

EXHIBIT "A"

ARTICLES OF INCORPORATION

FILED
SECRETARY OF STATE
DIVISION OF CORPORATIONS

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ARTICLES OF INCORPORATION

OF

WINTERLAKES PROPERTY OWNERS ASSOCIATION, INC.

(A Corporation Not For Profit)

In order to form a corporation under and in accordance with the provisions of the laws of the State of Florida for the formation of Corporations Not for Profit, the undersigned hereby adopts and sets forth these Articles of Incorporation, viz:

ARTICLE I

NAME OF CORPORATION AND MAILING ADDRESS

The name of this corporation shall be:

WINTERLAKES PROPERTY OWNERS ASSOCIATION, INC., hereinafter in these Articles referred to as the "Association." The mailing address of the corporation shall be 7800 E. Kemper Road, Cincinnati, OH 45249.

The Association is not a condominium association under Chapter 718, *Florida Statutes*.

ARTICLE II

PURPOSES

The purposes for which this Association is organized are:

A. To promote the health, safety and social welfare of the owners of all lots, tracts, or parcels of land (referred to herein as "lots") located within the development known as Winterlakes (referred to herein as "Winterlakes") that are, or hereinafter may be, subject to the terms of the "Declaration of Protective Covenants for Winterlakes" (referred to herein as the "Declaration") to be recorded in the Public Records of St. Lucie County, Florida.

B. To operate, manage, maintain and control the usage of all land and water areas and improvements intended for the common usage of lot owners in Winterlakes, including, without limitation, such private roads, sidewalks, pedestrian, bicycle and other pathways, lakes, bridges, surface water management system, water retention and management areas, landscaping, conservation areas, easement areas, and other similar common areas (and the improvements thereon) as may be set aside by the Declarant and transferred or assigned from time to time to

the Association for the common use or benefit of the Property owners in Winterlakes, and/or for the purpose of operation and maintenance by the Association.

C. To furnish or otherwise provide for street lighting, and such other services as may be deemed necessary or desirable by the Board of Directors of the Association and to acquire such capital improvements and equipment as may be related thereto.

D. To provide, purchase, acquire, replace, improve, maintain and repair such improvements to the common areas, including, without limitation, buildings, structures, streets, sidewalks, street lights, landscaping, equipment, furniture and furnishings, both real and personal, as the Board of Directors of the Association, in its discretion, determines to be necessary or desirable for the promotion of the health, safety, and social welfare of the members of the Association.

E. To carry out all the duties and obligations assigned to it under the terms of the Declaration.

F. To carry out all the duties and obligations assigned and/or imposed on it by any Zoning or Development Order regarding development of all or a portion of Winterlakes.

G. To operate without profit and for the sole and exclusive benefit of its members.

ARTICLE III

GENERAL POWERS

The powers that the Association shall have are as follows:

A. To purchase, accept, lease, or otherwise acquire title to, and to hold, mortgage, rent, sell or otherwise dispose of, any and all real or personal property related to the purposes or activities of the Association; to make, enter into, perform, and carry out contracts of every kind and nature with any person, firm, corporation, or association; and to do any and all other act necessary or expedient for carrying on any and all of the objects and purposes set forth in these Articles of Incorporation and not prohibited by the laws of the State of Florida.

B. Operate and maintain common property, including the surface water management system as permitted by the South Florida Water Management District, all lakes, retention areas, culverts and related appurtenances.

C. To establish a budget and to fix assessments to be levied against all lots which are subject to assessment pursuant to the aforesaid Declaration for the purposes of defraying the expenses and costs of effectuating the objects and purposes of the Association and to create reasonable reserves for such expenditures, including a reasonable contingency fund for the ensuing

year and a reasonable annual reserve for anticipated major capital repairs, maintenance, improvements, and replacements.

D. To place liens against any lot subject to assessment for delinquent and unpaid assessments or charges and to bring suit for the foreclosure of such liens or to otherwise enforce the collection of such assessments and charges for the purpose of obtaining revenue in order to carry out the purposes and objectives of the Association.

E. To hold funds solely and exclusively for the benefit of the Association for the purposes set forth in these Articles of Incorporation.

F. To adopt, promulgate, and enforce rules, regulations, bylaws, covenants, restrictions, and agreements in order to effectuate the purposes for which the Association is organized.

G. To delegate such of the powers of the Association as may be deemed to be in the Association's best interest by the Board of Directors.

H. To charge recipients of services rendered by the Association and users of property of the Association where such is deemed appropriate by the Board of Directors.

I. To pay all taxes and other charges or assessments, if any, levied against property owned, leased, operated, maintained or used by the Association.

J. To enforce by any and all lawful means the provisions of these Articles of Incorporation, the Bylaws of the Association which may be hereafter adopted, and the terms and provisions of the Declaration.

