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**DECLARATION OF COVENANTS,
CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS
FOR
WESTBROOK ESTATES SUBDIVISION
UNION, KENTUCKY**

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EXHIBITS

Exhibit 1: Legal Description for the Initial Development of Westbrook Estates Subdivision

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GROUP 2046, 5106, 5107, 5108

**DECLARATION OF COVENANTS, CONDITIONS AND RESTRICTIONS
AND RESERVATION OF EASEMENTS FOR
WESTBROOK ESTATES SUBDIVISION**

THIS DECLARATION is made on the 28 day of October, 2010, by Arlinghaus I LLC., a Kentucky limited liability company, referred to herein as the Developer or Declarant.

WITNESS:

WHEREAS, Arlinghaus I LLC is the owner of the real property described in Exhibit 1 and plans to develop that real estate into a subdivision known as Westbrook Estates Subdivision; and has designed this Subdivision to create a planned residential community with common areas to benefit the residents of the community; and wishes to preserve the values and amenities in the subdivision; and to provide for maintenance of the common areas, and desires to subject the real property described in Exhibit I to all of the conditions, covenants, restrictions, easements, charges and liens set forth in this Declaration, all of which are for the benefit of the subdivision and the owners; and has formed the Westbrook Homeowners Association, Inc., as a non-profit Kentucky Corporation, to be delegated and assigned the powers and duties of maintaining and administering the common areas, and enforcing the covenants and restrictions, and collecting the assessments, and performing the other powers and duties as detailed herein;

THEREFORE, Arlinghaus I LLC hereby declares that all of the real property described in Exhibit 1 and any other property as may be added later and be subjected to these provisions pursuant to this Declaration, shall be sold and conveyed and owned and held subject to the conditions, covenants, restrictions, easements, charges and liens set forth in this Declaration and in any plat which includes any part of the subject Property. The above shall run with the land and be binding on all parties having any right, title, or interest in the Property, any lot or tract, or any part thereof, their heirs, successors and assigns, and shall inure to the benefit of each owner.

ARTICLE I DEFINITIONS

- 1.1 Definitions. When used in this Declaration, the following words shall have the following meanings:
- 1.2 "Articles" and "Articles of Incorporation" shall mean the Articles of Incorporation of Westbrook Homeowners Association Inc., dated September 30, 2010, which were filed with the Secretary of State in Frankfort, Kentucky, as a non-profit corporation under the provisions of Kentucky laws, and as may be later amended. A copy of the Articles are attached in Exhibit 2 and made a part hereof.
- 1.3 "Association" shall refer to the Westbrook Homeowners Association, Inc., its successors and assigns.
- 1.4 "Bylaws" shall mean the bylaws of the Association as originally drawn and as may be amended from time to time. A copy of the bylaws is attached to and made a part of these Declarations and are shown as Exhibit 3.
- 1.5 "Westbrook Estates Subdivision" shall refer to the subdivision located on the real property described in Exhibit 1 and on any real property as may later be annexed pursuant to this Declaration.
- 1.6 "Board" and "Board of Directors" shall mean the Board of Directors of the Westbrook Homeowners Association, Inc. as provided in the Articles of Incorporation and bylaws of the Association. The above terms can be used interchangeably.

- 1.7 "Declarant" shall refer to the Developer - Arlinghaus I LLC, a Kentucky limited liability company, its successors and assigns.
- 1.8 "Developer" shall refer to Arlinghaus I LLC, a Kentucky limited liability company. It shall also include the successors and assigns of Arlinghaus if such successors or assigns should acquire one or more developed lots from Arlinghaus for resale to an owner or to construct improvements on that lot or lots for resale to another owner. Any assignee shall be a "Developer" for purposes of this Declaration only as to the lots which he has acquired for the purpose of resale or for the purpose of constructing improvements for resale to another owner.
- 1.9 "Member" shall refer to each of the owners who are members of the Association as provided in Article IV.
- 1.10 "Owner" shall refer to the record owner of the fee simple title to any lot which is a part of the Property, but shall not include someone having just a security interest in the lot. Owner shall include Land Contract holders. Owners can be individuals, corporations, partnerships, an LLC, government agencies, or any other legal entity authorized under Kentucky law. If the property is held in more than one name, the owner shall be considered as one for voting, payment of fees, and other purposes under this Declaration.
- 1.11 "Trustee" shall refer to any person serving in the capacity as a Trustee of the Association. A Director may be referred to as a Trustee.
- 1.12 "Development Period" shall include the time from the day this Declaration is recorded until: December 31, 2025, or the day on which the Developer no longer owns any of the Property, whichever of the above occurs first.
- 1.13 "Lot" shall refer to a lot or plat of land as shown on a recorded subdivision plat of part of the Property, or a re-subdivision thereof. Lot shall not include Common Areas.
- 1.14 "Common Areas" shall refer to the real property, including green space or landscape easements, and any interest therein and improvements located thereon, for the benefit and use and enjoyment of the members of the Association. Common Areas shall include any areas that have been set aside by the Developer on a recorded plat as Common Areas. The Common Areas include but are not limited to common areas, green space, greenbelt areas, easement areas, entryways and monuments, landscape areas including mounds, road islands, lakes and ponds, and the undedicated portion of any road or street conveyed to the Association. Common areas which may be maintained shall include the dedicated area of any street or roadway within or immediately adjacent to the subdivision. Common area shall be owned by all members according to Kentucky law.
- 1.15.1 "Property" shall refer to the real property described in Exhibit 1, and any additional property as may later be annexed pursuant to this Declaration, less any land the Developer decides to not include.
- 1.16 "Landoninium" shall refer to those lots in Westbrook which have common exterior maintenance agreements as described in instruments separate from this Declaration. The owners of the Landoniniums with the maintenance agreements shall be subject to additional HOA dues, and additional restrictions and covenants, compared to those of the other single family detached lot owners. Those additional covenants shall be prepared and agreed upon by the Board at a later date.

ARTICLE II PROPERTY

- 2.1 **Property.** The real property which is subject to this Declaration is located in Union, Boone County, Kentucky, and is more particularly described in Exhibit 1 attached to and made a part of this Declaration. The property shall be developed as a subdivision known as Westbrook Estates Subdivision, and shall include single family detached homes and landminiums. All lots within this subdivision shall be purchased, owned, held, sold, conveyed, mortgaged, encumbered, leased, rented, used, occupied and improved subject to the provisions contained in this Declaration. However, any land which the Developer decides to use as a park area and is donated to a public agency shall not be subject to these provisions.
- 2.2 **Additions.** Additional property may be annexed to the property described in Exhibit 1. The declarant Arlinghaus may annex such property by amendment to this Declaration without the consent of the other members of the Association. After Arlinghaus has sold all of the lots in this subdivision, then any additional property may be annexed only with the approval of at least 51 % percent of the members of the Association. Any additional property so annexed must be located reasonably close to the initial developed Property.
- 2.3 **Amend Declarations.** Any additions to the original development shall be made by recording an amendment to this Declaration with the Clerk of Boone County, Kentucky, which shall automatically extend the covenants and restrictions of this Declaration (as may be amended) to such annexed property. The supplementary Declarations may also include any additional covenants, conditions, restrictions, easements, etc. as may seem appropriate for the purpose of completing the development of the property.
- 2.4 **Common Areas.** The Developer may convey any property or interest in property, along with any structure, improvement, facility, fixture, equipment and/or furnishings located thereon, to the Association. The consideration can be a gift or a reasonable and appropriate purchase amount. The Board of Directors of the Association shall consider the conveyance and consideration, if any, and shall accept or deny the property. Upon acceptance of the property by the Board, the property shall be considered as Common Area.
- 2.5 **Facilities.** The Developer may convey to the Association for nominal or reasonable consideration, community facilities which have been constructed for the benefit of the residents of Westbrook Estates Subdivision. The Board of Directors of the Association shall consider the conveyance and requested consideration, if any, and shall accept or deny the facilities. Upon acceptance of the conveyance by the Board, the facilities conveyed shall be held for the benefit of the owners of lots in Westbrook Estates Subdivision. The costs for the maintenance, use, and operation of such facilities shall be funded by the Annual Assessments as set forth in this Declaration. If a clubhouse or meeting facility is constructed, there may be a charge for the use of that building. The Board of Directors shall establish and enforce guidelines for the management, use, maintenance, operation, and priority of users for this facility. Some facilities may be available to Class A members or to Class B members but not necessarily to both.
- 2.6 **Time.** The Developer does not guarantee when the community facilities will be constructed by it. In determining when or whether to construct the community facilities, the Developer may consider the economic feasibility to do so, and the availability of sufficient funds for the construction, operation, maintenance and repair of the facilities.

