

Corporations Section
P.O. Box 13697
Austin, Texas 78711-3697

Gwyn Shea
Secretary of State



Office of the Secretary of State

CERTIFICATE OF INCORPORATION
OF

WATERLEAF FALLS (KYLE) HOMEOWNERS' ASSOCIATION, INC.
Filing Number: 800170481

The undersigned, as Secretary of State of Texas, hereby certifies that Articles of Incorporation for the above named corporation have been received in this office and have been found to conform to law.

Accordingly, the undersigned, as Secretary of State, and by virtue of the authority vested in the Secretary by law, hereby issues this Certificate of Incorporation.

Issuance of this Certificate of Incorporation does not authorize the use of a name in this state in violation of the rights of another under the federal Trademark Act of 1946, the Texas trademark law, the Assumed Business or Professional Name Act, or the common law.

Dated: 02/04/2003

Effective: 02/04/2003

A handwritten signature in cursive script that reads "Gwyn Shea".

Gwyn Shea
Secretary of State



Come visit us on the internet at <http://www.sos.state.tx.us/>
PHONE(512) 463-5555 FAX(512) 463-5709 TTY7-1-1
Prepared by: Leila Wurst

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Secretary of State of Texas

FEB 04 2003

Corporations Section

ARTICLES OF INCORPORATION
OF
WATERLEAF FALLS (KYLE) HOMEOWNERS' ASSOCIATION

The undersigned, being natural persons of the age of twenty-one (21) years or more, at least two of whom are citizens of the State of Texas, acting as incorporators of the corporation under the Texas Non-Profit Corporation Act (the "Act"), hereby adopts the following Articles of Incorporation for such corporation. All terms as used herein, such as (but not by way of limitation) "land", "Owners", "Lot", "Members", "Open Space", "Areas of Common Responsibility", "Declarant," "Addition" and "assessments" shall have the same meanings as set forth in the Declaration (as hereinafter defined) unless otherwise specified and defined herein.

ARTICLE ONE

The name of the corporation is WATERLEAF FALLS (KYLE) HOMEOWNERS' ASSOCIATION, INC. (hereinafter referred to as the "Association").

ARTICLE TWO

The Association is a non-profit corporation.

ARTICLE THREE

The period of its duration shall be perpetual.

ARTICLE FOUR

The Association is organized pursuant to the Act and does not contemplate pecuniary gain or profit to the Members thereof and is organized for non-profit purposes. The purposes for which the Association is formed are to provide for the maintenance, preservation and management of the land located in Waterleaf Falls Subdivision, which is an addition to the City of Kyle (the "City"), Hays County (the "County"), Texas, as more fully described in that certain Declaration of Covenants, Conditions and Restrictions (the "Declaration") filed of record in the Real Property Records of the County, and any and all other property which is accepted from time to time by the Association for similar purposes, and to promote the health, safety and welfare of the residents within the land and any and all other property which is accepted by the Association for similar purposes. Without limiting the foregoing, the purposes of the Association shall include, without limitation, the following:

(a) The Association may exercise all of the powers and privileges and perform all of the duties and obligations of the Association, including cooperation with other homeowners' associations organized for the same or similar purposes in other subdivisions, as set forth in the Declaration, as same may be amended from time to time, the Declaration being incorporated herein by reference as if set forth at length herein.

(b) The Association may (i) fix, levy, collect and enforce payment of, by any lawful means, all charges or assessments pursuant to the terms of the Declaration and/or Bylaws, (ii) as agent, 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 land of the Association, (iii) make disbursements, expenditures and payments on behalf of the said land owners as required by the Declaration and the Bylaws of the Association, and (iv) hold as agent for said land owners reserves for periodic repairs, maintenance and capital improvements to be made as directed by the land owners acting through the Board (as herein defined).

(c) The Association may 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 subject to the limitations, if any, set forth in the Declaration.

(d) The Association may borrow money, and with the required assent of voting Members as set forth in the Declaration, mortgage, pledge or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the limitations, if any, set forth in the Declaration.

(e) The Association may provide management, upkeep, maintenance, repair, care of and general sanitation and cleanliness of the Areas of Common Responsibility and Open Space as provided in the Declaration.