K. Sue and be sued.

L. To perform any act required or contemplated of it under any Development Order.

M. In general, to have all powers which may be conferred upon a corporation not for profit by the laws of the State of Florida, except as prohibited herein.

N. To employ personnel; to retain independent contractors and professional personnel; and to enter into service contracts to provide for the maintenance, operation and management of Association property, and to enter into any other agreement consistent with the purposes of the Association, including but not limited to, agreements to employ professional management and to delegate to such professional management certain powers and duties of the Association.

O. The Association shall have all of the common law and statutory powers of a corporation not for profit which are not in conflict with the terms of these Articles and the

Declaration including, without limitation, the power to borrow money (from the Declarant or others) for Association purposes. The Association shall also have all of the powers necessary to implement the purposes of the Association as set forth in the Declaration and to provide for the general welfare of its membership.

ARTICLE IV

MEMBERS/VOTING

Section 1. Membership. Every person or entity who or which is a record owner of a fee or undivided fee interest in any Lot or Tract which is subject to the Declaration shall be a Member of the Association, provided that any such person or entity who holds record ownership merely as security for the performance of an obligation shall not be a Member of the Association.

Section 2. Voting Rights. The votes of the classes of Members of the Association shall be cast by their respective classes of Members as follows:

Class A. Class A Members shall be all those owners, as defined in Section 1, with the exception of the Declarant (as to Declarant, as long as the Class B Membership shall exist, and thereafter, the Declarant shall be a Class A Member to the extent it would otherwise qualify).

Class A Members located in a specific Neighborhood shall be entitled to elect from among themselves a five (5) person Neighborhood Committee in accordance with the By-Laws, which shall then elect one (1) Member (the "Neighborhood Representative") to have and cast one (1) vote in all Association matters for each Lot in the Neighborhood from which the Neighborhood Representative is elected. The first election and subsequent elections of each Neighborhood Representative shall be conducted at the times and in the manner provided in the Association's By-Laws.

In the event that there is a mandatory membership association for a Neighborhood (e.g., a condominium association), its Board of Directors shall serve as its Neighborhood Committee and its size, election procedures, terms of office and the like shall be governed by its own Articles of Incorporation and By-Laws rather than these By-Laws.

Class B. The Class B Member shall be the Declarant, or a representative thereof designated by it in a written notice to the Association, who shall have and cast one (1) vote in all Association matters, plus two (2) votes for each vote which may be cast by the Class A Members. The Class B Membership shall cease and terminate (and convert to a Class A Membership) as and when provided in the Declaration.

Section 3. Meetings of Members. The By-Laws of the Association shall provide for an annual meeting of Members, and may make provisions for regular and special meetings of

Members other than the annual meeting. A quorum for the transaction of business at any meeting of the Members shall exist if the Neighborhood Representatives having the power to cast a majority of the votes of the Members shall be present at the meeting. Except as expressly provided to the contrary by the Declaration, these Articles, or the By-Laws, all voting at meetings of the Members for the owners of any Lot or Tract located in a specific Neighborhood shall be done only by the Neighborhood Representatives for said Lots or Tracts.

Section 4. General Matters. When reference is made herein, or in the Declaration, By-Laws, rules and regulations, management contracts, or otherwise, to a majority or specific percentage of the Members, such reference shall be deemed to be reference to a majority or specific percentage of the votes of the Members eligible to be cast by their respective Neighborhood Representative present at a duly constituted meeting thereof (*i.e.*, one for which proper notice has been given and at which quorum exists) and not of the Members themselves (or their Lots) or of the individual Neighborhood Representative themselves.

ARTICLE V

CORPORATE EXISTENCE

The Association shall have perpetual existence; however, if the Association is dissolved, a condition precedent shall be the conveyance to an appropriate agency of local government, with said agency's acceptance of all that property consisting of the surface water management system which the Association was obligated to maintain pursuant to the Declaration and the Common Areas, or in the alternative, the surface water management system and Common Areas shall be dedicated to a similar non-profit corporation.

ARTICLE VI

BOARD OF DIRECTORS

Section 1. Management by Directors. The property, business and affairs of the Association shall be managed and conducted by a Board of Directors of no fewer than three (3), nor more than seven (7), members (directors) as determined pursuant to Section 2 below.

Section 2. Election of Directors. Except as otherwise provided herein and for the first Board of Directors and their Declarant-appointed replacements, directors shall be elected by the Association as provided by the By-Laws of the Association, and the By-Laws may provide for the method of voting in the election and for removal from office of directors. Notwithstanding the foregoing, until such time as the Declarant is required to turn over control of the Association as provided in Article III, Section 3 of the Declaration, the Class B Voting Member shall have the right to appoint the Directors of the Association by written notice to such effect or by an announcement reflected in the minutes of the annual meeting of the Association, without the

necessity of a vote, subject to the provisions of Article III, Section 3, Turnover of Controls of the Declaration, which is incorporated herein by this reference.