ARTICLE III PROPERTY RIGHTS

- 3.1 **Right of Enjoyment.** Each owner and resident, whether owner or tenant, of Westbrook Estates Subdivision, shall have a right to an easement for the enjoyment of the Common Areas, and such right shall be appurtenant to and shall pass with the title to every lot, subject to the following:
- 3.1.1 The right of the Association to borrow money for the purpose of purchasing, expanding, renovating, maintaining or improving the Common Areas or facilities.
- 3.1.2 The right of the Association to dedicate all or any part of the Common Area to any public agency for purposes consistent with this Declaration.
- 3.1.3 The right of the Developer or the Association to grant utility easements, greenbelt easements, sign easements or road easements over the common Areas.
- 3.2 **Delegation.** The owners may delegate their rights of enjoyment in and use of the Common Areas and facilities to the members of his or her family, their guests, and their tenants who reside on the property within the Subdivision.
- 3.3 **Title to Common Areas.** The title to the Common Area shall be conveyed to the Association in fee simple, free and clear of liens and encumbrances. However, the Developer can maintain reasonable and necessary easements and rights of way for ingress and egress across the Common Areas for the purpose of development of the balance of Developer's Property. The Developer's rights shall not unreasonably interfere with the owner's enjoyment of the common areas.
- 3.4 **Landscape and Sign Easements.** Some of the lots in Westbrook Estates Subdivision may be subject to Landscape or Sign Easements. These Easements are for the benefit of the Developer and the Association and the members and are for the purpose of providing access to maintain landscaping and signs installed by the Developer or the Association in connection with the development of the Subdivision. Only the Developer, the Association's agents or employees or subcontractors, and the owner on whose lot is situated a Landscape or Sign Easement, shall have access to, or enter onto, a Landscape or Sign Easement area.

ARTICLE IV MEMBERSHIP AND VOTING

- 4.1 **Members.** Every lot or tract owner is a member of the Association, and the membership rights are appurtenant to ownership of the lot. During the Development Period, there shall be Class A members who consist of all owners except for the Developer and except for the Landominiums, Class B members who consist of the owners of Landominiums, and Class C member who is the Developer. When the Class C membership terminates according to the bylaws and this Declaration, then the Developer is a Class A or B member for each lot then owned by it.
- 4.2 **Voting Members.** There shall be 3 Classes of voting members, Class A, Class B, and Class C.
- 4.2.1 Class A. Except as otherwise provided, each person, group or legal entity who is an owner of the fee simple interest in any lot which is subject to assessment by the Association, except for the Landominium owners, shall be a Class A member of the Association. Class A members shall be entitled to one vote for each lot in which they hold the interest required for membership.

- 4.2.2 Class B. Except as otherwise provided, each person, group or legal entity who is an owner of the fee simple interest in any lot which is subject to assessment by the Association, and is a Landominium owner, shall be a Class B member of the Association. Class B members shall be entitled to one vote for each lot in which they hold the interest required for membership.
- 4.2.3 Class C member shall be the Developer. Class C member shall be entitled to 5 votes for each lot or planned lot in which it holds the fee simple interest as required for membership. Planned lot shall refer to the lots as shown on the Preliminary Plat of this subdivision as recorded with the Boone County Planning Commission, and any other lots which may be added to this subdivision by newly annexed property and as shown by other Preliminary Plats then recorded with the Planning Commission.
- 4.2.4 Class C membership shall terminate as provided in the bylaws, Articles, and this Declaration. When the Class C membership terminates, any Developer which holds a fee simple interest to any lots shall then be entitled to the voting and all other rights of a Class A or Class B member, whichever area the lot is located.
- 4.3 Multiple Owners. If more than one person, group, or legal entity is the owner of a fee simple interest in a lot, then the vote for that lot shall be exercised as those owners can determine themselves. The Association shall not determine or interfere with their voting procedures. However, only one vote can be cast for anyone lot.

ARTICLE V ASSESSMENTS

- 5.1 Covenant. The Developer and each person, group, or legal entity who is an owner of a lot in Westbrook Estates Subdivision, covenants and agrees to pay to the Association the Annual Assessments and Special Assessments. This agreement shall take effect upon the acceptance of the deed or Contract for the lot, whether or not it is directly expressed in the deed, Contract, or other conveyance.
- 5.2 Obligation. All assessments shall be established and collected as provided herein. All assessments, together with interest and costs of collection (including court costs and reasonable attorney's fees) as provided herein, shall be a continuing lien upon the property against which such assessment is made. Each assessment, together with interest and cost of collection, shall also be the personal obligation of the person, group or legal entity who was the owner of the lot at the time the assessment fell due. This applies to Annual and Special Assessments.
- 5.3 Annual Assessment. To carry out the purposes described below, an Assessment shall be levied each year by the Association. The Annual Assessments are to provide for the current expenses and an adequate reserve fund for future use. The purposes of the funds received from the Annual Assessments are: to promote the health, welfare and safety of the residents of this subdivision; to protect, advance and promote the environment within the Property; to preserve the aesthetics and scenic qualities of the development; for scenic enjoyment; to promote and maintain entrance ways and community facilities situated in Westbrook Estates Subdivision; for improvement, expansion and maintenance of the Common Areas, entrance ways or community facilities; for payment of taxes and insurance; for repairs, replacements and additions; for the cost of labor, equipment, and materials, management and supervision; for the maintenance, repair, improvement and landscaping of entrance ways to the community, adjoining roads, lakes or other areas, whether public or private, which may affect the recreation, scenic enjoyment, health, welfare and safety of the residents even though not owned by the Association.

- 5.4 Beginning Date. The Annual Assessment shall begin to accrue for each lot on the day of the recording of the plat. The first assessment for each lot owner shall be made for the balance of the calendar year and shall become due and payable and a lien on the above date. The following Assessments subsequent to the first Annual Assessment for each lot shall become a lien on January 1 of each year. Any Special Assessments shall become a lien as of the date determined by the Board. No Notice of Lien needs to be recorded to establish the validity of any lien, and this Declaration shall be the Notice of all subsequent liens.
- 5.5 Manner of Assessment. The Board shall determine the amount, manner and schedule of payments for the assessments. The Board shall periodically fix the amount of the assessment against each lot for each assessment period. Other than as explained in this Article and in Article 5.10, each lot shall be assessed equally regardless of the size of the lot or value of the house on the lot. Class A lots and Class B lots will have different assessments because the services to Class B lot owners will be different than Class A lot owners. The exact services to Class B lot owners shall be determined at a later time by separate instrument which will be an amendment to this Declaration. The Board shall make reasonable efforts to fix the amount of an assessment against the lots for each assessment period at least 30 days in advance of the assessment period. The Board shall also keep a roster of the lots and the applicable assessments which shall be kept in the office of the association and shall be open for inspection by any owner upon reasonable notice to the Board. Written notice of billing for the assessment shall be sent to the owner of each lot prior to the due date of the assessment. Common areas are not lots and are not to be assessed.
- 5.6 Initial Amount. The first annual assessment shall be for the year 2011 for lots in Westbrook Estates Subdivision for the purposes provided above, and shall be \$250.00 per lot for Class A members. Until the calendar year in which the recreational facilities are in place in the subdivision, the actual amount due shall be 50% of the annual assessment for that period of time. When the recreational facilities are in place and operating and open to the residents of the subdivision, the payment shall automatically be 100% of the assessment amount. Class B lots do not exist at this time, and the initial rate for Class B lots shall be determined when those lots are developed and platted.
- 5.7 Increases. The amount of the Annual Assessment for each lot can increase up to 10% percent per year, in addition to the maximum amount allowed for the previous year (whether charged or not). Prior to levying any increase in the assessment, the Board must vote for the increase in assessment. If so voted, the increase will be for the following year, not the same year as the vote was taken. The Annual Assessment can be increased greater than the 10% as described above, only after a majority of the members who vote approve such increase. The assessments, until the recreational facilities are in place and usable, shall be the actual assessment for purposes of the increase. The 50% actually owed as described in Par. 5.6 is not the assessment amount. If the Board does not meet or cannot get a majority vote to change the assessment amount, then it shall automatically remain the same as the prior year.
- 5.8 Billing. The annual assessment may be billed on either a monthly, quarterly, semi-annual or annual basis, as determined by the Board. The due date shall also be determined by the Board.
- 5.9 Special Assessments. In addition to the Annual Assessments authorized by this Declaration, the Association is authorized to levy a Special Assessment, applicable for that year only, to pay all or part of the cost of any maintenance, construction, reconstruction, repair, or replacement of any improvement located in the Common Areas, entry ways, or the facilities situated in Westbrook Estates Subdivision, if the funds to pay those costs have not otherwise been provided for as part of the Annual Assessment. Any Special Assessment shall have the approval of 51 % of the members who vote. Any

Special Assessments levied by the Association shall be fixed at a uniform rate based upon the number of lots. All money received by the Association from the Special Assessment shall be held in trust by the Association for the benefit of the members to be used solely for the purposes described for the Special Assessment. The assessment may be billed on a monthly, quarterly, semi-annual or annual basis as determined by the Board.

