

Brandermill Community Association

**GOVERNING
DOCUMENTS**

ARTICLES OF INCORPORATION

**OF THE
BRANDERMILL COMMUNITY ASSOCIATION, INC.**

**NOTE: This document does not comply with the full
requirements of a Disclosure Package**

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**ARTICLES OF INCORPORATION
of
BRANDERMILL COMMUNITY ASSOCIATION, INC.**

April 19, 1993

Brandermill Community Association, Inc.

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ARTICLES OF INCORPORATION
BRANDERMILL COMMUNITY ASSOCIATION, INC.**

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**RESTATEMENT OF
ARTICLES OF INCORPORATION
BRANDERMILL COMMUNITY ASSOCIATION, INC.**

ARTICLE I

The name of the Corporation is BRANDERMILL COMMUNITY ASSOCIATION, INC.

ARTICLE II

The purposes and powers of the Corporation are as follows:

(a) To own, hold, manage, maintain, and care for the Common Properties (such term being defined in the Declaration of Covenants and Restrictions of the Brandermill Community Association, Inc. and Brandermill, a Joint Venture (the "Declaration") recorded August 30, 1974 in the Clerk's Office of the Circuit court of Chesterfield County, Virginia (the "Clerk's Office") in Deed Book 1130 at page 132, as amended by documents subsequently recorded in the Clerk's Office in the planned community development known as Brandermill, located in Chesterfield County, Virginia; to enforce the covenants, restrictions, easements, charges, liens, rules and regulations provided in the Declaration; and to assess, collect and disburse the charges due the Corporation from its members, as hereinafter provided.

(b) To acquire (by gift, purchase, or otherwise), own, hold, improve, build upon, operate, maintain, sell, lease, transfer, mortgage, encumber, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Corporation, but only in accordance with the purposes of the Corporation.

(c) To do any and all things and acts that the Corporation, from time to time, in its discretion, may deem to be for the benefit of the Properties and the owners and inhabitants thereof or advisable, proper or convenient for the promotion of the peace, health, comfort, safety or general welfare of the owners and inhabitants thereof; and further, the Corporation shall have the powers, rights and privileges to conduct any and all business that a corporation organized under the Virginia Non-Stock Corporation Act by law may now or hereafter have or exercise and that is not required to be specifically set forth in these Articles; provided, however, that notwithstanding any other provisions of these Articles, the Corporation shall not carry on any activities not permitted to be carried on by a homeowners association exempt from federal income tax under Section 528 of the Internal Revenue Code of 1986 or the corresponding provision of any future Internal Revenue law.

(d) The Corporation is not organized for profit, nor shall it have any power to issue certificates of stock or pay dividends, and no part of the net earnings or assets of the Corporation shall inure to the benefit of or be distributed, upon dissolution or otherwise, to any member of the Corporation, Director, Officer or other private person. The

Corporation may enter into contracts with the Developer or with any other person (including any Member, Officer, or Director), and may pay compensation in reasonable amounts for services rendered.

ARTICLE III

Provisions relating to the members of the Corporation are:

(a) Every Owner and Tenant, unless otherwise specified, shall be a member of the Association. Governmental entities, tenants of public or commercial property and Owners or Tenants who are exempt from the payment of assessments shall not be members of the Association unless otherwise specified herein. The Developer shall be a member of the Association and a creditor who acquires title to the Properties pursuant to foreclosure or any other proceeding or deed in lieu of foreclosure shall be a member of the Association.

(b) There shall be the following two (2) classes of voting membership in the Corporation:

(1) TYPE A - Type "A" members shall be all Owners of Residential Lots and Family Dwelling Units, and Tenants occupying Family Dwelling Units. A Type "A" Member shall be entitled to two (2) votes for each Family Dwelling Unit which he owns. If a Family Dwelling Unit is occupied by a Tenant, the Owner shall be entitled to one (1) vote and the Tenant shall be entitled to one (1) vote. An owner of a Residential Lot shall be entitled to one (1) vote for each Residential Lot he owns.

(2) TYPE B - Type "B" members shall be all Owners of platted Public or Commercial Sites, Multiple-Family Tracts, Public or Commercial Units, Self-Maintained Public or Commercial Units, Unsubdivided Lands and Development Unit Parcels. A Type "B" Member shall be entitled to one (1) vote for each One Hundred (\$100.00) Dollars in annual assessments paid to the Association. In computing the number of votes to which a Type "B" Member shall be entitled, the amount of the assessment paid shall be rounded to the nearest One Hundred (\$100.00) Dollars.

(c) Payment of special assessments shall not entitle any member to additional votes.

