

ARTICLES OF INCORPORATION

OF

BANKS POINTE OWNERS' ASSOCIATION, INC.

In compliance with the requirements of the laws of the State of North Carolina, the undersigned, all of whom are residents of Wake County, North Carolina, and all of whom are of full age, have this day voluntarily associated themselves together for the purposes of forming a corporation not for profit and do hereby certify:

ARTICLE I

The name of the corporation is Banks Pointe Owners' Association, Inc., hereafter called the "Association".

ARTICLE II

The principal and initial registered office of the Association is located at 5832 Carriage Farm Drive, Raleigh, NC 27603.

ARTICLE III

R. Kirk Leone is hereby appointed the initial registered agent of this Association at the above address.

ARTICLE IV

PURPOSE AND POWERS OF THE ASSOCIATION

This Association 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 to provide for maintenance, preservation and operation and the setting of rules and regulations for use of the recreation lot or lots within those certain tracts or parcels of land briefly described as:

Located in Middle Creek Township, Wake County, North Carolina and described as follows:

Banks Pointe Subdivision, Phase I, Book of Maps 2004, at Pages 722-724, Wake County Registry;

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 and for this purpose:

(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 Covenants, Conditions, and Restrictions, hereinafter called the "Declaration", applicable to the property and recorded in Book 10792, Page 1582, Wake County Registry, as amended in Book 10819 Page 47, Wake County Registry, and re-recorded in Book 10834, Page 1259, Wake County Registry and as the same may be further 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 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, to mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred; and

(e) To have and to exercise any and all powers, rights, and privileges which a corporation organized under the Non-Profit Corporation Law of the State of North Carolina by law may now or hereafter have or exercise.

## ARTICLE V

### MEMBERSHIP

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants 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. No Owner shall have more than one membership. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.

## ARTICLE VI

### VOTING RIGHTS

Section 1. The Association shall have two classes of voting membership:

Class A. Class A members shall be all those Owners as defined in Article I, Section 2, with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article IV. When more than one person holds such 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.

Class B. Class B member(s) shall be the Declarant or Developer as defined in Article I, Section 6. Class B member(s) 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 events, whichever occurs earlier:

- (1) when total votes outstanding in the Class A membership equals or exceeds the total votes outstanding in the Class B membership, or
- (2) on December 31, 2008.

Section 2. The right of any member to vote or to enjoy the common area may be suspended by the Board of Directors for just cause pursuant to its rules and regulations.

## ARTICLE VII

### BOARD OF DIRECTORS

The affairs of this Association shall be managed by a Board of not less than three (3) nor more than five (5) directors, who need not be members of the Association. The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

<u>Name</u>	<u>Address</u>
R. Kirk Leone	5832 Carriage Farm Drive, Raleigh, NC 27603
Margaret C. Leone	5832 Carriage Farm Drive, Raleigh, NC 27603.
Richard O. Gamble	19 West Hargett Street, Commerce Building, Ste. 512, Raleigh, NC 27602

## ARTICLE VIII

### LIABILITIES

The highest amount of indebtedness or liability, direct or contingent, to which this Association may be subject at any one time shall not exceed 150 percent of its income for the previous calendar year, provided that additional amounts may be authorized by the assent of two-thirds (2/3) of the voting membership.

## ARTICLE IX

### ANNEXATION OF ADDITIONAL PROPERTIES

The Declarant (as defined in the Declaration) shall have the right to annex or add additional property whose owner shall have the same property rights and obligations as described in the Declaration, by recording an instrument in writing in the Office of the Register of Deeds of Wake County, North Carolina, subjecting such additional property to the Declaration of Covenants, Conditions and Restrictions, so long as the Declarant retains any voting rights in the Association. Thereafter, annexation of additional property shall require the assent of two-thirds (2/3) of the Class A membership at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than 15 days nor more than 60 days in advance of the meeting setting forth the purpose of the meeting. The presence of members or of proxies entitled to cast two-thirds (2/3) of the votes of the Class A membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called subject to the same notice requirements set forth above and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds (2/3) of the

Class A membership are not present in person or by proxy, members not present may give their written assent to the action thereat.