- 5.10 Assessment of Developer. Unless otherwise provided in this Declaration, the Articles of Incorporation, or the bylaws, the Developer shall pay for its lots which are recorded but not yet sold to other parties, an amount equal to 10% of the Assessment, annual or special, which the Association has levied. These payments shall be due at the end of the assessment year. For the developer, the lien date is November 24. If a lot closes after November 24 of any year, the new owner shall pay his prorated share of the full annual assessment, and the Developer shall pay the difference, so the total amount for that year owed equals 10% of the assessment amount. The provisions of this Section shall not apply to any lots held by the Developer for rental or that are being occupied as a residence. If so, the Developer shall pay the full amount of the assessments.
- 5.11 Non-Payment. Any assessment levied which is not paid on the date when due shall be delinquent and shall, together with interest and costs of collection, become a continuing lien on the property. This lien shall run with the land and also shall be a personal obligation of the owner, their heirs, successors, devisees, personal representatives and assigns. The personal obligation of the owner to pay any assessment shall remain his personal obligation for the period permitted under Kentucky law, and shall not pass to his successors unless expressly assumed by them.
- 5.12 Interest and Costs. If any assessment is not paid within 15 days after the due date, then the assessment shall accrue interest at the rate of 10% per annum, compounded monthly, from the date originally due until paid, and the Association may file a lien against the property, and may bring an action against the owner obligated to pay, and may foreclose the lien against the property. If any of the above occur, interest, actual court costs paid and reasonable attorney fees shall be added to the amount of the assessment. Owner cannot waive or otherwise escape the obligation to pay the assessments by non-use of the Common Areas or facilities or abandonment of his lot.
- 5.13 Late Charges. In addition to the interest provided above, the Board may, by majority vote, establish a reasonable late charge to be paid for any annual or special assessment that is not paid within 15 days after the date due. However, any late charge shall not exceed 20% of the amount of the assessment. This shall be in addition to any interest, court costs, and attorney fees otherwise incurred.
- 5.14 Subordination of Lien. The lien of these assessments are subordinate to the lien of any first mortgage on any lot. Sale or transfer of any lot shall not affect the assessment lien, except in the case of foreclosure where the first mortgagee obtains title to a home through the foreclosure or bankruptcy process and a Kentucky Court or Bankruptcy Court determines that the first mortgagee has priority and is not liable for the assessment. Nothing contained herein shall be construed as releasing the mortgagor from payment of the assessment or enforcement of collection of said payment by means other than foreclosure or bankruptcy. Following acquisition by foreclosure or bankruptcy, the new owner shall be liable for all assessments coming due while they are owners, the same as other owners who have not been through the foreclosure or bankruptcy action.
- 5.15 Assessment Statements. The Association shall, upon reasonable request at reasonable times, furnish to the owner or his agent or financier, or to a prospective Purchaser of their financier, a statement in writing signed by an officer or other agent of the Association, setting forth the payment status of an assessment. A reasonable charge may be levied by the Association for each statement so delivered.

ARTICLE VI INSURANCE

- 6.1 **Liability Insurance.** The Association shall maintain a Comprehensive liability insurance policy covering the Common Areas and facilities owned by the Association, which insure the Association, Directors, Officers, owners and members or their families, tenants and occupants in an amount of not less than \$500,000 per occurrence for personal injury and/or property damage. This insurance shall include protection against risks as may be normally covered for a similar type development as determined by the Board.
- 6.2 **Casualty Insurance.** The Association shall maintain wind, fire, lightning and extended coverage or similar insurance in an amount of not less than the replacement cost of the facilities and structures located on property owned by the Association. This insurance shall include protection against risks as may be normally covered for a similar type development as determined by the Board. The insurance proceeds shall be payable to the Association and used to restore or replace any Common Area structure or facility damaged or destroyed by any peril covered by the insurance.
- 6.3 **Other Insurance.** The Association may maintain Directors and Officers liability insurance and any other insurance as the Board may determine is necessary or desirable. The Association may also obtain insurance for any person handling funds of the Association if the Board so determines.
- 6.4 **Insufficient Insurance.** If any structure, improvement, facilities, or any part thereof are damaged or destroyed as a result of any accident, cause or peril, and if the insurance proceeds are not sufficient to pay the cost of repair, restoration or reconstruction; then the Association may advance the costs to do that repair, renovation, or replacement, in excess of the available insurance proceeds. The funds advanced by the Association shall come from the reserves, the annual assessments, or a Special Assessment. The Board shall determine which of the above actions to take under this Section.

ARTICLE VII ARCHITECTURAL CONTROL

- 7.1 **Approval.** The Developer has the right to choose all aspects of the construction of any homes, facilities, improvements to Common Areas, or other structures built by the Developer, without prior approval of the Board or Committee. Any Builder approved by the Developer can build homes and normal appurtenances thereto in the subdivision without prior approval of the Board or Committee. Other than the above, any building, addition, fence, wall, pool, deck, gazebo, or other structure shall not be started, built or maintained on any lot in the subdivision until the plans and specifications shall be first submitted to and approved by the Board or by an Architectural Review Committee if one is appointed by the Board. Such plans and specifications shall show the nature, kind, shape, height, materials and location of the improvements planned to be made. The plans and specifications shall be reviewed by the board or Committee as to harmony of external design and location in relation to surrounding lots and structures and topography in accordance with the requirements set forth herein. The Board or Committee shall make reasonable attempts to review and either approve or disapprove the plans and specifications within 45 days after submitted. Except as otherwise provided herein or unless the Board grants itself an extension for a good reason, if a decision is not made within that time period by the Board or Committee, it shall be considered as approved and this Article shall be deemed complied with.
- 7.2 **Requirements.** The following requirements are applicable to all Class A lots in Westbrook Estates Subdivision, except for lots owned by the Developer, except as otherwise approved by the Board, or except as otherwise noted. Class B lots shall have separate requirements which will be later added by Amendment to these Covenants.

- 7.2.1 Single Family. Any home to be built, added to, altered, placed or permitted to remain on any lot shall be one detached single-family residential dwelling with a garage suitable for parking at least one car, which is to be attached to the dwelling.
- 7.2.2 Common Area. Except for improvements by the Developer during the development of the Property and building of the home, or otherwise as authorized by the Board, no improvement of any kind shall be built, erected, altered, placed or permitted to remain in the Common Area. Also, the improvements constructed by the Developer during the development of the Property and later as approved by the Board, shall not be removed from the Common Area without the prior written consent of the Developer or the Board.
- 7.2.3 House Placement. The location of each residence to be built shall be decided after considering the general grade and drainage patterns existing at the time of recording of the final plat. Existing grades at lot lines shall not be unreasonably altered without the consent of the Developer.
- 7.2.4 Storm Water. Storm water shall be disposed of in accordance with drainage plans established by the Developer, by the Planning Commission, Sanitation District, Boone County Public Works, City of Union, or other government agency, or by the Association.
- 7.2.5 Driveways. Every driveway shall be surfaced with concrete, asphalt or similar substance.
- 7.2.6 Grading. Final grading of all disturbed areas of the yard of the residence must be completed, and those areas must be seeded in grass within 6 months of final construction of the home, weather permitting.
- 7.2.7 Trees. Each lot owner shall try to retain as many trees as is reasonably practical.
- 7.2.8 Fences. Fences, walls, including the use of hedges or other plants as a barrier, can be built, placed or remain upon a lot or open-space easement only after obtaining prior approval of the Board. Fences shall not be placed on any lot nearer to the street than the rear line of the residence located on the lot. On a corner lot, the fence shall not be closer to the side street than the shortest distance between the residence and the side street. Unless otherwise approved by the Board, fences shall be constructed of a board, split rail, approved metal decorative fences, hedge or other growing plants used as a fence, or other material approved by the Developer if it still owns the lot, or approved by the Board. Chain link fences are prohibited. Fences shall not exceed 4 feet in height except within 15 feet of the rear of the house where a fence up to 7 feet in height is permitted. Retaining walls are excluded from the above requirements, if reasonably required for use as a retaining wall. Fences shall not be constructed in a landscape or sign easement. These restrictions do not apply to fences enclosing the recreation area owned by the Association, or to decorative fences which may be installed by the Developer.
- 7.2.9 Carpeting. No exterior carpeting is allowed on the front porch of any home or if it is visible from any street.
- 7.2.10 Antennas. Television antennas, radio antennas, CB radio antennas and satellite dishes are permitted on lots only after obtaining a variance in accordance with the provisions of this Declaration. They should be placed on the home if possible, and in the side or rear of the houses or yard, and be hidden as much as reasonably possible. Antennas shall not extend more than 10 feet above the roof line.
- 7.2.11 Solar Units. Roof mounted solar units are permitted only if a variance is obtained.
- 7.2.12 Air Conditioning Equipment. Air conditioning equipment and heat pumps shall be located on the side or rear of the home unless a variance is obtained.

