

ARTICLES OF INCORPORATION

OF

POWHATAN COMMUNITY SERVICES ASSOCIATION

We hereby associate to form a non-stock corporation under the provisions of Chapter 2 of Title 13.1 of the Code of Virginia.

ARTICLE I

The name of the corporation is Powhatan Community Services Association, hereafter called the "Association".

ARTICLE II

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 in any lawful manner of that portion of the real estate development known as Powhatan of Williamsburg Secondary in James City County, Virginia (herein referred to as "Powhatan") which has been subjected to the Declaration of Covenants and Restrictions hereinafter referred to in paragraph (a) of this Article II and all other portions of "Powhatan" subjected to said Declaration in accordance with the terms thereof; 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 to:

(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 Declaration of Covenants and Restrictions, hereinafter called the "Declaration" recorded in Deed Book 215, page 722, in the Office of the Clerk of the Circuit Court of the City of Williamsburg and the County of James City and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length, and all Supplementary Declarations applicable to the property when recorded;

(b) 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) except as hereinafter provided, 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) participate in mergers and consolidations with other non-profit corporations organized for the same purposes or annex additional residential property and Common Area.

(e) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Stock Corporation Act of the State of Virginia by law may now or hereafter have or exercise.

No substantial part of the activities of the Association shall be devoted to attemptin to influence legislation by propaganda or otherwise within the meaning of the proscriptive provisions of the Internal Revenue Code. The Association shall not directly or indirectly participate in, or intervene in (including the publishing or distributing of statements) any political campaign on behalf of or in opposition to any candidate for public office.

### ARTICLE III

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. Every lessee of a Living Unit constructed on any Lot who holds a written lease having an initial term of at least twelve (12) months shall likewise be a member of the Association without voting rights provided he notifies the Association of his tenance in writing.

### ARTICLE IV

Voting Rights. The Association shall have three classes of full voting membership:

Class A. Class A members shall be all Owners of Lots, excluding the Developer, who shall be entitled to one vote for each Lot owned;

Class B. Class B members shall be all owner occupants of all structures constructed on Lots in the Properties and shall be entitled collectively to one vote for the Living Unit they occupy;

Class C. The Class C member shall be the Developer, Powhatan Enterprises, Inc., or any successor to all or substantially all of its business of developing the Properties which shall have one vote per Lot owned. The Class C membership shall cease upon written notice to the Association from the Developer that it no longer desires to be a Class C member.

The Association shall have one class of non-voting membership:

Class D. The Class D members shall be those lessees of a Living Unit constructed on any Lot who hold a written lease having an initial term of at least twelve (12) months and shall notify the Association in writing of his tenancy.

When more than one person holds interest or interests in any Lot or Living Unit, the vote for such Lot or Living Unit shall be exercised as they shall among themselves determine; but the Association shall be entitled to rely on the vote of those present at any meeting of members as being duly authorized to vote, unless written notice to the contrary is received by the Association prior to any such meeting.

#### ARTICLE V

Registered Office and Agent. The address of the initial office of the Association is 13441 Warwick Boulevard, City of Newport News, Virginia 23602.

The name of the initial registered agent of the Association is Cecil G. Moore, Attorney, who is a resident of Virginia and a member of the Virginia State Bar and whose business address is 13185 Warwick Boulevard, City of Newport News, Virginia 23602.

#### ARTICLE VI

##### Board of Directors.

(a) Term and Composition. The affairs of the Association shall be managed by a Board of nine Directors, which number may not be changed except by amendment to these Articles, and who need not be members of the Association. As long as the Class C membership exists, the Board shall consist of directors appointed by the Class C member and Directors elected by the Class A and Class B members. The apportionment of the Board between appointed and elected Directors shall be as follows:

The initial Board of Directors named in the Articles of Incorporation shall serve until the first annual meeting following conveyance of the first Lot in the Properties. At that meeting seven (7) directors shall be appointed by the Class C member for terms of one (1) year and two (2) directors elected by the Members for a term of two (2) years.

Six weeks prior to subsequent annual meetings, the Board of Directors shall determine the number of directors to be elected at the annual meeting so that the number of elected directors shall be equivalent to one director for each 300 Class A and B votes, or fraction thereof, outstanding as of sixty days prior to the annual meeting date, but in no event shall there be less than two nor more than seven elected directors. The remainder of the directors shall be appointed by the Class C member. Appointed directors shall serve for a term of one year, and subsequent to the first annual meeting following conveyance of the first Lot in the Properties, all elected directors shall serve for a term of two years.

After the Class C membership expires, all directors shall be elected by the members.