(d) When any property entitling the Owner to membership as a member of the Association is owned of record in the name of two (2) or more persons whether fiduciaries, joint tenants, tenants in common, tenants in partnership or in any other manner of joint or common ownership or if two (2) or more persons or entities have the same fiduciary relationship respecting the same property, then unless the instrument or order appointing them or creating the tenancy otherwise directs and it or a copy thereof is filed with the Secretary of the Association, their acts with respect to voting shall have the following effect:

- (1) If only one (1) votes, in person or by proxy, his act shall bind all;
- (2) If more than one (1) votes, in person or by proxy, the act of the majority shall bind all;
- (3) If more than one (1) votes, in person or by proxy, but the vote is evenly split on any particular matter, each fraction shall be entitled to its proportionate share of the vote or votes provided, however, that all votes must be cast in whole numbers and not fractions;
- (4) If the instrument or order filed with the Secretary of the Association shows that such tenancy is held in unequal interests, a majority or even split under subparagraphs (2) and (3) immediately above shall be a majority or even split of the interests in the property to which the vote(s) is attributable; and
- (5) The principles of this paragraph shall apply, insofar as possible, to execution of proxies, waivers, consents or objections and for the purpose of ascertaining the presence of a quorum.

(e) The voting rights of any owner may be assigned by said Owner to his tenant, if the tenant is a member; provided, however, that the owner may not assign to such tenant any votes(s) not attributable to the property actually leased to said tenant.

(f) The members of the Corporation shall have the right to vote for the election and removal of directors, amendment of these Articles of Incorporation and upon such other matters with respect to which a vote of members is required under the Declaration, these Articles of Incorporation, Bylaws, the Virginia Property Owners Association Act or the Non-Stock Corporation Act of Virginia.

ARTICLE IV

The affairs of the Corporation shall be managed by a seven (7) member Board of Directors provided, however, that the Board may increase the number to nine (9) members as the Directors deem appropriate but the vacancy so created by reason of such increase shall only be filled by vote of the members of the corporation at a meeting expressly called for this purpose.

The Term of each Director shall be three years except that in 1994 of the four directors to be elected two directors shall be elected for a term of two (2) years and two shall be elected for a term of three (3) years. The three-year directorships in 1994 shall be filled by the individuals receiving the two highest vote totals at the 1994 Annual Meeting.

Directors may succeed themselves.

A director may be removed from office, with or without cause, by a majority vote of the members cast at a meeting of the members of the Corporation expressly called for this purpose, such meeting being subject to the quorum requirements of the Declaration.

ARTICLE V

To the extent provided by law, the Corporation may participate in mergers and consolidation with other nonprofit associations organized for the same purpose; provided, however, that such mergers or consolidation shall require approval by the vote of more than sixty-six and seven-tenths percent (66.7%) of the members of the Corporation at a meeting called for such purpose.

ARTICLE VI

Upon dissolution of the Corporation, the assets both real and personal, shall be transferred in the manner set forth in the Declaration for the transfer of the Common Properties in the event the Declaration is declared void, invalid, illegal or otherwise unenforceable, In the event of such a dissolution and transfer, the assets shall continue to be used and maintained for the purpose set out herein.

ARTICLE VII

(1) 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, arbitrative or investigative (including an action or suit by or in the right of the Corporation to procure a judgment in its favor) 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 or officer or another corporation, partnership, joint venture, trust or other enterprise, against judgments, fines, amounts paid in settlement, and expenses (including attorney's fees) actually and reasonably incurred by him in connection with such action, suit or proceeding if he acted in good faith and in the manner he reasonably believed to be in or not opposed to the best interest of the Corporation, and, with respect to any criminal action or proceeding, had no reasonable cause to believe his conduct was unlawful. 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 and in the manner he reasonably believed to be in or not opposed to the best interest of the Corporation, and, with respect to any criminal action or proceeding, had reasonable cause to believe that his conduct was unlawful.

(2) Notwithstanding the provisions of section (1) of this Article, no indemnification shall be made in an action or suit by or in the right of the Corporation to procure a judgment in its favor with respect to any claim, issue or matter as to which such person shall have been finally adjudged to be liable for gross negligence or willful misconduct in the performance of his duty to the Corporation unless, and only to the extent that, the court in which such action or suite was brought shall determine upon application that, despite the adjudication of liability but in view of all circumstances of the case, such person is fairly and reasonably entitled to indemnification.

(3) To the extent that any such person has been successful on the merits or otherwise in defense of any actions, suit or proceeding referred to in section (1) of this Article, or in defense of any claim, issue or matter therein, he shall be indemnified against expense (including attorney's fees) actually and reasonable incurred by him in connection therewith.