- 7.2.13 Awnings. Awnings may be installed on a home if a variance is obtained from the Association.
- 7.2.14 Lighting. Exterior lights in excess of 250 watts are prohibited, except for street lights installed by the Developer, by the Association, by a government agency, or by a utility company.
- 7.2.15 Mailboxes. Mailboxes must be reviewed by the Developer or by the Board and must be approved before installed.
- 7.3 Completion. Construction of any residence or building on each lot shall be completed within 18 months from the date construction is started.
- 7.4 Consolidation. After the initial sale by the Developer, the lots shall not be re-subdivided or consolidated with other lots unless a variance is first obtained in accordance with the provisions of this Declaration.
- 7.5 Zoning and Building Code. Any and all improvements shall be constructed in accordance with and subject to applicable zoning regulations and building codes. If a variance is granted by the Board for any item that requires a variance, that approval by the Board does not mean that the applicable zoning or building codes have been reviewed by the Board.
- 7.6 Variances. To avoid unnecessary hardship and/or overcome difficulties in the application and interpretation of some provisions of the Declaration, the Board has the authority to grant reasonable variances from the provisions contained herein. As long as the Developer owns at least one lot in the subdivision, then he is exempt from the requirement to obtain variances from these provisions, but only concerning lots still owned by the Developer. The variances shall not materially injure or adversely affect any other lot or owner or occupant, if at all possible. No variance granted pursuant to this authority shall constitute a waiver of any other provision of the Declaration or be automatically applied to any other party or other part of the Property unless otherwise so stated in the variance. No variance may be granted to permit anything that is prohibited by law.

ARTICLE VIII RESTRICTIONS

- 8.1 Restrictions. All lots in Westbrook Estates Subdivision are subject to the restrictions which follow. For any prohibited restrictions, the Board has the authority to grant a variance after application and fair consideration of the reasons for the variance request, if the Board feels it is best to grant such variance, as explained in Section 7.6.
- 8.2 Purpose. All lots shall be used for residential purposes and normal and reasonable uses related thereto. The Developer and other builders can build model homes, use unsold residences as model homes, market homes, or sales offices. And the Developer and other builders can build construction sites, install trailers, for sale signs, and/or offices as they deem necessary or desirable for construction of homes within this subdivision.
- 8.3 Nuisance. No obnoxious or offensive activity is permitted on any lot, and owners and occupants shall not engage in any activity which interferes with the quiet enjoyment, comfort and health of the occupants of adjacent lots. This paragraph shall not apply to lots owned by the Developer.

- 8.4 Animals. No animals, livestock or poultry shall be raised, bred or kept on any lot, except normal household pets. However, even those animals shall not be kept, bred or maintained for commercial purposes.
- 8.5 Signs. No signs shall be displayed on any lot except for the following: political signs under 9 square feet, and 1 professional sign of not more than 2 square feet. The above signs may be permitted only if they meet all zoning regulations. The professional sign must meet all zoning regulations and shall be permitted only after a variance for that sign is obtained from the Board. Also permitted without Board approval shall be 1 sign of not more than 9 square feet advertising the property for sale, and signs used by the Developer to advertise the property for sale. Developer's signs are permitted on any lot owned by Developer, common areas, and areas maintained by the HOA.
- 8.6 Trash. Burning of trash and accumulation or storage of garbage, litter, building materials or trash is not permitted on any lot for an unreasonable time. Trash and garbage shall be placed in sanitary garbage cans or containers and shall not be permitted to remain in view of the street except within 24 hours before and after the approximate time of trash collection. This paragraph shall not apply to lots or property owned by the Developer or Builders.
- 8.7 Prohibited Structures. No temporary structure, or barn, tent, trailer, shed, outbuilding, free standing greenhouse, or other structure shall be built or remain upon a lot. Playhouses and other accessory structures may be permitted only after approved by the Board in accordance with this Declaration. This paragraph shall not apply to lots owned by the Developer or Builders. Decks and gazebos are not considered outbuildings.
- 8.8 Maintenance. Every lot and house in the subdivision shall be maintained by the owner in a reasonable manner according to general standards of maintenance prevailing throughout the community. All landscaping shall be maintained in reasonably good condition. Every lot and the area within the lots designated as open-space easements or landscape or sign easements on such lot shall be kept free of debris and clutter and shall be kept reasonably mowed and trimmed. This does not apply to lots owned by a Developer or Builder and held for sale. None of the lot owners abutting Westbrook Boulevard shall remove or permit to be removed any of the berm or plants unless they are replaced with similar materials which provide similar screening.
- 8.9 Vehicles, Boats, Trailers. Trucks exceeding 3/4 ton, trailers, recreational vehicles, motor homes, campers, boats, and travel trailers shall not be parked or stored on any lot in excess of 3 days during any calendar month. However, they can be kept in an enclosed garage area. Buses, delivery vans, mobile homes, and heavy equipment are not permitted to be stored or parked on the lot. No inoperable vehicle shall be stored outside on any lot for a period in excess of 3 days. This paragraph shall not apply to any lots owned by a Developer or builder and held for sale.
- 8.10 Yard Sales. Owners and residents shall not hold more than 2 garage or yard sales on their lot during any year.
- 8.11 Obstruction of Easements. No building, deck, structure, plant or other material other than driveways and sidewalks are permitted to be placed or remain on any lot which may damage or interfere with any easement or with the installation or maintenance of utilities, or which may change, obstruct or retard direction or flow of any storm water drainage in the easement area. For each lot, the easement area and all of the improvements in the easement area shall be maintained by the owner of that lot, except for the improvements for which a public agency, utility company or the association is responsible. Unless otherwise designated on the plats, a 10 foot wide surface drainage easement shall exist along all lot lines, the lot line being the center line of the easements, which easement extends 5 feet from each lot line.

SECTION IX COMMITTEES

- 9.1 Finance Committee. The Board of Directors may appoint a Finance Committee consisting of not more than 5 members of the Association. This committee shall prepare a recommended annual budget of the Association for submission to the board, shall review and make recommendations concerning the financial condition of the Association, shall make recommendations to the Board concerning the amount of the Annual Assessment to be levied, and shall make recommendations to the Board concerning the needs, repairs and monetary requirements for the common Areas and any facilities owned by the Association.
- 9.2 Maintenance Committee. The Board of Directors may appoint a Maintenance committee consisting of not more than 5 members of the Association. This Committee shall make recommendations to the Board concerning the structural condition, maintenance, needs, repairs, improvements, or additions to the facilities and common areas owned by the Association.
- 9.3 Landscaping Committee. The Board of directors may appoint a Landscaping Committee consisting of not more than 5 members of the Association. This Committee shall make recommendations to the Board concerning the landscaping, plants, flowers, maintenance, replanting, needs, repairs, improvements, or additions to the common areas owned by the Association.
- 9.4 Nominating Committee. The Board of Directors may appoint a Nomination Committee consisting of not more than 5 members of the Association. The Nominating Committee (if so established) shall consist of a Chairman, who shall be a member of the Board of Directors, and two members of the Corporation. The Nominating Committee shall be appointed by the Board of Directors at least 30 days prior to the annual meeting of the members, to serve until the close of the next annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall reasonably determine.
- 9.5 Architectural Committee. The Board of Directors may appoint an Architectural Review Committee consisting of not more than 5 members of the Association. This Committee shall review all applications for any type of variance as described in this Declaration, and shall then make recommendations to the Board concerning the approval or disapproval of such requests. The Board shall review all recommendations of this Committee and shall affirm or deny the recommendation. The Board's decision shall be the final decision. If the Committee or Board take no action within the time allocated in Section 7.1, then the application shall be considered as approved.
- 9.6 Other Committees. The Board may appoint other Committees if it sees a need to do so, with duties as the Board may determine.
- 9.7 Class A & B Committees. The structure of the above Committees shall consist of members of Class A and Class B. At least 1 member from each Class shall serve on any of the above Committees (After there are Class B members in the community). Each Class A and B may also form separate Committees as the Board shall determine.

