

FOR THE STATE OF AZ.
FILED

128837

FOR THE STATE OF AZ.
FILED

MAR 6 12 03 PM '00

FEB 21 3 12 PM '00

APPR James Waterhouse
DATE APR 12-12 FILE #
TERM
DATE TIME

ARTICLES OF INCORPORATION

APPR
DATE APR. FILE #
TERM James Waterhouse
DATE 2-21 TIME 10:53 A.M.

OF

MARLBOROUGH PARK ESTATES OWNERS ASSOCIATION, INC.

In compliance with the requirements of A.R.S. §10-1028 et seq. the undersigned, all of whom are 18 years or more of age, have this day voluntarily associated themselves together for the purposes of forming a corporation not for profit and do hereby certify:

ARTICLE I

DEFINITIONS

The words and terms used herein shall be deemed to have the same meanings as are given those words and terms in that certain Declaration of Covenants, Conditions and Restrictions for MARLBOROUGH PARK ESTATES hereinafter termed the "Declaration", which is recorded in Docket 14216, commencing at Page 608, Records of Maricopa County, Arizona; provided, however, that for the purpose of these Articles of Incorporation the term "lots" shall be deemed to include all lots now or hereafter subjected to the Declaration in accordance with the provisions thereof as the same may be supplemented and amended subsequent to the date of incorporation of this Association. As provided in the Declaration, Marlborough Development Corporation, an Arizona corporation, is the "Declarant".

ARTICLE II

NAME

OKPS

The name of the corporation is MARLBOROUGH PARK ESTATES OWNERS ASSOCIATION, INC., hereafter called the "Association".

ARTICLE III

PRINCIPAL PLACE OF BUSINESS

The principal place of business of the Association is located at 1777 West Camelback Road, Suite D-102, Phoenix, Arizona 85015.

ARTICLE IV

STATUTORY AGENT

JARRETT S. JARVIS, a bona fide resident of the State of Arizona for the last three years, whose address is 3900 East Camelback Road, Suite 304 South, Phoenix, Arizona 85018, is hereby appointed the initial Statutory Agent of this Association.

ARTICLE V

GENERAL NATURE OF BUSINESS

This Association does not contemplate pecuniary gain or profit to the Members thereof, and the specific purpose for which it is formed are:

(1) To provide for the orderly development, maintenance, preservation and architectural control, as provided in the Declaration of those lots and tracts described in the Declaration as follows:

Lots 1 through 41 and Tracts D, F, G, H, I and J of MARLBOROUGH PARK ESTATES in the City of Tempe, Maricopa County, Arizona, according to the plat thereof recorded in Book 219, Page 4 of Maps, Records of Maricopa County, Arizona,

and such other lots and tracts in MARLBOROUGH PARK ESTATES as may hereafter be subjected to the Declaration;

(2) To promote the health, safety and welfare of the owners of and residents within those lots; and

(3) For these purposes, and subject to any limitations set forth in the Declaration, to:

(a) Exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in the Declaration as

the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) Fix, levy, collect and enforce payment by any lawful means of all charges or assessments pursuant to the terms of the Declaration;

(c) Pay all expenses in connection with the foregoing and all office and other expenses incident to the conduct of the business of the Association, including without limitation all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(d) Acquire (by gift, purchase or otherwise), own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(e) Acquire (by gift, purchase or otherwise), construct, alter, maintain, provide and operate, land, lakes, properties, improvements, facilities, services, projects, programs, studies and systems, within or without the property, which may be necessary, desirable or beneficial to the subject lots and the owners of and the residents within those lots;

(f) Borrow money, guarantee payment or performance of obligations, and mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(g) Dedicate, sell or transfer all or any part of the Association land to any public agency, authority, or utility for such purposes and subject to the provisions of the said Declaration;

(h) Participate in mergers and consolidations with other non-profit corporations organized for similar purposes; and to

(i) Have and to exercise any and all powers, rights and privileges provided in the Declaration and all those

which a corporation organized under the Non-Profit Corporation Law of the State of Arizona, by law may now or hereafter have or exercise.

ARTICLE VI

MEMBERSHIP

Every person or entity who is a record holder of legal title to the fee simple interest in any lot now or hereafter covered by the Declaration (including contract sellers, but excluding others who hold such title merely as security) shall be a Member of the Association. In the case of lots the fee simple title to which is vested of record in a trustee pursuant to Arizona Revised Statutes, §33-801 et seq., legal title shall be deemed to be in the Trustor. Membership shall be appurtenant to and pass with the title of any lot and may not be in any manner alienated or encumbered except as an appurtenance thereto as part and parcel thereof. When more than one person holds an interest in any one lot, all such persons shall be Members although for the purpose of voting all those Members together shall be considered to be one Member with one vote only as provided in Article VII. The Association shall have no stockholders, but only Members as hereinbefore set forth. No capital stock shall be authorized or issued. The private property of the Members, directors, officers and agents will be exempt from corporate debts.

ARTICLE VII

VOTING RIGHTS

Voting rights shall be vested in all Members who are owners of lots covered by the Declaration, provided, however, that no change of ownership of lots shall be effective for voting purposes unless and until the Association is given actual notice and is provided satisfactory proof thereof. Members shall be entitled to one vote for each lot owned, except that, as provided in the Declaration, the Declarant will have 3 votes for each lot owned by Declarant at any time Declarant owns more than 25% of the lots covered by the Declaration. While Declarant thus has 3 votes per lot it shall be a Class B Member. All other Members (and the Declarant when it has one vote per lot) shall be Class A members. For all voting and quorum purposes all members who own interests in any given lot shall be considered together to be one Member.

