

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

**CERTIFICATE OF INCORPORATION
of**

RAINEYBROOK POINTE HOMEOWNERS ASSOCIATION, INC.

I, TODD ROKITA, 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, January 08, 2004.



In Witness Whereof, I have caused to be affixed my signature and the seal of the State of Indiana, at the City of Indianapolis, January 8, 2004.

A handwritten signature in black ink that reads "Todd Rokita".

TODD ROKITA,
SECRETARY OF STATE

20040900326

APPROVED
AND
FILED

ARTICLES OF INCORPORATION
OF
RAINEYBROOK POINTE
HOMEOWNERS ASSOCIATION, INC.

[Signature]
SECRETARY

The undersigned incorporator or incorporators, desiring to form a corporation pursuant to the provisions of the Indiana Nonprofit Corporation Act of 1991 (hereinafter referred to as the "Act"), execute the following Articles of Incorporation:

ARTICLE I
Name

The name of the Corporation is: **Raineybrook Pointe Homeowners Association, Inc.** (hereinafter called the "Association").

ARTICLE II
Purpose

The purposes for which the Association is formed are:

To provide for, perform, contract for, pay for and otherwise do everything necessary to provide for the maintenance, preservation and architectural control of the residential lots within Raineybrook, Part Two, all located or to be located within the following described real estate, to-wit:

See Exhibit A attached hereto

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. To carry out this purpose, the Association may do the following:

- (a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Restrictive Covenants, hereinafter called the "Covenants", applicable to the property and recorded or to be recorded in the Office of the Recorder of Tippecanoe County, Indiana, and as the same may be amended from time to time as therein provided, said Covenants being incorporated herein as if set forth at length;
- (b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Covenants; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the Association, including all licenses, taxes, or governmental charges levied or imposed against the property of the Association;
- (c) 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) borrow money, and with the assent of two-thirds (2/3rds) of each class of members, mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) 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 two-thirds (2/3rds) of each class of members, agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidation with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Areas, provided that any such merger, consolidation or annexation shall be approved by a two-thirds (2/3rds) vote of the members;

(g) have and to exercise any and all powers, rights and privileges which a corporation organized under the Indiana Nonprofit Corporation Act of 1991, and more particularly described in I.C. §23-17-4-2, as amended from time to time, by law may now or hereafter have or exercise.

As the plats and covenants for additional phases or sections of Raineybrook, Part Two are recorded, the owners of the lots contained in such sections shall automatically become members of the Association.

ARTICLE III Type of Corporation

The Association is a mutual benefit corporation.

ARTICLE IV Registered Agent, Registered Office, Principal Office

Section 1. Registered Agent. The name and address of the Association's Registered Agent and Registered Office for service of process are:

Name of Registered Agent: **William R. Davis**

Address of Registered Agent: **745 Cardinal Drive
Lafayette, IN 47909**

Section 2. Principal Office. The post office address of the principal office of the Association is:

**745 Cardinal Drive
Lafayette, IN 47909**

ARTICLE V
Period of Existence

The period during which the Association shall continue is: perpetual.

ARTICLE VI
Membership

The Association will have members.

Section 1. Classes:

The membership shall consist of two classes of voting membership.

Class A Membership in the Association shall be limited strictly to the Owners of the lots in Raineybrook, Part Two. "Owner" shall mean and refer to the record owner, whether one (1) or more persons or entities, of the fee simple title of the lots which are a part of the platted phases or sections of Raineybrook, Part Two, including contract purchasers, but excluding those having such interests merely as security for the performance of an obligation. Any purchaser of a tract in Raineybrook, Part Two shall immediately, by virtue of having become such a purchaser, be a member of the Association upon taking title to the lot so purchased.

Class B Membership in the Association shall be the Developer, Rbrook, L.L.C., its successors or assigns, if such successors or assigns should acquire more than one undeveloped lot from the Developer for the purpose of development.

Section 2. Voting Rights, Preferences, Limitations, and Restrictions of Classes:

There are two classes of voting membership:

Class A. Class A members shall be all owners, with the exception of the Developer, and shall be entitled to one (1) vote for each lot owned. When more than one person holds an interest in any lot, all such persons shall be members. The vote for such lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any lot.

Class B. The Class B member(s) shall be the Developer and 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:

- a. when the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or
- b. on December 31, 2013.