ARTICLE X LAKES

- 10.1 Access. Several of the lots in Westbrook Estates Subdivision are subject to Easements for access to the lakes and ponds in the subdivision. These Easements may or may not be on the final recorded plats of the subdivision. They are for the benefit of the Developer and the Association and the members. The purposes of these easements are to provide reasonable access to the lakes, ponds, and storm retention areas in the Subdivision, to

allow the Developer and the Association and their successors to control algae, weeds, and other growth on or near these areas, and perform other normal and reasonable maintenance on or near these areas. No one other than the Developer, the Association, public agencies, utility companies, or the owner on whose lot is situated on the Easement, shall have permission to be on the Access Easement area. If not shown on the Plat, these easements shall be located 5 feet along each side of each lot line on the lots adjacent to the above described areas, and also extending out 10 feet from the edge of the lake, pond or storm retention areas, at the high water level.

- 10.2 Maintenance. If a public agency or utility does not assume the maintenance of the lakes, ponds, and storm retention areas, then the Association may be responsible for such maintenance within Westbrook Estates Subdivision. The owner of a lot on which is situated all or any part of a lake, pond or storm retention area, is responsible for the care and maintenance of the area immediately adjacent to the lake, pond, or storm retention area, except Class B owners. Owners must obtain permission from the Board before any dock or other structure is built on or adjacent to such lake or pond. If an owner does not maintain the area immediately adjacent to such lake, pond, or storm water retention area to a reasonable degree, the Association may do so, and assess the owner for the reasonable and actual cost. Before any maintenance is done, unless an emergency exists, the Association shall make reasonable attempts to notify the owner of such planned maintenance and the estimated cost thereof. The Assessment shall be a lien on the owner's lot to the same extent as other liens provided for herein.

ARTICLE XI MISCELLANEOUS

- 11.1 Duration. Except as otherwise provided and except where permanent easements or other rights or interest are created, all of the provisions of this Declaration shall run with the land and bind the owners of the land and the land itself, and shall inure to the benefit of and be enforceable by the Association or by any of the members or lot owners, their agents, legal representatives, heirs, successors and assigns, for 20 years from the date of recording this Declaration. After 20 years, the Declaration and all of the terms and conditions and rights and duties shall automatically extend for successive periods of 20 years in perpetuity, unless 95 % of the members entitled to vote, agree to terminate the Declaration. In such event, a written document must be signed by 95% of the members then entitled to vote, and that document must be recorded in the Boone County Clerk's office, and all other legal requirements for termination of a Corporation and this Association must be met.

- 11.2 Amendment. This Declaration can be amended as follows.

- 11.2.1 Developer. The Developer reserves the right and power to amend this Declaration to the degree necessary to conform to any requirements imposed or requested by any governmental agency, public authority, financial institution, or similar agency; to annex additional property to the terms of this Declaration; to the extent necessary to enable the Developer to meet any other reasonable need or requirement to complete the development of the Property and sell the lots or homes; or to make mortgages on any of the lots. Such amendments do not require the approval of the other lot owners, and each lot owner by acceptance of a deed to any lot automatically consents to such amendments which shall run with the title to the lot. Any such amendments are irrevocable except by Developer as long as the Developer still holds title to any lots in the subdivision or December 31, 2025, whichever occurs first. Any amendment so adopted by the Developer must be recorded and shall take effect on the date recorded. It is understood that Class B members will have some different rights and obligations in this community, and these Declarations will be amended at the time the Class B area is developed, and Class A members automatically approve those covenants.

- 11.2.2 Member. Except as otherwise provided, this Declaration may be amended by an instrument approved and executed by persons or entities entitled to exercise 67% of the voting power of the Association. However, Developer's rights may not be amended or

altered without Developer's prior written consent. Any amendment so adopted by the members must be recorded and shall take effect on the date record.

- 11.3 Liability. Nothing in the Articles, bylaws, this Declaration, regulations of the Association, or any rules or regulations adopted pursuant to any of the above, shall impose personal liability on any member of the Board of Directors or any Officer of the Association acting in such capacity, for the maintenance, repair or replacement of any part of the Common Areas or any facilities, or allow a cause of action against any of them. However, they may be liable for damages resulting from their personal willful omissions or misconduct or criminal acts. Each person who becomes an owner or member hereby releases and discharges the above Director or Officer from all liability for injury or damages to that member or owner or family or guests or to their property, and agrees to not initiate any legal proceedings against any such person or persons unless such person is covered by insurance, and in such event the amount of recovery shall be limited to the amount of insurance.
- 11.4 Non-Liability. The Developer and its agents, employees, representatives, successors or assigns shall not be liable for any claim arising out of actions performed pursuant to this Declaration or the bylaws, whether the claims have been asserted by an owner, member, occupant, guests, the Association, or by any personal or entity claiming through them. The above exclusion of liability includes all claims for injuries to person or property, as a result of repair or lack thereof, by reason of any act or neglect of the Association or other person or agents, or by reason of any real or personal property located on or near the Property, or as a result of furnishing or the failure to furnish or disrepair of any utility services (heat, air, electricity, gas, water, sewage, cable, street lights, etc.), except as provided by any written warranty provided by the Developer to an owner or to the Association.
- 11.5 Notices. Any notices to be sent to any member or owner under this Declaration shall be considered to have been properly sent when mailed, by regular first class mail, postage prepaid, to the last known address of the person who appears as member or owner on the records of the Association at the time of such mailing. If the last known address is not known by the Association, then the address of the lot which is owned or occupied by that member shall be considered the last known address.
- 11.6 Enforcement. Enforcement of the covenants and restrictions contained in this Declaration shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenants or restrictions, either to restrain or to stop the violation or to recover damages and against the land to enforce any lien created by these covenants and against the owners or members to collect on any Judgements. The failure by the Association or any owner to enforce any covenant or restriction contained in this Declaration shall not be considered a waiver of the right to do so at any later date.
- 11.7 Severability. Invalidation of anyone or part of these covenants or restrictions shall not affect any other provision contained herein, and the balance of this Declaration shall remain in full force and effect.
- 11.8 Conflicts. In case there is any conflict between this Declaration and the bylaws, this Declaration shall control. In case there is any conflict between the Articles and this Declaration, the Articles shall control.
- 11.9 Nonexclusive. Some lots in this subdivision may be subject to other restrictions which may have in the past or in the future be established for only that group of lots and which might not be established for the entire subdivision.
- 11.10 Condemnation. If any Common Area or any Association owned facilities or any portion are condemned or taken by eminent domain, or otherwise sought to be acquired by any government agency or condemning authority, the proceeds of any award or settlement shall be paid to the Association for repair, replacement, purchase of different assets, or

to be used for the common benefit of the Association and its members as the Board determines in its discretion.

- 11.11 Management Contracts. The Association may delegate all or any part of its right, duties and responsibilities to a manager or managing agent. Any management Contract shall not be for a period in excess of 3 years and shall provide for termination by either party without cause with at least a 30 day written notice. Contracts can be renewed after the 3 year period if the Board decides to do so.
- 11.12 Action by Developer. Any provision in the Declaration or the bylaws which requires action to be taken by the Developer shall be effective when in writing and signed by Arlinghaus I LLC, its successors or assigns. The Developer has the right to abandon or release any duties or rights granted to it under this Declaration by recording an amendment to the Declaration which states that it is releasing part of its rights or duties as a Developer under the Declaration.
- 11.13 Grammar. In this instrument, singular shall also mean plural where applicable, references to male or female shall refer to either or both, references to corporations or any other legal entity shall be construed liberally. Any grammatical questions shall be interpreted reasonably.

IN WITNESS WHEREOF, Arlinghaus I LLC, a Kentucky limited liability company, signs below to indicate its approval of this Declaration.