(f) The Association may incur or assume obligations and duties to the City or any other governmental authority, regarding the development, operation and maintenance of the Areas of Common Responsibility and Open Space and any improvements within the Areas of Common Responsibility and Open Space.

(g) The Association may enter into, incur or assume obligations and duties under escrow agreements or other escrow arrangements with the City or other governmental authorities, to provide or escrow funds to pay for the operation, maintenance and repair of the Areas of Common Responsibility and Open Space and any improvements owned by the Association.

(h) The Association may enter into and perform any contract and exercise all powers which may be necessary or convenient to the operation, management, maintenance and administration of the affairs of the Association in accordance with the Declaration.

(i) The Association may dedicate, sell or transfer all or any part of the Areas of Common Responsibility or Open Space to any public agency, authority or utility company for such purposes and subject to such conditions as may be agreed to by the Members; provided, however, that no such dedication, sale or transfer shall be effective unless an instrument has been recorded after it has been signed by the requisite number of voting Members agreeing to such dedication, sale or transfer as provided in the Declaration.

(j) The Association may participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Areas of Common Responsibility or Open Space, provided that any such merger, consolidation or annexation shall have the assent of the Owners representing the requisite number of votes of voting Members as provided in the Declaration.

(k) The Association may have and exercise any and all powers, rights and privileges a corporation organized under the Act may now or hereafter exercise, including any other powers, rights or privileges described in the Declaration.

The foregoing enumeration of specific purposes shall not be held to limit or restrict in any manner the powers of this Association conferred by the laws of the State of Texas and shall be understood to be in furtherance of, and in addition to, such general powers conferred on nonprofit corporations under the provisions of the Texas Non-Profit Corporation Act.

ARTICLE FIVE

Every record owner of a fee or undivided fee interest in any Lot included in the Declaration shall be a member of the Association. Membership shall be appurtenant to and shall not be separated from ownership of a Lot. Every member shall have the right at all reasonable times during business hours to inspect the books of the Association. The foregoing is not intended to include persons or entities holding an interest in a Lot merely as security for the performance of an obligation. Transfer of ownership either voluntarily or by operation of law, shall terminate such Owners' membership in the Association, and membership shall be vested in the transferee; provided, however, that no such transfer shall relieve or release such Owner from any personal obligation with respect to the assessments which have accrued prior to such transfer.

ARTICLE SIX

The Association shall have two (2) classes of voting membership:

(a) Class A Members shall be all Owners of Lots (other than Class B Members) and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be Members, but the vote for such Lot shall be exercised as they among themselves determine, and in no event shall more than one (1) vote be cast with respect to any Lot.

(b) Class B member(s) shall be Declarant(s), and other parties as set forth in the Declaration, who 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 date and in the manner set forth in the Declaration.

At all meetings of the Association, there shall be no cumulative voting. Prior to all meetings, the Board of Directors shall determine the total number of votes outstanding and entitled to vote by the Members.

ARTICLE SEVEN

The street address of its initial registered office of the Association is 11911 Burnet Road, Austin, Texas, 78758, and the name of the registered agent at such address is John Zinsmeyer.

ARTICLE EIGHT

Subject to the terms of the Declaration, the Members of the Association shall elect the Board of Directors of the Association (the "Board"), and the Board shall, by majority rule, conduct all of the business of the Association, except when membership votes are required pursuant to the Declaration, the Articles of Incorporation, or the Bylaws of the Association. The number of Directors constituting the initial Board is three (3), and the names and addresses of the persons who are to serve as the initial members of the Board are:

<u>Name</u>	<u>Address</u>
John Zinsmeyer	11911 Burnet Road Austin, Texas, 78758
Andrew Erben	11911 Burnet Road Austin, Texas, 78758

Michael Slack

11911 Burnet Road
Austin, Texas, 78758

The Board may make whatever rules and bylaws it deems desirable to govern the Association and its Members; provided, however, any conflict between such bylaws and the provisions hereof shall be controlled by the provisions of the Declaration.