**ARTICLE VII
Directors**

Section 1. Number of Directors:

The initial Board of Directors is composed of three (3) members. The minimum number shall be three (3) and the maximum number shall be nine (9) provided, however, that the exact number of directors shall be prescribed from time to time in the By-Laws of the Association; AND PROVIDED FURTHER THAT UNDER NO CIRCUMSTANCES SHALL THE MINIMUM NUMBER BE LESS THAN THREE (3).

Section 2. Names and Post Office Addresses of the Initial Board of Directors are:

| <u>Name</u> | <u>Number and Street or Building</u> | <u>City</u> | <u>State</u> | <u>Zip Code</u> |
|--------------------|--------------------------------------|-------------|--------------|-----------------|
| Russell E. Clayton | 1103 Wea Valley Drive | Lafayette | IN | 47909 |
| James A. Andrew | 620 Central Avenue | Lafayette | IN | 47905 |
| William R. Davis | 745 Cardinal Drive | Lafayette | IN | 47909 |

**ARTICLE VIII
Incorporator**

Name and Post Office Address of the Incorporator of the Association are as follows:

| <u>Name</u> | <u>Number and Street or Building</u> | <u>City</u> | <u>State</u> | <u>Zip Code</u> |
|-------------------|---------------------------------------|-------------|--------------|-----------------|
| Andrew S. Gutwein | 415 Columbia St., #1000, P.O. Box 469 | Lafayette | IN | 47902 |

**ARTICLE IX
Statement of Property and Value (if any)**

A statement of the property and an estimate of the value thereof to be taken over by the Association at or upon its incorporation is as follows: None.

**ARTICLE X
Provisions for Regulation and Conduct
of the Affairs of Association**

Section 1. By-Laws. The By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that if either the Federal Housing Administration or the Veterans Administration has provided any direct or guaranteed financing on any developed lot within Raineybrook, Part Two and has notified Developer of the same, then such notifying agency shall have the right to veto amendments while there is Class B membership.

Section 2. Amendment or Repeal. Amendment of these Articles shall require the assent of 51% of the entire membership.

Section 3. No Private Benefit. Said Association is organized exclusively for performing, contracting, paying and otherwise doing everything necessary to provide for the maintenance, preservation and architectural control of the residential lots within Raineybrook, Part Two, as described in Article II above, including, for such purposes, the making of distributions to organizations that qualify as exempt organizations under Section 501 (c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law).

Section 4. No Political Activities. No part of the net earnings of the Association shall inure to the benefit of, or be distributable to its members, trustees, officers, or other private persons, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered and to make payments and distributions in furtherance of the purposes set forth in its Articles of Incorporation. No substantial part of the activities of the Association shall be the carrying on of propaganda, or otherwise attempting to influence legislation, and the Association shall not participate in, or intervene in (including the publishing or distribution of statements) any political campaign on behalf of any candidate for public office.

Section 5. Notwithstanding any other provision of these Articles, the Association shall not carry on any other activities not permitted to be carried on (a) by a corporation exempt from Federal income tax under Section 501 (c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law) or (b) by a corporation, contributions to which are deductible under Section 170 (c)(2) of the Internal Revenue Code of 1986 (or corresponding provision of any future United States Internal Revenue Law).

Section 6. Indemnification.

(a) To the fullest extent now or hereafter provided by the law of the State of Indiana, every person (and the heirs and personal representatives of such person) who is or was a director, officer or employee of the Association shall be indemnified by the Association against all liability and reasonable expense 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 thereof or (ii) if not wholly successful, then if such director, officer or employee is determined, as provided in paragraph (e) of this Section 6, to have acted in good faith, in what he reasonably believed to be the best interests of the Association 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 upon a plea of guilty or of nolo contendere, 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) As used in this Section 6, the terms "claim, action, suit or proceeding" shall include any claim, action, suit or proceeding and all appeals thereof (whether brought by or in the right of this Association, any other corporation or otherwise), civil, criminal, administrative or investigative, or threat thereof, in which a director or officer or employee of the Association (or his heirs and personal representatives) may become involved, as a party or otherwise:

- (i) by reason of his being or having been a director, officer or employee of the Association or of any corporation which he served as such at the request of the Association, or
- (ii) 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 the Association, or
- (iii) by reason of any action taken or not taken by him in any such capacity, whether or not he continues in such capacity at the time such liability or expenses shall have been incurred.

(c) As used in this Section 6, 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) As used in this Section 6, the term "wholly successful" 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 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 the same, without any payment or promise made to induce a settlement.