(b) Method of Nomination. At least three weeks before the annual meeting, candidates for election shall file a petition of candidacy, signed by not less than ten members, with the Elections Committee of the Association appointed by the Board of Directors. The Elections Committee shall provide all members with a ballot containing the names of all bona fide candidates not less than ten days before the annual meeting.

(c) Method of Election. Election shall be by secret written ballot at the annual meeting or by proxies delivered to the Chairman of the Elections Committee prior to the start of the annual meeting. The members may cast, in respect to each vacancy, as many votes as they are entitled to under the provisions of the Articles of Incorporation. Cumulative voting is not permitted. Those persons receiving the largest number of votes shall be elected.

(d) Resignation and Removal. The unexcused absence of an elected director from three consecutive regular meetings of the Board shall be deemed a resignation. Any elected director may be removed from the Board, with or without cause, by a majority vote of the members of the Association.

(e) Vacancies. In the event of death, resignation or removal of an elected director, his successor shall be selected by the remaining elected directors and shall serve for the unexpired term of his predecessor. Vacancies occurring in the number of appointed directors shall be filled by appointment by the Class C member to serve for the unexpired term of their predecessor.

(f) Compensation. No director shall receive compensation for any service he may render to the Association. However, any director may be reimbursed for his actual expenses incurred in the performance of his duties.

The names and addresses of the initial Directors who are to serve until the selection of their successors are:

<u>NAME</u>	<u>ADDRESS</u>
Lawrence E. Beamer and Jane G. Beamer	71 Waterview Drive Newport News, Virginia 23602
William E. Beamer and Jacqueline L. Beamer	124 Beechwood Hills Newport News, Virginia 23602
Karl E. Beamer and Elizabeth H. Beamer	72 Waterview Drive Newport News, Virginia 23602
Patrick T. Malarkey and Madeline H. Malarkey	74 Gresham Circle Newport News, Virginia 23602
Charles W. Wolfe	424 Maryle Court Newport News, Virginia 23602

## ARTICLE VII

### Indemnification.

(a) The corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including an action or suit by or in the right of the corporation) by reason of the fact that he is or was a director or officer of the corporation, or is or was serving at the request of the corporation as a director, officer, partner, or trustee of another corporation, partnership, joint venture, trust, or other enterprise, against judgments, fines, amounts paid in settlement and expenses (including attorneys' fees) actually and reasonable incurred by him in connection with such action, suit or proceeding, except only in relation to any claim, issue or matter as to which such person shall have been finally adjudged to be liable for his gross negligence or willful misconduct in the performance of his duties. Each such indemnity shall incur to the benefit of the heirs, executors and administrators of such person.

(b) Any indemnity under subsection (a) above shall (unless authorized by a court) be made by the Corporation only as authorized in the specific case upon a determination that the Director, officer, partner or trustee was not guilty of gross negligence or willful misconduct in the performance of his duties and, in case of settlement, that such settlement was, or if still to be made is, consistent with the best interests of the corporation. Such determination shall be made (i) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (ii) by independent legal counsel in a written opinion if such a quorum is not obtainable or, even if obtainable, a quorum of disinterested directors so directs, or (iii) by the members. If the determination is to be made by the Board of Directors, it may rely as to all questions of law on the advice of independent counsel.

(c) Expenses incurred in defending an action, suit or proceeding, whether civil, administrative or investigative, may be paid by the corporation in advance of the final depositions of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, officer, partner or trustee to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the corporation as authorized in this section.

(d) The right of indemnification provided by this section shall not be exclusive of any other rights to which any person may be entitled, including any right under policies of insurance that may be purchased and maintained by the corporation or others, even as to claims, issues or matters in relation to which the corporation would not have the power to indemnify such person under the provisions of this section.

(e) The corporation may purchase and maintain at its sole expense insurance, in such amounts and on such terms and conditions as the Board of Directors may deem reasonable, against all liabilities or losses it may sustain in consequence of the indemnification provided for in this section.

(f) The Board of Directors shall have the power, generally and in specific cases, to indemnify employees and agents of the corporation to the same extent as provided in this section with respect to directors and officers.

#### ARTICLE VIII

Distribution of Assets on Dissolution. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of 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 acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization as may be designated by the Board of Directors to be devoted to such similar purposes.

#### ARTICLE IX

Duration. The corporation shall exist perpetually.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Virginia, we, the undersigned, constituting the incorporators of this Association, have executed these Articles of Incorporation this \_\_\_\_\_ day of \_\_\_\_\_, 19\_\_\_\_.

\_\_\_\_\_  
Lawrence E. Beamer

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William E. Beamer

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Karl E. Beamer