ARLINGHAUS I LLC

By: _____

Robert Schroder, Vice-President

STATE OF KENTUCKY
COUNTY OF KENTON

The above Declaration was signed, sworn to and acknowledged before me this 26 day of October, 2010 by Robert Schroder, Vice-President of Arlinghaus I LLC, for and on behalf of the LLC.

Kim Stacht

Notary Public Kentucky State at Large

My Commission Expires: 7-1-2012

This instrument prepared by:

Robert Schroder

Robert Schroder Attorney
5655 Rt 22 E, Owenton, Ky 40359

BOONE COUNTY
MC1161 PG 107

EXHIBIT 1

Description of parcel of land to be included in the Westbrook Estates Homeowners Association

LEGAL DESCRIPTION

Being located on the west side of U. S. 42, Boone County, Kentucky, and lying north of the Huntington National Bank, Trustee under the agreement with Moreland N. Blaine, and Keystone Holdings, south of Barrett and Lightner, and west of Kahmann and Ferguson and being more particularly described as follows:

Beginning at the intersection of the south line of Lightner with the west right of way line of U. S. 42, said point being an existing corner post; thence with the south line of Lightner N 84-44-34 W, 937.66 feet, passing a set iron pin and cap at 50.00 feet and 887.66 feet to a corner post; thence N 85-10-58 W, 479.04 feet, passing a set iron pin and cap at 50 feet, to a set iron pin and cap; thence N 02-00-02 E, 80.00 feet; thence N 85-10-58 W, 165.00 feet to a set iron pin and cap; thence S 02-00-02 W, 80.00 feet to a set iron pin and cap; thence N 85-10-58 W, 579.75 feet, passing a set iron pin and cap at 529.75 feet, to an existing corner post, a corner of Barrett and Lightner; thence with the south line of Barrett N 84-52-22 W, 1094.81 feet to a set iron pin and cap in the center line of the old Big Bone Lick and Cincinnati Road; thence with the center line of said road S 39-29-59 W, 775.70 feet to a set iron pin and cap; thence with the north line of Ferguson S 87-07-32 E, 913.54 feet, passing a set iron pin and cap at 863.54 feet to an existing corner post; thence with the east line of Ferguson and the west line of Huntington National Bank, Trustee under Agreement with Moreland N. Blaine, S 04-32-56 W, 1145.69 feet, passing a set iron pin and cap at 50.00 feet and 1095.69 feet, to an existing corner post; thence with the north line of Huntington National Bank, Trustee under Agreement with Moreland N. Blaine, Keystone Holdings, and Hastings, S 84-05-14 E, 2677.62 feet, passing a set iron pin and cap at 50.00 feet, 1000.00 feet, 2000.00 feet, and 2627.62 feet, to a set iron pin and cap; thence with

Hastings for two calls, N 06-42-43 E, 207.90 feet to a set iron pin and cap; thence S 82-26-32 E, 104.94 feet to a set iron pin and cap on the west right of way line of U. S. 42; thence with said right of way along a curve to the right 28.33 feet, (R = 947.34 feet, chord N 14-28-15 E, 28.32 feet) to a set iron pin and cap on the PT of said curve; thence N 15-19-38 E, 371.41 feet to an iron pin and cap on the PC of a curve; thence with said curve to the left 264.29 feet (R = 1041.98 feet, chord N 08-03-40 E, 263.58 feet) to a set iron pin and cap on the PT of said curve; thence N 00-47-42 E, 339.39 feet to a set iron pin and cap on the PC of a curve; thence with said curve to the left 597.83 feet (R = 5699.65 feet, chord N 02-12-36 W, 597.56 feet) to the point of beginning and containing 125.07 acres.

EXCEPTION:

The following tract has been sold by Arlinghaus and is not in Westbrook Estates and not subject to the Covenants:

Lying in the City of Union, County of Boone, north of the intersection of Mt. Zion Road and U.S. 42 (also known as U.S. 127 and also known as Old Union Road), more particularly described as follows:

Commencing at a recovered concrete monument in the westerly right-of-way of U.S. 42, said point also being the southeast corner of a tract of land heretofore conveyed to Hastings Realty, LLC in Deed Book 859, Page 451, Exhibit A, Parcel 2;

Thence with the westerly right-of-way of U.S. 42, North 02°31'25" West a distance of 53.35 feet to a set 1/2" steel rebar with plastic cap stamped "J.E.HOH JR KY 2567" at the common corner of Hastings, Parcel 2 and an additional tract of land conveyed to Hastings as Parcel One (0.50 acres) in Deed Book 859, Page 451;

Thence with the common line of said parcels, North 82°47'17" West a distance of 104.30 feet to a set notch at the common corner of said parcels and a tract of land heretofore conveyed to Arlinghaus Builders, Inc. in Deed Book 779, Page 178, Boone County Clerk's Office, said point also being the **POINT OF BEGINNING**;

Thence with the common line of Hastings, Exhibit A, Parcel 2 and Arlinghaus, North 84°04'25" West a distance of 46.27 feet to a set 1/2" steel rebar with plastic cap stamped "J.E.H. JR. KY 2567";

Thence through the lands of the grantor along the centerline of the South Fork of Fowler Creek and a new division line for four (4) calls:

North 24°04'05" East a distance of 57.58 feet to a set 1/2" steel rebar with plastic cap stamped "J.E.H. JR. KY 2567";

North 14°53'23" East a distance of 58.17 feet to a set 1/2" steel rebar with plastic cap stamped "J.E.H. JR. KY 2567";

North 04°04'41" East a distance of 95.22 feet to a set 1/2" steel rebar with plastic cap stamped "J.E.H. JR. KY 2567";

South 85°15'47" East leaving said centerline a distance of 25.20 feet to a set 1/2" steel rebar with plastic cap stamped "J.E.H. JR. KY 2567" at the common corner of grantor and aforesaid Hastings, Parcel One (0.50 acres);

Thence along the common line of grantor and said Hastings, Parcel One (0.50 acres), South 06°42'43" West a distance of 207.90 feet to the Point of Beginning.

Said parcel contains 0.1307 acres (5,691 square feet).

EXHIBIT 2

0772942.09

dcornish
ADD

Trey Grayson, Secretary of State

Received and Filed:

10/6/2010 2:29 PM

Fee Receipt: \$8.00

**ARTICLES OF INCORPORATION
OF
WESTBROOK HOMEOWNERS ASSOCIATION, INC.**

The undersigned hereby forms a non-stock, non-profit Kentucky corporation in accordance with the provisions of Kentucky Revised Statutes Chapter 273 and other applicable law.

1. The name of the corporation shall be WESTBROOK HOMEOWNERS ASSOCIATION, INC.
2. The initial office of the corporation shall be at 142 Barnwood Drive, Edgewood, Kenton County, Kentucky, 41017.
3. The mailing address of the initial principal place of business and the initial registered office of the corporation shall be: 142 Barnwood Drive, Edgewood, Kentucky 41017.
4. The name and street address of the initial registered agent shall be:
Robert Schroder, 142 Barnwood Drive, Edgewood, Kentucky 41017.
5. The name and business address of the incorporator is Robert Schroder, 142 Barnwood Drive, Edgewood, Ky 41017.
6. There shall be 3 members on the initial Board of Directors. The 3 original members are:
Robert Schroder of 142 Barnwood Drive, Edgewood, Kentucky 41017,
Ted Arlinghaus of 142 Barnwood Drive, Edgewood, Kentucky 41017,
and John Arlinghaus of 142 Barnwood Drive, Edgewood, Kentucky 41017.
7. The duration of the corporation shall be perpetual unless and until it is dissolved in accordance with Kentucky Statutes.
8. The corporation is organized under the Kentucky Non-Profit Corporation Act, and the purposes for which the corporation is formed are as follows:
To promote the social welfare, to serve the common good and general welfare of the members of the corporation, and to construct, operate, maintain and repair any common area owned by the corporation or by any government agency or which has been dedicated to public use, as authorized by the declaration. The corporation shall not attempt to influence legislation or participate in or intervene in political campaigns, except as it may directly affect the Westbrook Estates Subdivision in Union, Kentucky.
9. The corporation shall have all powers pursuant to the Kentucky Non-Profit Corporation Act, and the powers to exercise and enforce any right or privilege assigned to it under the Declaration including the right to assess, levy and collect assessments against each tract of land and members of the corporation as provided in the Declaration.