## ARTICLE X

### MERGERS AND CONSOLIDATIONS

To the extent permitted by law, the Association may participate in mergers and consolidations with other non-profit corporations organized for the same or similar purposes, provided that any such merger or consolidation shall have the assent of two-thirds (2/3) of the entire Class A membership.

## ARTICLE XI

### AUTHORITY TO MORTGAGE

Any mortgage by the Association of the Common Area defined in the Declaration shall have the assent of members entitled to cast two-thirds (2/3) of the votes of the entire Class A membership.

## ARTICLE XII

### AUTHORITY TO DEDICATE

The Association shall have power 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 members entitled to cast two-thirds (2/3) of the votes of the entire Class A membership agreeing to such dedication, sale, or transfer.

As to lenders and purchasers for value, the certification by the Secretary of the Association that the required number of members have executed instruments in conformity with

this Article, shall be conclusive as to the fact recited by such certification and shall be binding upon the Association and all of its members.

### ARTICLE XIII

#### DISSOLUTION

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of the entire Class A membership. Upon dissolution of the Association, a dedication of the recreation lot or Common Areas, if any, as they then exist for public use for purposes similar to those to which they were required to be devoted by the Association, shall be offered to the County of Wake and the areas thus dedicated shall be conveyed to the County of Wake, provided that such dedication shall be subject to the superior right of the owners of each lot to the use of all streets and Common Areas in the subdivision. In the event that the County of Wake refuses to accept such dedication and conveyance, such assets shall be granted, conveyed, and assigned to any non-profit corporation, association, trust municipality or other organization to be devoted to purposes and uses that would most nearly reflect the purposes and uses to which they were required to be devoted by the Association. This Corporation shall have no capital stock. In the event of dissolution, no member, director, or officer of the Corporation or any private individual shall be entitled to share in the distribution of the assets of this Corporation.

### ARTICLE XIV

#### DURATION

The corporation shall exist perpetually.

ARTICLE XV

MEETINGS FOR ACTIONS GOVERNED BY ARTICLES VIII THROUGH XIII

In order to take action under Articles VIII through XIII, there must be a duly held meeting. Written notice, setting forth the purpose of the meeting, shall be given to all members not less than 15 days nor more than 60 days in advance of the meeting. The presence of members or of proxies entitled to cast two-thirds (2/3) of the votes of each class of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth above, and the required quorum at such subsequent meeting shall be one-half of the required quorum of the preceding meeting. No such subsequent meeting shall be held more than 60 days following the preceding meeting. In the event that two-thirds (2/3) of the Class A membership are not present in person or by proxy, members not present may give their written assent to the action taken thereat.

ARTICLE XVI

AMENDMENTS

Amendment of these Articles shall require the assent of two-thirds (2/3) of the entire voting membership.

ARTICLE XVII

INCORPORATOR

<u>Name</u>	<u>Address</u>
Richard O. Gamble	19 West Hargett Street, Commerce Building, Ste. 512, P. O. Box 1777 Raleigh, NC 27602 Wake County

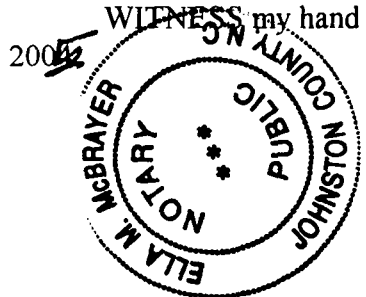
IN WITNESS WHEREOF, for the purpose of forming this Corporation under the laws of the State of North Carolina, I, the undersigned, being the incorporator of this Association, have executed these Articles of Incorporation this 3rd day of January, 2005

Richard O. Gamble (SEAL)  
Richard O. Gamble Incorporator

STATE OF NORTH CAROLINA  
COUNTY OF WAKE

I, Ella M. McBrayer, a Notary Public, do certify that Richard O. Gamble personally came before me this day and acknowledged the due execution of the foregoing instrument.

WITNESS my hand and notarial seal this 3rd day of January, 2005



Ella M. McBrayer  
Notary Public

My commission expires:  
7-27-08