ARTICLE NINE

No Director of the Association shall be personally liable to the Association for monetary damages for any act or omission in the Director's capacity as a Director, except that this Article does not eliminate or limit the liability of a Director for (1) a breach of a Director's duty of loyalty to the Association, (2) an act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law, (3) a transaction from which a Director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of the Director's office, or (4) an act or omission for which the liability of a Director is expressly provided for by statute. Neither the amendment nor repeal of this Article shall eliminate or reduce the effect of this Article in respect of any matter occurring, or any cause of action, suit or claim that, but for this Article, would accrue or arise prior to such amendment or repeal. If the Act or the Texas Miscellaneous Corporation Laws Act (the "TMC Act") is hereafter amended to authorize corporate action further eliminating or limiting the personal liability of directors, then the liability of a Director of the Association shall be eliminated or limited to the fullest extent permitted by the Act or the TMC Act, as so amended from time to time. Without limiting the foregoing, the following shall apply.

- (a) The Association shall indemnify, to the extent provided in the following paragraphs, any person who is or was a director, officer, agent or employee of the Association. In the event the provisions of indemnification set forth below are more restrictive than the provisions of indemnification allowed by Article 1396-2.22A of the TMC Act, then such persons named above shall be indemnified to the full extent permitted by Article 1396-2.22A of the TMC Act as it may exist from time to time.
- (b) In case of a threatened or pending suit, action or proceeding (whether civil, criminal, administrative or investigative) against a person named in paragraph (a) above by reason of such person's holding a position named in such paragraph (a), the Association shall indemnify such person if such person satisfies the standard contained in paragraph (c) below, for amounts actually and reasonably incurred by such person in connection with the defense or settlement of the suit as expenses (including court costs and attorneys' fees), amounts paid in settlement, judgments, penalties (including excise and similar taxes), and fines.
- (c) A person named in paragraph (a) above will be indemnified only if it is

determined in accordance with paragraph (d) below that such person:

- (i) acted in good faith in the transaction which is the subject of the suit; and
- (ii) reasonably believed:
 - (A) if acting in his or her official capacity as director, officer, agent or employee of the Association, that his or her conduct was in the best interests of the Association; and
 - (B) in all other cases, that his or her conduct was not opposed to the best interests of the Association; and
- (iii) in the case of any criminal proceeding, had no reasonable cause to believe that his or her conduct was unlawful.

The termination of a proceeding by judgment, order, settlement or conviction, or upon a plea of nolo contendere or its equivalent, will not, or itself, create a presumption that such person failed to satisfy the standard contained in this paragraph (c).

- (d) A determination that the standard in paragraph (c) above has been satisfied must be made:
 - (i) by a majority vote of a quorum consisting of Directors who at the time of the vote are not named defendants or respondents in the proceeding; or
 - (ii) if such quorum cannot be obtained, by a majority vote of a committee of the Board, designated to act in the manner by a majority vote of all Directors, consisting solely of two (2) or more Directors who at the time of the vote are not named defendants or respondents in the proceeding; or
 - (iii) by special legal counsel selected by the Board or a committee of the Board by vote as set forth in subparagraphs (i) and (ii) above, or, if such quorum cannot be obtained and such committee cannot be established, by a majority vote of all Directors.
- (e) Determination as to reasonableness of expenses must be made in the same manner as the determination that indemnification is permissible, except that if the determination that indemnification is permissible is made by special legal counsel, determination as to reasonableness of expenses must be made in the manner specified by subparagraph (d)(iii) above for the selection of special legal counsel.

