 800	Lafayette,	IN	47901

ARTICLE VIIIStatement of Property

The Corporation will take over no property at or upon its incorporation.

ARTICLE IXMembership and Voting Rights

Section 1. Membership. Every Owner of a Lot shall be a Member of the Corporation. Membership shall be appurtenant to each Lot and may not be separated from ownership of any such Lot.

Section 2. One Class of Membership: Voting Rights. The Corporation shall have one class of membership. Members shall be entitled to cast one vote for each Lot owned by such Members on all matters submitted to a vote of the Members. When more than one person is an Owner of a Lot, all such persons shall be Members, but their total vote shall not exceed one per Lot owned, and such vote shall be cast as one unit in such manner as the majority of the Owners of such

Lot may agree. In the event such Owners fail to reach agreement, they shall not be entitled to vote and shall be considered as abstaining. In the event one or more of the Owners of a Lot do not attend the meeting, in person or by proxy, the Owner(s) of a Lot who are in attendance, in person or by proxy, shall be considered as the sole Owner of the Lot.

The Board of Directors may suspend the voting rights of a Member during any period in which such Member shall be in default in payment of any assessment levied by the Corporation.

#### ARTICLE X Directors

Section 1. Number of Directors. The number of directors shall be stated in the Bylaws of the Corporation, but shall in no event be less than five (5) or greater than twelve (12). In the absence of such statement, the number shall be seven (7). Directors shall not be elected by cumulative voting.

Section 2. Terms of Directors. At the organizational meeting of the Members, the Members shall elect a Board of Directors. Directors shall serve for a term of one year or until the next annual meeting of Members, whichever comes first, and until such director's successor is duly elected and qualified.

#### ARTICLE XI Provisions for the Regulation and Conduct of Corporate Affairs

The affairs of the Corporation shall be subject to the following provisions:

Section 1. Interest of Directors or Officers in Transactions. Any contract or transaction between the Corporation and one or more of its directors or officers, or between the Corporation and any firm of which one or more of its directors or officers are members or employees, or in which they are interested, or between the Corporation and any other corporation or association of which one or more of its directors or officers are shareholders, members, directors, officers or employees, or in which they are interested, shall be valid for all purposes, notwithstanding the presence of such director or directors at the meeting of the Board of Directors which acts upon or in reference to such contract or transaction, and notwithstanding his or their participation in such action, if the fact of such interest shall be disclosed or known to the Board of Directors and the Board of Directors shall authorize, approve and ratify such contract or transaction by the approving vote of the directors present. The interested director or directors may be counted in determining the presence of a quorum at such meeting. This Section shall not be construed to invalidate any contract

or other transaction which would otherwise be valid under the common, equitable, or statutory law applicable thereto.

Section 2. Members. The manner of exercising voting rights shall be determined by the Bylaws. A quorum at any meeting of the Members shall consist of that number of the Members representing, in person or by proxy, thirty percent (30%) of the outstanding voting rights of the voting Members.

Section 3. Directors. The affairs of the Corporation shall be managed by a Board of Directors.

Section 4. Bylaws. The power to adopt, alter, amend, add to and repeal the Bylaws shall be vested in the Board of Directors, subject to the subsequent approval of at least fifty-one percent (51%) of the Members of the Corporation at any annual or special meeting of Members. The Bylaws may contain any provisions for the regulation and management of the Corporation not inconsistent with these Articles and the Restrictive Covenants.

Section 5. Nonliability of Members. No Member or director of the Corporation shall be liable for any of its obligations.

Section 6. Indemnification. Every director and every officer of the Corporation, his heirs, and personal representatives, shall be indemnified by the Corporation against all expenses and liabilities, including counsel fees and settlement agreements, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be a party, or in which he may become involved, by reason of his being or having been a director or officer of the Corporation, whether or not he is a director or officer at the time such expenses are incurred, except in such cases wherein the director or officer is adjudged guilty of willful misfeasance or malfeasance in the performance of his duties; provided that in the event of a settlement the indemnification herein shall apply only when the Board of Directors approves such settlement and reimbursement as being in the best interests of the Corporation. The foregoing right of indemnification shall be in addition to and not exclusive of all other rights to which such director or officer may be entitled.

Section 7. Property Held. All funds and property acquired by the Corporation and the proceeds thereof shall be held for the benefit of the Members in accordance with the provisions of the Restrictive Covenants, these Articles and the Bylaws.

Section 8. Amendments. The Corporation reserves the right to amend, alter, change or repeal, in the manner now or hereafter prescribed by the Act, any provision contained in these Articles of Incorporation, and all rights, powers and privileges hereby conferred on Members, directors or officers of the Corporation are subject to this reserved power; provided, however, that no amendment shall make any change in the qualifications for membership nor the voting rights of Members without the approval in writing of all Members; and provided, further, that pursuant to the Restrictive Covenants, the requirements contained in Article III, Section 1, Article IX, Section 1 and Article XI, Sections 10 and 11, shall run to the benefit of the Tippecanoe County Drainage Board

and may not be altered, amended or repealed by the members without the written consent of the Tippecanoe County Drainage Board.

Section 9. Place of Meeting. All meetings of the Members shall be held at such place, within Tippecanoe County, Indiana, as may be specified in the notices or waivers of notice thereof.

Section 10. Consent. Pursuant to the Restrictive Covenants, in the event the storm water drainage system servicing the Planned Development or servicing any immediate adjacent planned development or area (including future development areas of Wakerobin Estates II Subdivision) shall become or be proposed to become a legal drain, each member, by virtue of being an owner of a lot in the Planned Development, be deemed to agree and consent to the storm water drainage system becoming a legal drain and all legal requirements and assessments imposed by the Tippecanoe County Drainage Board and applicable drainage ordinances.

Section 11. Maintenance. Pursuant to the Restrictive Covenants, if the Corporation fails to exercise its maintenance obligation in regard to the Real Estate, the Tippecanoe County Drainage Board may perform such maintenance and take all other actions necessary for the proper maintenance of the Real Estate (particularly the storm water facilities thereon). The Tippecanoe County Drainage Board shall have the right to assess the Corporation and its members for the cost of such maintenance and, if necessary, to file a Notice of Lien against such lots in the office of the Recorder of Tippecanoe County, Indiana. Such Notice of Lien shall perfect the lien of the Tippecanoe County Drainage Board for the cost of maintaining such portion of the Real Estate, including the storm water facilities, and said lien shall have the same force and effect, and be enforced in the same manner, as a mortgage lien under Indiana law, and shall include attorneys' fees, title expenses, interest and costs of collection.

IN WITNESS WHEREOF, the undersigned Incorporator executes these Articles of Incorporation and verifies subject to penalties of perjury that the facts contained herein are true.

Dated this 9<sup>th</sup> day of August, 2001.

  
Thomas R. McCully

This instrument was prepared by:  
Thomas R. McCully  
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P. O. Box 1010  
Lafayette, Indiana 47902-1010

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