ARTICLE VIII

BOARD OF DIRECTORS

The Association shall be managed by a Board of Directors who need not be Members of the Association, and shall have the exclusive right of determining and transacting the affairs of the Association. Except as hereinafter provided, directors shall hold office for one year or until their successors are elected and qualified. They shall be elected as hereinafter set forth at the annual meeting of Members which is to be held at MARLBOROUGH PARK ESTATES at 7:30 P.M. on the first Monday in October of each year commencing with the year 1980, provided, however, that directors may be replaced as hereinafter provided. The time or place for holding the annual meeting of the Members may be altered by majority vote of the Members voting at any meeting of the Members. The Board will consist of not less than three nor more than seven directors as established by the Bylaws. The names and addresses of the persons who were elected at a meeting of the incorporators held in Phoenix, Arizona, on the 20th day of February, 1980 to act in the capacity of directors until the selection of their successors are:

LARRY S. BENSON 2923 S. Wycliff Circle
Mesa, Arizona 85202

C. SCOTT DAVIS 3310 E. Eva Street
Phoenix, Arizona 85028

GERALD M. LUSHING 2029 Century Park East
Suite 1550
Los Angeles, Calif. 90067

ARTICLE IX

OFFICERS

The affairs of the Association are to be conducted by such officers as are specified in the Bylaws and they shall be elected by the Board of Directors as provided in the Bylaws.

ARTICLE X

BYLAWS

The Board of Directors shall have the power and authority to enact Bylaws and amendments thereto which are not inconsistent with the provisions hereof and not inconsistent with the Declaration.

ARTICLE XI

DURATION

The Association shall commence as of the date the Corporation Commission shall file these Articles of Incorporation and the duration shall be perpetual.

ARTICLE XII

AMENDMENTS

Amendment of these Articles shall require the assent of seventy percent (70%) of the votes cast by the Members at an election duly noticed and held for such purpose. Anything in this Article to the contrary notwithstanding, Declarant reserves the right to amend all or any part of these Articles to such extent and with such language as may be requested by the Federal Housing Administration (FHA) or the Federal National Mortgage Association (FNMA), and to further amend to the extent requested by any other Federal, State or local governmental agency which requests such an amendment as a condition precedent to such agency's approval of the Declaration or of these Articles, or by any federally chartered lending institution as a condition precedent to lending funds upon the security of the Property or any portion thereof, or as may be appropriate to bring these Articles into conformity with the Declaration, as the same may be from time to time amended. It is the desire and intention of Declarant (but without obligation) to retain control of the Association and its activities during the anticipated period of planning and development. If any amendment requested pursuant to the provisions of this Article or any judicial decision or interpretation deletes, diminishes or alters such control, Declarant shall have the right to prepare, provide for and adopt as an amendment hereto other and different control provisions consistent with the control provisions of these Articles and the Declaration.

ARTICLE XIII

DISSOLUTION

The Association may be dissolved by affirmative vote of Members casting not less than seventy-five percent (75%) of the total votes to be cast by the Members at an election held for such purpose but only with the written consent of the then holders of seventy-five percent (75%) of all then first mortgage liens on any of the lots. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

ARTICLE XIV

MAXIMUM INDEBTEDNESS

The highest amount of indebtedness or liability, direct or contingent, to which the corporation is at any time to subject itself shall be as determined and limited by applicable law.

ARTICLE XV

INCORPORATORS

The names, residences and post office addresses of the incorporators are as follows:

<u>Incorporators</u>	<u>Residence</u>	<u>P.O. Address</u>
Larry S. Benson	2923 S. Wycliff Circle Mesa, Arizona 85202	Same
C. Scott Davis	3310 E. Eva Street Phoenix, Arizona 85028	Same

ARTICLE XVI

INTERPRETATION

In the event that any provision hereof is inconsistent with or in derogation of the Declaration, the provisions of the Declaration shall be deemed to control.

ARTICLE XVII

INDEMNIFICATION

The Association shall indemnify all of its Directors and Officers, and its former Directors and Officers, to the maximum extent authorized by law, against expenses incurred by them, including without limitation legal fees, and judgments and penalties rendered or levied against them or any of them in any legal action brought against any such person for actions or omissions alleged to have been committed by any such person while acting within the scope of his employment as a Director or Officer of the Association, provided that the Board of Directors shall determine in good faith that such person did not act, fail to act, or refuse to act willfully or with gross negligence, or with fraudulent or criminal intent in regard to the matter involved in the action, and provided further that no such indemnification shall be available with respect to liabilities under the Securities Act of 1933, and provided further, that the corporation shall have the right to refuse indemnification in any instance in which the person to whom indemnification would otherwise have been applicable shall have unreasonably refused to permit the corporation, at its own expense and through counsel of its own choosing, to defend him in any such legal action. Whenever any such present or former Director or Officer shall report to the President of the corporation or the Chairman of the Board of Directors that he has incurred or may incur any such expenses, the Board of Directors shall, at its next regular or at a special meeting held within a reasonable time thereafter, determine in good faith whether such person acted, failed to act, or refused to act willfully, with gross negligence or with fraudulent or criminal intent in regard to the matter involved in the action. If the Board of Directors determines in good faith that such person did not act, fail to act or refuse to act willfully or with gross negligence or with fraudulent or criminal intent in regard to the matter involved in the action, indemnification shall be mandatory and shall be automatically extended as specified herein, except as otherwise provided hereinbefore.