- (f) The Association may reimburse or pay in advance any reasonable expenses (including court costs and attorneys' fees) which may become subject to indemnification under paragraphs (a) through (e) above, but only in accordance with the provisions as stated in paragraph (d) above, and only after the person to receive the payment (i) signs a written affirmation of his or her good faith belief that he or she has met the standard of conduct necessary for indemnification under paragraph (c), and (ii) undertakes in writing to repay such advances if it is ultimately determined that such person is not entitled to indemnification by the Association. The written undertaking required by this paragraph must be an unlimited general obligation of the person but need not be secured. It may be accepted without reference to financial ability to make repayment.
- (g) The indemnification provided by paragraphs (a) through (e) above will not be exclusive of any rights to which a person may be entitled to by law, bylaws, agreement, vote of Members or disinterested Directors, or otherwise.
- (h) The indemnification and advance payment provided by paragraphs (a) through (f) above will continue as to a person who has ceased to hold a position named in paragraph (a) above and will inure to such person's heirs, executors and administrators.
- (i) The Association may purchase and maintain insurance on behalf of any person who holds or has held any position named in paragraph (a) above against any liability incurred by such person in any such position, or arising out of such person's status as such, whether or not the Association would have power to indemnify such person against such liability under paragraphs (a) through (f) above.
- (j) Indemnification payments and advance payments made under paragraphs (a) through (i) above are to be reported in writing to the Members of the Association in the next notice or waiver of notice of annual meeting, or within twelve (12) months after the payments are made, whichever is sooner.
- (k) All liability, loss, damage, cost and expense incurred or suffered by the Association by reason of or arising out of, or in connection with, the foregoing indemnification provisions shall be treated and handled by the Association as an expense subject to special assessment.

ARTICLE TEN

The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of voting Members. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be conveyed to either (a) another non-profit Texas corporation, association, trust or other organization devoted to purposes similar to those of the Association, or (b) an appropriate governmental agency to be used for purposes similar to those for which the Association was created. In the event such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE ELEVEN

Amendment of these Articles shall require the assent of the requisite number of votes of the voting Members as set forth in the Declaration.


ARTICLE TWELVE

As long as there is a Class B membership, the prior approval of the Federal Housing Administration ("FHA"), the Veterans Administration ("VA") and/or the U.S. Department of Housing and Urban Development ("HUD") (if FHA or VA has approved the Lots located in the Addition and is insuring mortgages of buyers of homes located in the Addition) shall be required for (a) annexation of additional properties under the Declaration, (b) mergers and consolidations of the Association, (c) mortgaging of the Areas of Common Responsibility or Open Space, (d) dedication of the Areas of Common Responsibility or Open Space to any governmental authority, (e) dissolution of the Association, or (f) amendment of these Articles if such amendments affects or alters any provisions of the Declaration directly governed or regulated by the FHA or VA.


ARTICLE THIRTEEN

The name and address of each incorporator is set for the in Article Eight hereinabove.

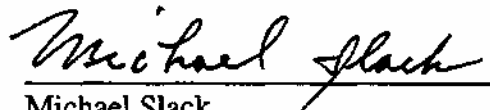
EXECUTED this 27th day of January, 2003.



John Zinsmeyer
Incorporator



Andrew Erben
Incorporator



Michael Slack
Incorporator

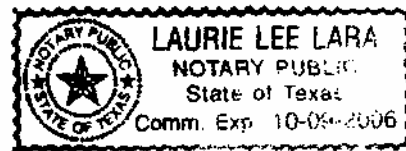
STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, a notary public, on this day personally appeared John Zinsmeyer known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this 27th day of January, 2003.



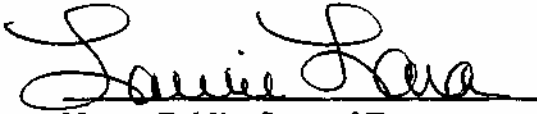
Notary Public, State of Texas

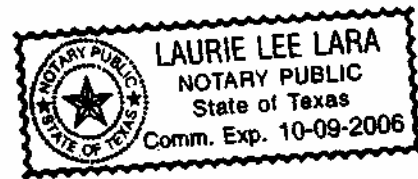


STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, a notary public, on this day personally appeared Andrew Erben, known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this 27 day of January, 2003.

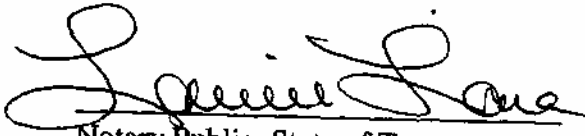

Notary Public, State of Texas



STATE OF TEXAS §
 §
COUNTY OF TRAVIS §

Before me, a notary public, on this day personally appeared Michael Slack known to me to be the person whose name is subscribed to the foregoing document and, being by me first duly sworn, declared that the statements therein contained are true and correct.

Given under my hand and seal of office this 27 day of January, 2003.


Notary Public, State of Texas