Prepared by:


Robert Schroder Attorney
5655 Rt 22 E, Owenton, Ky 40359

BOONE COUNTY
MC1161 Pg 110

10. The membership of the corporation shall consist of the members designated in the Declaration, and there shall be 3 classes as follows:

A) Class A members shall consist of all lot owners located within the boundaries of the Westbrook Estates Subdivision in Union, Kentucky, except for the Developer, and except for the owners of landominiums.

B) Class B members shall be the owners of landominium lots within the boundaries of the Westbrook Estates Subdivision in Union, Kentucky, except for the Developer.

C) Class C members shall be the developer. Class C membership shall cease and be converted to Class A or B (as located) membership on December 31, 2026, or earlier if the Class C members voluntarily resign in writing.

D) Class A and Class B members shall have 1 vote for each lot owned. Class C members shall have 5 votes for each lot owned.

11. The corporation's assets and income shall not inure to the benefit of any member of the corporation. However, the corporation is authorized to pay reasonable compensation to members for services rendered.

12. Upon dissolution or final liquidation of the corporation, the Board of Directors shall provide for the payment of all of the liabilities of the corporation, then may dispose of the balance of the assets of the corporation to an organization or agency as designated by the Board of Directors, to be used in such manner as the Board of Directors feel will accomplish the general purposes of the corporation. Any assets not so disposed of shall be disposed of by the Boone Circuit Court, for the purposes or to the organizations or agencies as the Court shall determine, which have the same or similar purposes for which this corporation was established.

13. The Articles of Incorporation may be amended as provided by Kentucky Statutes with the consent of at least 75% of the total number of votes held by the membership of the corporation.

14. As used in these Articles, the following definitions shall apply:

Declaration shall mean the Declaration of Covenants, Conditions, and Restrictions and Reservation of Easements, original and as amended, which affect the Westbrook Estates Subdivision in Union, Boone County, Kentucky.

Developer shall mean Arlinghaus I LLC or Arlinghaus Builders LLC, or any company affiliated with either of the above, or their successors and assigns.

Tract shall refer to each subdivided lot or tract of land in the Westbrook Estates Subdivision, the owner of which is a member of the corporation pursuant to the Declaration.

15. The directors of the corporation shall not be personally liable for damages or breach of his or her duties as a director. However, this provision shall not limit the liability of any director for:
any transaction in which the director's personal financial interests are in conflict with the financial interests of the corporation; or
acts or omissions which involve lack of good faith or intentional misconduct or criminal acts; or
any transaction from which the Director derived an unreasonable personal benefit.

IN WITNESS WHEREOF, the incorporator has signed triplicate originals of these Articles of Incorporation on September 30, 2010.

Robert Schroder

Commonwealth of Kentucky
County of Boone

The above Articles of Incorporation were signed, acknowledged and sworn to before me by Robert Schroder on September 30, 2010.

Lisa Stecht

Notary Public, Ky State at Large

My Commission Expires: 7-1-2012

Consent of Initial Agent for Service of Process

I, Robert Schroder, having a business address of 142 Barnwood Drive, Edgewood, Ky 41017, hereby establish a registered office at the above address, and I agree and consent to serve as registered agent for service of process for WESTBROOK HOMEOWNERS ASSOCIATION, INC. at that address.

Robert Schroder

Robert Schroder

BYLAWS
OF
WESTBROOK HOMEOWNERS ASSOCIATION, INC.

The following are adopted as the initial bylaws of Westbrook Homeowners Association, Inc.

Section 1. Meetings

- 1.1 **Type of Meetings.** The members shall have annual meetings and special meetings.
- 1.2 **Annual Meeting.** The first annual meeting of the members of the Westbrook Homeowners Association, Inc. shall be held in the year 2011. Thereafter, they shall be held during each year at a time and place designated by the Board of Directors.
- 1.3 **Special Meetings.** Special meetings of the members may be called at any reasonable time by the Board of Directors or by members holding at least 5% of the voting power of the corporation. The Board or the secretary shall call a special meeting to be held at a time not less than 2 days after the proper request has been received from either the Board or from the members. If the secretary or the Board does not issue such call, then the call may be issued by any member who signed the petition.
- 1.4 **Notice.** The secretary shall give written notice of the time and place of each annual or special meeting, to be delivered either personally or by mail to the members entitled to vote, not less than 2 days before the date of the meeting.
- 1.5 **Waiver of Notice.** The attendance of a member at any meeting without protesting the lack of proper notice shall be deemed a waiver of notice by that member.
- 1.6 **Quorum.** Except as otherwise provided in the Declarations, a quorum shall exist upon representation at the meeting of members holding at least 5% of the total number of votes entitled to be cast at the time of the vote. Such representation can be in person or by proxy.
- 1.7 **Action without Meeting.** Any action taken at a meeting of the members may be taken without a meeting if a consent to such action, in writing, is signed by a majority of the members entitled to vote and such consent is filed with the minutes.
- 1.8.1 **Location.** Meetings of the members shall be held at the office of the corporation or any other reasonable place designated by the Board.

- 1.8.2 Landominium Meetings. The members who reside in the section of Westbrook which consists of landominium homes may have other meetings as they determine is in the best interests of the landominium owners and residents.

Section 2. Board of Directors

- 2.1 Number. The affairs of the corporation shall be managed by the Board of Directors. Until the annual meeting held in the year 2016, the initial Board shall consist of 3 Directors appointed by the Class C member (the developer) who shall serve until their successors are appointed and qualified. At the year 2016 annual meeting, the Board of Directors shall expand from 3 to 5. Class C appointed Directors need not be members of the Association but must be employees of the developer.
- 2.2 Term. Except as otherwise provided, Directors shall be elected for 2 year terms of office and shall serve until their successor is elected. Any vacancy which occurs in the Board while Class C member still exists, shall be filled by the Class C member if the resigning Director was originally appointed by the class C member. Any vacancy which occurs after the Class C member no longer exists or if the Director was originally appointed by the Class A and B members, shall be filled at the next meeting of the Board by majority vote of the remaining Directors. Any Director elected to fill a vacancy shall serve until the expiration of the term of the Director whose position he or she was elected to fill.

At the year 2016 annual meeting, the Board of Directors shall expand from 3 to 5. At that meeting, the Class C member shall appoint 3 Directors for 1 year terms. Thereafter at each annual meeting, the Class C member shall appoint 3 directors for 1 year terms, until the time as it transfers control of the Board to the Class A and B members.

At the year 2016 annual meeting, the Class A and B members shall elect 2 Directors. One of the directors shall be elected for a 2 year term and one of the Directors shall be elected for a 1 year term. At the expiration of the terms of those Directors, until the Developer transfers control of the Board to the Class A and B members, the Class A and B members shall elect successor Directors for a 2 year term. Directors elected by the Class A and B members shall be owners or residents of Westbrook Subdivision.

The initial 3 Directors shall be Robert Schroder, John Arlinghaus, and Ted Arlinghaus.

- 2.3 Transfer. The Class C member shall transfer control of the Board to the Class A and B members at the first annual meeting after the following event occurs, either:
- (1) 90% of the total number of living units that are to be constructed in all phases of the development have been sold; or
 - (2) Abandonment of the Property by Developer. The property shall be

- considered abandoned by the Developer if no new construction on a home has been performed by a builder for a period of one year; or
- (3) Developer decides to voluntarily transfer control of the Board to the Class A and B members; or
 - (4) December 31, 2025.

At this annual meeting, all Class C appointed Directors shall resign or be removed from the office, and the Class A and B members, including the Developer if it still owns a lot, shall elect a Director to fill each vacancy on the Board. The terms of the newly elected Directors shall be from 1 to 2 years, as determined by the Board, so that in any year thereafter, the terms of no more than 3 nor less than 1 Director shall expire. After this meeting, the Directors and their successors shall be elected by Class A and B members for 2 year terms. After this time, there shall be at least 1 Class A Director and at least 1 Class B member on the Board.