Initially, there shall be three (3) directors elected by the Class B Member (Declarant).

At the special meeting called pursuant to Article III, Section 3 of the Declaration for turnover of control of the Association, the Class A Members, voting through their Neighborhood Representatives, shall elect a majority of the Board of Directors, which shall then consist of seven (7) Directors.

As used herein, the "total number of lots to ultimately be located within The Properties" shall be established by written notice from Declarant to the Association and shall be based upon a reasonable projection of same made by Declarant subject to change from time to time. The Association shall be entitled to rely upon the last notice to such effect received from Declarant when the Association conducts an election as aforesaid.

Section 3. Voting Groups. Prior to the date or event provided in Section 3 of Article III of the Declaration for turnover of control of the Board of Directors to Members other than the Declarant, the Board of Directors shall place the various Voting Members in at least three (3) "Voting Groups". Such Voting Groups shall include those Neighborhood Representatives who represent Neighborhoods having similar characteristics, as determined by the Board, based upon types of Units/Lots (e.g., "single family" v. "townhomes" v. "condos" v. "Lots other than Residential Lots") and/or other such factors as the Board may deem relevant to establish a balanced representation of all Owners and Neighborhoods such that no identifiable groups have disproportionate representation. The Lots or Tracts other than Residential Lots and Tracts shall always constitute a single, separate voting group.

The Voting Groups shall be established so that:

- (a) Tracts A and C, as shown on the Master Plan, shall be assigned to one Voting Group that shall be entitled to elect a total of one (1) Director;
- (b) Tracts D and E, as shown on the Master Plan, shall be assigned to one or two Voting Groups that shall be entitled to elect a total of one (1) Director; and
- (c) Tracts F and G, as shown on the Master Plan, shall be assigned to one or two Voting Groups that shall be entitled to elect a total of two (2) Directors.
- (d) Tract H, as shown on the Master Plan, shall be assigned to one or two Voting Groups that shall be entitled to elect a total of one (1) Director.

The Declarant may by Supplemental Declaration provide the allocation of Voting Groups and Directors among the Tracts representing the four sets of Tracts described in subparagraphs (a), (b), (c) and (d) above, and any such allocation shall be binding upon the Board of Directors.

The Neighborhood Representatives in each Voting Group so established shall each then elect the number of Directors allocated to that Voting Group by a plurality of the votes of the Neighborhood Representatives in that Voting Group.

Once established, Voting Groups may not be changed without the affirmative vote of two-thirds (2/3rds) of the votes cast by all Voting Members.

Except with respect to the election of Directors, Neighborhood Representatives shall vote on an independent basis, each casting the number of votes equal to the number of Lots in their respective Neighborhoods and not in their respective Voting Groups.

Section 4. Original Board of Directors. The names and addresses of the first Board of Directors of the Association, who shall hold office until the first annual meeting of Voting Members and thereafter until qualified successors are duly elected and have taken office, shall be as follows:

<u>Name</u>	<u>Address</u>
Carol Ann Cardella	7800 E. Kemper Road Cincinnati, OH 45249
Tara Brisben	7800 E. Kemper Road Cincinnati, OH 45249
Chad Brisben	7800 E. Kemper Road Cincinnati, OH 45249

Section 5. Vacancies. If a director shall for any reason cease to be a director, the remaining Directors shall elect a successor to fill the vacancy for the balance of the unexpired term.

Section 6. Term of Office. Directors designated by the Class B Member shall serve until same are removed by the Class B Member or until same become legally incapacitated from serving in such position. Directors elected by Class A Members shall serve commencing upon their election and continuing until the next annual meeting of the Association (but they may succeed themselves) or until their successors are duly elected and have qualified.

ARTICLE VII

OFFICERS

Section 1. Officers Provided For. The Association shall have a President, one or more Vice Presidents, a Secretary and a Treasurer, and such other officers as the Board of Directors may from time to time elect.

Section 2. Election and Appointment of Officers. The officers of the Association, in accordance with any applicable provision of the By-Laws, shall be elected by the Board of Directors for terms of one (1) year and thereafter until qualified successors are duly elected and have taken office. The By-Laws may provide for the method of voting in the election, for the removal from office of officers, for filling vacancies and for the duties of the officers. The President shall be a director. Other officers may or may not be directors of the Association. If the office of President shall become vacant for any reason, or if the President shall be unable or unavailable to act, the Vice President shall automatically succeed to the office or perform its duties and exercise its powers. If any office other than that of the President shall become vacant for any reason, the Board of Directors may elect or appoint an individual to fill such vacancy.