(e) Every person claiming indemnification hereunder (other than one who has been wholly successful with respect to any claim, action, suit or proceeding) shall be entitled to indemnification (i) if special independent legal counsel, which may be regular counsel of the Association or other disinterested person or persons being hereinafter called the referee), shall deliver to the Association written finding that such director, officer or employee has met the standards of conduct set forth in the preceding paragraph (a) and (ii) of this Section 6 if the Board of Directors, acting upon such written finding, so determines. The person claiming indemnification shall, if requested, appear before the referee and answer questions which the referee deems relevant and shall be given ample opportunity to present to the referee evidence upon which he relies for indemnification. The Association shall, at the request of the referee, make available facts, opinions or other evidence in any way relevant to the referee's findings which are within the possession or control of the Association.

(f) The rights of indemnification provided in this Section 6 shall be in addition to any rights to which any such director, officer or employee may otherwise be entitled. Irrespective of the provisions of this Section 6, the Board of Directors may, at any time and from time to time, approve indemnification of directors, officers, employees or other persons to the full extent permitted by the laws of the State of Indiana, whether on account of past or future transactions.

(g) Expenses incurred with respect to any claim, action, suit or proceeding may be advanced by the Association (by action of the Board of Directors, whether or not a disinterested quorum exists) prior to the final disposition thereof upon receipt of an undertaking by or on behalf of the recipient to repay such amount unless he is entitled to indemnification.

ARTICLE XI
Distribution of Assets on Dissolution or Final Liquidation

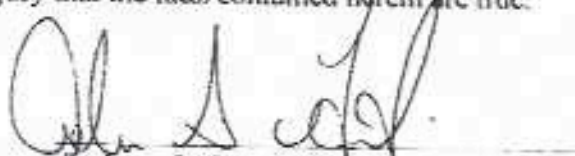
The Association may be dissolved with the assent given in writing and signed by not less than 60% of each class of members. Upon the dissolution of the Association, the Board of Directors shall, after paying or making provision for the payment of all of the liabilities of the Association, dispose of all of the assets of the Association. Any and all real estate held by the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused, such real estate shall be disposed in such manner, or to such organization or organizations organized and operated exclusively for charitable, educational, religious, or scientific purposes as shall at the time qualify as an exempt organization or organizations under Section 501 (c)(3) of the Internal Revenue Code of 1986 (or the corresponding provision of any future United States Internal Revenue Law), as the Board of Directors shall determine. Any accumulated interest or income from the funds of the Association not so disposed of shall be transferred to Rbrook, L.L.C., or its successor. Any and all funds of the Association then remaining on hand, which shall consist entirely of funds paid into the Association by its members, shall be refunded to its individual members pro-rata on a lot basis. Any such assets not so disposed of shall be disposed of by a Court of Competent Jurisdiction, exclusively for such purposes or to such organization or organizations, as said Court shall determine, which are organized and operated exclusively for such purposes.

ARTICLE XII
FHA/VA Approval

If there is a Class B membership and if the Federal Housing Administration or the Veterans Administration has provided any direct or guaranteed financing on any developed lot within Raineybrook, Part Two and has notified Developer of the same, then the following will require prior approval of the notifying agency: annexation of additional properties outside of Raineybrook, Part Two, mergers and consolidations, mortgaging of common area, dedication of common area, dissolution and amendment of these Articles.

I hereby verify subject to penalties of perjury that the facts contained herein are true.

INCORPORATOR:


Andrew S. Gutwein

This instrument was prepared by: **Andrew S. Gutwein**, of the Firm of **BENNETT BOEHNING & CLARY**, Attorneys at Law, 415 Columbia Street, Suite #1000, Post Office Box #469, Lafayette, Indiana 47902 - Telephone: (765) 742-9066.

EXHIBIT A

RAINEYBROOK SUBDIVISION, PART TWO, SECTION ONE

Legal Description:

A part of Section 18, Township 22 North, Range 4 West, Wea Township, Tippecanoe County, Indiana, more particularly described as follows:

Commencing at the southwest corner of the Southwest Quarter of said Section 18; thence North $00^{\circ}-18'-32''$ East, along the western line of said Southwest Quarter, 2065.09 feet to the POINT OF BEGINNING, thence continuing North $00^{\circ}-18'-32''$ East, along said western line, 574.48 feet to a Berntsen Monument marking the northeast corner of the Southeast Quarter of Section 13, Township 22 North, Range 5 West; thence North $00^{\circ}-18'-23''$ East, along the western line of said Southwest Quarter, 43.40 feet to a Berntsen Monument marking the northwest corner of the Southwest Quarter of said Section 18; thence continuing North $00^{\circ}-18'-23''$ East, along the western line of the northwest quarter of said Section 18, a distance of 1.73 feet; thence South $89^{\circ}-51'-42''$ East, along an existing fence line, a distance of 1422.18 feet to the western line of the Suesro, Inc. real estate as described in Deed Record 76, Page 4945 in the Office of the Recorder of Tippecanoe County, Indiana; thence South $00^{\circ}-21'-04''$ West, along the western line of said Suesro, Inc. real estate, a distance of 657.87 feet to the southern line of said Suesro, Inc. real estate; thence South $89^{\circ}-13'-56''$ East, along said southern line, a distance of 1.23 feet to the western line of Raineybrook Estates Subdivision, Part Six, as per the plat thereof recorded in Plat Cabinet A, Slide 2 in said Office of the Recorder; thence South $00^{\circ}-11'-10''$ East, along said western line, a distance of 301.62 feet, thence South $89^{\circ}-44'-30''$ West, a distance of 191.23 feet, thence North $00^{\circ}-15'-30''$ West, a distance of 59.15 feet, thence South $84^{\circ}-16'-36''$ West, a distance of 403.06 feet, thence South $87^{\circ}-36'-09''$ West, a distance of 50.26 feet, thence South $80^{\circ}-16'-36''$ West, a distance of 65.48 feet, thence North $47^{\circ}-53'-18''$ West, a distance of 413.24 feet, thence North $79^{\circ}-36'-22''$ West, 123.29 feet, thence North $66^{\circ}-48'-21''$ West, 96.35 feet, thence North $89^{\circ}41'09''$ West, 200.00 feet to the POINT OF BEGINNING, containing 26.944 acres more or less.

The bearings used in this description are based on a plat of survey prepared by Ticen Surveying and recorded as Document Number 01013398 in said Office of the Recorder.

EXHIBIT A - continued

LEGAL DESCRIPTION:

RAINEYBROOK SUBDIVISION, PART TWO, SECTION TWO:

A part of Section 18, Township 22 North, Range 4 West, Wea Township, Tippecanoe County, Indiana, more particularly described as follows:

Commencing at a Berntsen Monument marking the southwest corner of the Southwest Quarter of said Section 18; thence North $00^{\circ}-18'-32''$ East, along the western line of said Southwest Quarter, 1023.24 feet to the POINT OF BEGINNING; thence continuing North $00^{\circ}-18'-32''$ East, along said western line, 1041.86 feet; thence South $89^{\circ}-41'-09''$ East, 200.00 feet; thence South $66^{\circ}-48'-21''$ East, 96.35 feet; thence South $79^{\circ}-36'-22''$ East, 123.29 feet; thence South $47^{\circ}-53'-18''$ East, 413.24 feet; thence North $80^{\circ}-16'-36''$ East, 65.48 feet; thence North $87^{\circ}-36'-09''$ East, 50.26 feet; thence North $84^{\circ}-16'-36''$ East, 403.06 feet; thence South $00^{\circ}-15'-30''$ East, 59.15 feet; thence North $89^{\circ}-44'-30''$ East, 191.23 feet to the western line of Raineybrook Estates Subdivision, Part Six, as per the plat thereof recorded in Plat Cabinet A, Slide 2 in the Office of the Recorder of Tippecanoe County, Indiana; thence South $00^{\circ}-11'-10''$ East, along said western line, and the western line of Raineybrook Estates Subdivision, Part Three, as per the plat thereof recorded in Plat Book B, Slide 167 in the said Office of the Recorder, a distance of 1044.28 feet to the northern line of Raineybrook Estates Subdivision, Part One, as per the plat thereof recorded in Plat Book 8, Page 32 in the said Office of the Recorder; thence North $89^{\circ}-24'-53''$ West, along said northern line, and the northern line of Raineybrook Estates Subdivision, Part Two, as per the plat thereof recorded in Plat Book 9, Page 30 in the said Office of the Recorder, a distance of 781.00 feet to the northwest corner of said Raineybrook Estates Subdivision, Part Two; thence continuing North $89^{\circ}-24'-53''$ West, 112.65 feet; thence North $29^{\circ}-06'-40''$ West, 259.94 feet; thence North $05^{\circ}-13'-02''$ West, 187.31 feet; thence North $17^{\circ}-29'-01''$ West, 42.64 feet; thence South $72^{\circ}-54'-45''$ West, 400.48 feet to the POINT OF BEGINNING, containing 34.461 acres, more or less.

The bearings used in this description are based on a plat of survey performed by Ticen Surveying and recorded as Document Number 01013398 in the Office of the Recorder of Tippecanoe County, Indiana.