- 2.4 Meetings. The annual meeting of the Board of Directors shall be held reasonably soon after the annual meeting of the members and any special meeting of members. Special meetings of the Board of Directors may be called by the President or by any Director.
- 2.5 Notice. Notice of the time and place of each meeting of the Board of Directors shall be delivered to each Director at least 2 days prior to such meeting. Delivery shall be by personal delivery, telephone, FAX, E-Mail, regular mail, or other reasonably acceptable form of communication, to a Director at his last known address as shown by the books of the corporation. If mailed, the notice shall be postmarked at least 2 days prior to the time of the meeting and one of the other types of notices shall then be attempted.
- 2.6 Waiver. Notice of a meeting of Directors may be waived by a Director. The attendance by a Director at any meeting of Directors without protesting the lack of proper notice shall be considered to be a waiver of notice of that meeting.
- 2.7 Quorum. A majority of the Directors shall constitute a quorum. Any action approved by a majority of the Directors present at a meeting at which a quorum is present, shall be considered as the action of the board of Directors.
- 2.8 Action Without Meeting. Any action taken at a meeting of the Board of Directors may be taken without a meeting if a consent to such action in writing is signed by all members of the Board of Directors and such consent is filed with the Board minutes.
- 2.9 Compensation. Directors shall not receive compensation for services rendered to the corporation. However, Directors may be reimbursed for actual proven out-of-pocket expenses incurred in the performance of Board duties. Such reimbursement shall require approval by a majority of Board members. The Director seeking reimbursement shall abstain from voting to reimburse himself or anyone in his immediate family.

- 2.10 Duties. The duties of the Board of Directors are to construct, manage, operate, improve, repair and maintain real and personal property owned by the corporation, or which is deemed for the benefit of the community or residents thereof, or which has been dedicated to public use and which may be owned by any governmental agency. The Board shall review and either approve or deny plans and specifications for any improvements to be constructed within the community pursuant to the Declaration. Also the Board shall be responsible for all other duties as outlined in the Articles of Incorporation of the HOA and the Declaration of the subdivision or amendments thereto.
- 2.11 Removal. A Director can be removed from the Board of Directors if at least 60% of the members of the corporation vote to do so even before his or her term expires. No reason or cause needs to be given for such removal.
- 2.12 Nomination. Nomination for election to the Board of Directors shall be made by any member (Class A or B or C) at an annual meeting or at a special meeting, or by a Nominating committee. The number of nominations shall be reasonable.

Section 3. Officers

- 3.1 Officers. The corporation shall have a President, Secretary and a Treasurer. The Officers and their successors shall be elected by the Board of Directors. The corporation can also have assistant officers as the Board of Directors feels is necessary or desirable, to be elected by the Board of Directors. The President and Secretary shall not be the same person.
- 3.2 Initial Officers. The initial Officers shall be as follows: The President shall be Robert Schroder, the Secretary shall be John Arlinghaus, and the Treasurer shall be Ted Arlinghaus.
- 3.3 President. The President shall have general management powers and authority over the daily business and affairs of the corporation. He shall preside at all meetings of the members and of the Board of Directors. He shall have the power to sign and deliver any document on behalf of the corporation. He also shall have any other powers and duties as the Board of directors may grant to him.
- 3.4 Secretary. The Secretary shall deliver notices of any meetings for which notice are to be given, keep the minutes of all meetings, keep charge of the corporate record books, and shall have any other duties and powers as the Board of Directors or the President may assign to him.
- 3.5 Treasurer. The Treasurer shall have primary responsibility for the funds of the corporation, keep accurate accounts of its financial affairs, and shall have any other duties and powers as the Board of Directors or the President may assign to him.
- 3.6 Other Officers. Other officers, employees or agents of the corporation shall have any authority and perform any duties in the management and operation of the corporation as the Board of Directors or the President may assign to them.

- 3.7 Resignation and Removal. Any officer may be removed from office by the Board of Directors if the Board votes 60% to remove him or her. No reason or cause needs to be given. Any officer may resign by giving notice to the Board of Directors or to the President. Such resignation shall take effect immediately or at a time specified in the Notice. Unless otherwise specified, the acceptance of the resignation is not necessary to make it effective.

Section 4. Committee

- 4.1 Finance Committee. The Board of Directors may appoint a Finance Committee as provided in the Declaration. The purpose of such Committee is to assist and make recommendations to the Board and Officers in the financial affairs of the Corporation. The Treasurer shall assist this Committee.
- 4.2 Maintenance Committee. The Board of Directors may appoint a Maintenance committee as provided in the Declaration. The purpose of such Committee is to assist and make recommendations to the Board and Officers relating to the maintenance of the corporation's assets.
- 4.3 Nominating Committee. The Board of Directors may appoint a Nominating committee. If so established, this Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two members of the corporation. The Nominating Committee shall be appointed by the Board of Directors at least 30 days prior to the annual meeting of the members, to serve until the close of the next annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall reasonably determine.
- 4.4 Other Committees. The Board of Directors also may appoint any other committees as it feels is helpful and appropriate to carry out its duties.

Section 5. Assessments

- 5.1 Assessments. The Board of directors shall assess each owner of a lot or tract as defined in the articles of Incorporation in accordance with the provisions of the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements recorded in the office of the Boone County Clerk, Burlington, Kentucky, that affect any portion of the Westbrook Estates Subdivision. These assessments shall be made at least annually. If a new assessment is not made, then the amount of the assessment for the new year shall be the same as the prior year.
- 5.2 Landominiums. The owners of homes in the landominium section of this community will have services not provided to the owners in the other section. Because there are different types and styles of homes and home sites within this community, and different services provide to the different home sites, the actual assessment amount will be different for the different group of homes. The landominium owners will pay more dues as determined by the Board

Section 6. Indemnification

- 6.1 Indemnification. The corporation shall indemnify any current or former Director or Officer against all expenses, including Court costs and attorney fees reasonably incurred by him, in connection with the defense of any action or litigation in which he is a party because of being or having been a Director or Officer. However, if it is determined that he is liable for negligence or misconduct in the performance or his duties to the Corporation, then no indemnification shall occur. The corporation shall make such indemnification, as long as the current or former Director or Officer acted in good faith, and in a manner in which he reasonably believed to be in the best interest of the corporation, and he reasonably believed that his conduct was lawful. The termination of any action or litigation by judgement, Court order, settlement, conviction, or upon a plea of no contest, shall be considered but shall not in itself, be proof that the person did not act in good faith and in a manner which he reasonably believed to be in the best interests of the corporation and in which he reasonably believed was lawful.
- 6.2 Authorization. Any indemnification can be ordered by court or can be made by the Board of Directors of the corporation after a determination that indemnification of the current or former Director or Officer is proper in the circumstances because he has met the applicable standards of conduct set forth above. Such determination shall be made by a majority vote of the Directors who were not parties to such action or litigation. However if such quorum cannot be attained, the corporation shall obtain a written opinion of an independent Attorney who shall determine whether or not to recommend such indemnification.
- 6.3 Time. Expenses including Court costs or attorney fees incurred in defending any action or litigation, may be paid by the corporation in advance of the final disposition of such action or litigation if authorized by the Board of Directors. Such payment shall only be made after receipt of a payment by or on behalf of the current or former Director or Officer. If it is ultimately determined that he is not entitled to be indemnified by the corporation as authorized in this Section, then any payments so made by the corporation shall be recovered from the current or former Director or Officer.
- 6.4 Not Exclusive. This indemnification is not exclusive of any other rights to which the person seeking indemnification may be entitled by law or under any insurance policy or under any other agreement between the parties.
- 6.5 Insurance. The corporation is authorized to purchase insurance on behalf of any current and/or former directors, Officers, employees or agents of the corporation, to protect those persons against liability incurred by him in such capacity or arising out of his status as a Director, Officer, employee, or agent, whether or not the corporation would have indemnified him against such liability under these bylaws.

Section 7. Miscellaneous

- 7.1 Suspension of Privileges. No member shall be eligible to vote or to be elected to the Board of Directors who is more than 90 days delinquent in the payment of an assessment due to the corporation.
- 7.2 Records. The books and records of the corporation shall be available for inspection by any member during reasonable business hours and after reasonable request. The books shall include all records of the corporation including maintenance schedules, financial affairs, investments, etc. Copies of any of the above may be purchased at a reasonable cost.
- 7.3 Conflict. If a conflict develops between the Articles of Incorporation and these bylaws, the Articles shall control; and if a conflict develops between the Declaration and these bylaws, the Declaration shall control.
- 7.4 Amendments. These bylaws can be amended by at least a 67% vote of the Board of Directors.

The above are the bylaws adopted by the Board of directors of the Westbrook Homeowners Association, Inc., and the Directors sign below to indicate their approval of such action dated October 28, 2010.

John Arlinghaus
Ted R Arlinghaus
Robert Shook

BOONE COUNTY
MC1161 PG 119

DOCUMENT NO: 558328
RECORDED ON: OCTOBER 29, 2010 04:18:46PM
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GROUP : 2846
COUNTY CLERK: RENA' PING
COUNTY: BOONE COUNTY CLERK
DEPUTY CLERK: STACY ADKINS
BOOK MC1161 PAGES 91 - 119