(4) Any indemnification under sections (1) and (2) of this Article (unless ordered by a court) shall be made by the Corporation only as authorized in the specific case upon a determination that indemnification of any such person is proper in the circumstances because he had met the applicable standard of conduct set forth in such sections (1) and (2). Such determination shall be made either (i) by the Board by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding; or (ii) if such a quorum is not obtainable, or even if obtainable, a quorum of disinterested directors so directs, by independent legal counsel in a written opinion; or (iii) by the Members. If the determination is to be made by the Board, it may rely, as to all questions of law, on the advice of independent counsel.

(5) Expenses (including attorney's fees) incurred in defending an action, suit or proceeding, whether civil, criminal, administrative, arbitative or investigative, may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding as authorized in the manner provided in section (4) of this Article, upon receipt of an undertaking by or on behalf of such person to repay such amount unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation as authorized in this Article.

(6) The Board is hereby empowered, by majority vote of a quorum of disinterested directors, to cause the Corporation to indemnify or contract in advance to indemnify any person not specified in section (1) 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, arbitative or investigative, by reason of the fact that such person is or was an employee or agent of the Corporation, or is or was serving at the request of the Corporation as an employee or agent of another corporation, partnership, joint venture, trust or other enterprise, to the same extent as if such person were specified as one to whom indemnification is granted in section (1). The provision of sections (2) through (5) of this Article shall be application to any indemnification provided hereafter pursuant to this section (6).

(7) The Corporation may purchase and maintain insurance to indemnify it against the whole or any portion of the liability assumed by it in accordance with this Article and may also procure insurance, in such amounts as the Board may determine, on behalf of any person who is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, employee or agent of another corporation, partnership, joint venture, trust or other enterprise, against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Corporation would have the power to indemnify him against such liability under the provisions of this Article.

(8) Every reference herein to director, officer, employee or agent shall include former directors, officers, employees and agents and their respective heirs, executors and administrators. The indemnification hereby provided and provided hereafter pursuant to the power hereby

conferred on the Board 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, with respect 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 Article.

ARTICLE VIII

The following words and terms when used in these Articles of Incorporation (unless the context shall clearly indicate otherwise) shall have the following meanings:

(a) "Developer" shall mean Brandermill Development Company Limited Partnership, a limited partnership, successor in interest to Brandermill, a Virginia general partnership.

(b) "Owner" shall mean the Owner as shown by the Real Estate Records in the Clerk's Office, whether it be one (1) or more persons, firms, associations, corporations or others legal entities of fee simple title to any Residential Lot, Family Dwelling Unit, Multiple-Family Tract, Self-Maintained Public or Commercial Unit, Public or Commercial Site, Public or Commercial Unit, Development Unit Parcel or Unsubdivided Land ("UNIT") situated upon the Properties, but, notwithstanding any applicable theory of a deed of trust, shall not mean or refer to the mortgagee or holder of a deed of trust, its successors or assigns, unless and until such mortgagee or holder of a deed of trust has acquired title pursuant to foreclosure or a proceeding or deed in lieu of foreclosure. The term "Owner" shall not mean any lessee or tenant of an owner. If a long-term contract of sale of land within the Properties, the Owners of the land shall be the purchaser under said contract and not the fee simple titleholder. A long-term contract is a contract which is recorded in the Clerk's Office and in which the purchaser is required to make payments for a period extending beyond nine (9) months from the date of the contract, and where the Purchaser does not receive title to the Property until the payments are made, although the purchaser is given the use of the property.

(c) "Tenant" shall mean the lessee under a written agreement for the rent and hire of a Family Dwelling Unit, Self-Maintained Public or Commercial Unit or Public or Commercial Unit in Brandermill which agreement has been filed with the Secretary of the Association.

(d) The "Properties" shall mean and refer to the Existing Property described in Article II of the Declaration, and any addition subjected as provided in Article II thereof.

(e) "Residential Lot" shall mean any subdivided parcel of land located within the Properties for which no building permit has been issued by the appropriate governmental authorities and which parcel is intended for use as the site of a single family dwelling as shown upon any recorded final subdivision plat of any of the Properties.

(f) "Multiple-Family Tract" shall mean any unimproved parcel located within the Properties intended for development of attached residential units as shown upon any

recorded final subdivision plat of any of the Properties.

(g) "Public or Commercial Site" shall mean any unimproved parcel intended for the development of improvements designed to accommodate commercial, governmental or business enterprises as shown upon any recorded final subdivision plat of any of the Properties.

(h) "Development Unit Parcels" shall mean those parcels or tracts of Land conveyed under the Covenants and Restrictions permitting further subdivision of the parcel.