Section 3. First Officers. The names and addresses of the first officers of the Association, who shall hold office until the first annual meeting of directors and thereafter until successors are duly elected and have taken office, shall be as follows:

<u>Name and Office</u>	<u>Address</u>
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President:

Carol Ann Cardella

7800 E. Kemper Road
Cincinnati, OH 45249

Vice-President and Treasurer:

Chad Brisben

7800 E. Kemper Road
Cincinnati, OH 45249

Secretary:

Tara Brisben

7800 E. Kemper Road
Cincinnati, OH 45249

ARTICLE VIII

BY-LAWS

The Board of Directors shall adopt By-Laws consistent with these Articles of Incorporation. Such By-Laws may be altered, amended or repealed by the membership in the manner set forth in the By-Laws.

ARTICLE IX

AMENDMENTS

Section 1. Amendments to these Articles of Incorporation may be proposed by a majority of the Board of Directors of the Association and approved in the manner provided in Chapter 617, *Florida Statutes*; provided, however, (i) that to the maximum extent lawful the Declarant may unilaterally amend these Articles and shall have the right to approve any amendments proposed by persons other than Declarant, and (ii) the vote required to amend these Articles (if not unilaterally amended by the Declarant) shall be 66-2/3% of the total votes cast by the Neighborhood Representatives. Notwithstanding anything to the contrary provided in these Articles, no amendment may adversely affect the voting rights, including the number of Directors who may be elected, of the Owners of any Tract or Tracts, without the consent of 66-2/3% of the voting interests of the affected Tracts.

Section 2. Notice of a proposed amendment shall be included in the notice of the meeting at which such amendment is to be considered and shall otherwise be given in the time and manner provided in Chapter 617, *Florida Statutes*. Such notice shall contain the proposed amendment or a summary of the changes to be affected thereby.

Section 3. In case of any conflict between these Article of Incorporation and the By-Laws, these Articles shall control; and in case of any conflict between these Articles of Incorporation and the Declaration, the Declaration shall control.

ARTICLE X

INCORPORATOR

The name and address of the Incorporator of this Corporation is:

Name

Address

Carol Ann Cardella

7800 E. Kemper Road
Cincinnati, OH 45249

ARTICLE XI

INDEMNIFICATION

Section 1. The Association shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or contemplated action, suit or proceeding, whether civil, criminal, administrative or investigative by reason of the fact that he/she is or was a director, employee, officer, committee member or agent of the Association, against expenses (including attorneys' and paraprofessional fees and appellate attorneys' and paraprofessional fees), judgments, fines and amounts paid in settlement actually and reasonably incurred by him/her in connection with such action, suit or proceeding unless (a) it is determined by a court of competent jurisdiction, after all available appeals have been exhausted or not pursued by the proposed indemnitee, that he/she did not act in good faith or in a manner he/she reasonably believed to be not in, or opposed to, the best interest of the Association, and, with respect to any criminal action or proceeding, that he/she had reasonable cause to believe his/her conduct was unlawful, and (b) such court further determines specifically that indemnification should be denied. 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, of itself, create a presumption that the person did not act in good faith or did act in a manner which he/she believed to be not in or opposed to the best interest of the Association, and with respect to any criminal action or proceeding, that he/she had reasonable cause to believe that his/her conduct was unlawful.

Section 2. To the extent that a director, officer, employee, committee member or agent of the Association has been successful on the merits or otherwise in defense of any action suit or proceeding referred to in Section 1 above or in defense of any claim, issue or matter therein, he/she shall be indemnified against expenses (including attorneys' and paraprofessional fees and appellate attorneys' and paraprofessional fees) actually incurred by him/her in connection therewith.

Section 3. Expenses incurred in defending a civil or criminal action, suit or proceeding shall be paid by the Association in advance of the final disposition of such action, suit or proceeding through all available appeals upon receipt of an undertaking by or on behalf of the director, officer, employee, committee member or agent to repay such amount unless it shall ultimately be determined that it is entitled to be indemnified by the Association as authorized in this Article.

Section 4. The indemnification provided by this Article shall not be deemed exclusive of any other rights to which those seeking indemnification may be entitled under any by-law, agreement, both of Members or otherwise, both as to action in their official capacity while holding such office or otherwise, and shall continue as to a person who has ceased to be director, officer, employee, committee member or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

Section 5. The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director, officer, employee, committee member or agent of the Association, or is or was serving at the request of the Association as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against them and incurred by them in any such capacity, or arising out of their status as such, whether or not the Association would have the power to indemnify them against such liability under the provisions of this article.

Section 6. The provisions of this Article XI shall not be amended so as to impair any accrued right of indemnification.

ARTICLE XII

REGISTERED AGENT

Until changed, Wilson C. Atkinson, III, Esquire, shall be the registered agent of the Association and the registered office shall be at 1946 Tyler Street, Hollywood, FL 33020.

IN WITNESS WHEREOF, the said Incorporator has hereunto set his hand this 13 day of June, 2000.



CAROL ANN CARDELLA

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