(i) "Unsubdivided land" shall mean all land in the Existing Property and any additions thereto which has not been subdivided as Residential Lots, Multiple Family Tracts, Public or Commercial Sites, Development Unit Parcels or Common Properties as shown on the subdivision plats recorded in the Clerk's Office. Only the Developer may own Unsubdivided Land.

(j) "Family Dwelling Unit" shall mean any property for which a building permit has been issued which is intended for use as a single family dwelling.

(k) "Public or Commercial Unit" shall mean any improved parcel intended to accommodate commercial, governmental or business enterprises as shown upon any recorded final subdivision plat of any of the Properties. The parcel shall be considered improved when a certificate of occupancy is issued by the appropriate governmental authority.

(l) "Self-Maintained Public or Commercial Unit" shall mean any Public or Commercial Units and Development Unit Parcels the owner of which (i) establishes a plan of maintenance approved by the Association on an annual basis, and (ii) enters into an agreement with the Association agreeing that it will provide all services to its parcel which the Association otherwise would have provided and all maintenance of its parcel at a level not less than that furnished by the Association to the Common Properties; and upon its failure to provide such services and maintenance, to pay to the Association an amount equal to the assessments paid by a Public or Commercial Unit for the time period such failure of services and maintenance continues.

**ARTICLES OF AMENDMENT TO
ARTICLES OF INCORPORATION OF
BRANDERMILL COMMUNITY ASSOCIATION, INC.**

THESE ARTICLES OF AMENDMENT (this "Amendment"), made as of the 19th day of April, 2004, by Brandermill Community Association, Inc., a Virginia not-for-profit non-stock corporation, hereinafter called "Association" provides as follows:

RECITALS

- A. On April 19, 1993, the Association restated its Articles of Incorporation (as subsequently amended, the "Articles") and filed the Articles with the State Corporation Commission of the Commonwealth of Virginia.
- B. The Member and the Board of the Association desire to make certain amendments to the Articles as herein provided.

NOW, THEREFORE, the Association hereby amends its Articles.

AMENDMENT

1. The name of the Association is Brandermill Community Association, Inc.
2. Article III, Section (b) (1) of the Articles is hereby deleted in its entirety and replaced with the following:
TYPE A - Type 'A' Members shall be all Owners of Residential Lots and Family Dwelling Units, and Tenants occupying Family Dwelling Units. A Type 'A' Member shall be entitled to one (1) vote for each One Hundred Dollars (\$100) in annual assessments paid to the Association. In computing the number of votes to which a Type 'A' Member shall be entitled, the amount of the assessment shall be rounded to the nearest One Hundred Dollars (\$100). Payment of special assessments shall not entitle any Member to additional votes. A Member of a Family Dwelling Unit may transfer any number of the Member's votes to a Tenant living in the Family Dwelling Unit, provided the transfer and the number of such transferred votes is stated in the Tenant's written lease, and the Association is provided with a copy of the lease prior to Tenant exercising its assigned votes.
3. The Board of Directors of the Association approved and adopted the foregoing amendment by unanimous.
4. The foregoing amendment was presented to a duly called meeting of the Members of the Association on April 19, 2004. On April 19, 2004, a quorum of the Members of the Association was present at such meeting, more than seventy-five percent (75%) of the votes cast at such a meeting were in favor of its adoption, and such percent is sufficient for the adoption of the amendment.

[REMAINDER OF PAGE INTENTIONALLY BLANK –
SIGNATURES APPEAR ON NEXT PAGE(S)]

IN WITNESS WHEREOF, the Association has caused this Amendment to be executed and its seal attached by its duly authorized officers.

BRANDERMILL COMMUNITY ASSOCIATION,
INC., a Virginia not-for profit non-stock
corporation [SEAL]

Attest:

By: *C. W. Kayfield*
President

By: *J. M. Lutz*
Secretary

COMMONWEALTH OF VIRGINIA

City/County of *Chesterfield* : to wit

The foregoing instrument was acknowledged before me this *19* day of *January*, 200*4*, by *Charles W. Kayfield*, President of Brandermill Community Association, Inc., a Virginia not-for profit non-stock corporation, on behalf of the corporation.

My commission expires: *March 31, 2007*

Jane M. Lutz
Notary Public

COMMONWEALTH OF VIRGINIA

City/County of Chesterfield : to wit

The foregoing instrument was acknowledged before me this 19 day of January, 2004, by Jason Livingston, Secretary of Brandermill Community Association, Inc., a Virginia not-for profit non-stock corporation, on behalf of the corporation.

My commission expires: March 31, 2007

James M. Kelly
Notary Public