

**AMENDED AND RESTATED
ARTICLES OF INCORPORATION
OF
DAY SPRING BAXTER AVENUE, INC.**

0466544.09

mmoore
AMR

Michael G. Adams
Kentucky Secretary of State
Received and Filed:
10/31/2023 2:01 PM
Fee Receipt: \$8.00

Pursuant to the provisions of KRS 273.627 and KRS 273.273, the undersigned, for and on behalf of Day Spring Baxter Avenue, Inc. (the "Corporation"), hereby execute these Amended and Restated Articles of Incorporation of the Corporation.

The Corporation's Articles of Incorporation, as so amended, which supersede the original Articles of Incorporation and all amendments thereto and restatements thereof, are hereby restated in their entirety as follows:

I.

Name

The name of the Corporation is Day Spring Baxter Avenue, Inc.

II.

Purposes and Powers

The purposes for which the Corporation is formed, the business and objectives to be carried on and promoted by it, and the powers granted to it, are as follows:

(a) The Corporation is irrevocably dedicated to and is organized and operated exclusively for charitable and educational purposes within the meaning of Section 501(c)(3) of the Internal Revenue Code of 1986 (the "Code"). The Corporation shall receive contributions and fees, and shall distribute its funds for public, educational, religious, and/or charitable purposes, as set forth in these Articles. In carrying out its corporate purposes, the Corporation shall have all the powers allowed corporations by the Kentucky Nonprofit Corporation Acts (the "Act"), KRS 273.161 et seq.; provided, however, that the Corporation shall not have or exercise any power inconsistent with or prohibited by the provisions of Paragraphs (a), (b), (c) and, if applicable, (d) of this Article II.

(b) The Corporation shall have the power to buy, own, sell, assign, mortgage or lease any interest in real estate and personal property and to construct, maintain and operate improvement thereon necessary or incident to the accomplishment of the purposes set forth in Article II hereof, but such powers shall be exercised solely in connection with the Member's group home projects, assisted under Section 811 of the National Affordable Housing Act of 1990.

(c) The Corporation shall have the power to do and perform all acts reasonably necessary to accomplish the purpose of the Corporation, including the execution of the Regulatory Agreement with the Secretary of Housing and Urban Development (“HUD”), and such other instruments and undertakings as may be necessary to enable the Corporation to secure the benefits of financing under Section 811. Such Regulatory Agreement and other instruments and undertakings shall remain binding upon the Corporation, its successors and assigns, so long as a mortgage on the Corporation’s property is held by the Secretary of HUD.

(d) As limited by Section 501(c)(3) of the Code, it is expressly not the purpose of the Corporation and the Corporation is not empowered to participate or intervene in any political campaign on behalf of or in opposition to any candidate for public office. The Corporation shall not devote more than an insubstantial part of its activities to carrying on propaganda or otherwise attempting to influence legislation.

(e) Any other provision of these Articles to the contrary notwithstanding, the Corporation shall have no capital stock and no power to issue certificates of stock nor to declare dividends; no part of the net earnings of the Corporation shall inure to the benefit of any private shareholder or individual; and the Corporation shall not carry on any activities denied to: [i] a corporation described in Section 501(c)(3) of the Code, or [ii] a corporation, contributions to which are deductible under Section 170(c)(2) of the Code.

(f) Any other provision of these Articles to the contrary notwithstanding, this Corporation shall, if the following provisions of law are applicable to it: [i] not engage in any act of self-dealing as defined in Section 4941 of the Code; [ii] distribute its income for each fiscal year at such time and in such manner as not to be subject to the tax under Section 4942 of the Code; [iii] not retain any excess business holdings as defined in Section 4943 of the Code; [iv] not make any investments in such manner as to subject the Corporation to tax under Section 4944 of the Code; and [v] not make any taxable expenditures as defined in Section 4945 of the Code.

(g) The primary charitable purpose of the Corporation is to provide persons who have disabilities with residential housing and support services designed to meet their physical, social and psychological needs in a manner that will enable the recipients to achieve their maximum potential to become independent, purposeful, well-rounded individuals.

III.

Directors

The affairs of the Corporation shall be managed by a Board of Directors consisting of not less than fifteen (15) members nor more than thirty (30) members, the exact number to be set in

the manner provided in the Bylaws. Each Director shall continue as Director as provided in the Bylaws.

IV.

Duration

The Corporation shall have perpetual existence.

V.

Member

Day Spring Inc., a Kentucky nonprofit corporation (the "Member"), shall be the Corporation's sole corporate member. The Member shall not be required to pay membership fees or dues and shall not be liable for the debts or liabilities of the Corporation solely by virtue of being a Member. The Member's rights and authorities shall be set forth in the Corporation's Bylaws.

VI.

Contracts or Transaction of Business with Directors

No pecuniary profit shall be received by any Director from the operations of the Corporation by reason of his or her status as a Director. Any contract or transaction of business between the Corporation and one or more of its Directors, or with any organization in which any of its Directors is an owner, Director or officer, shall not be invalidated or affected solely by the fact that such Director or Directors have or may have interests therein which are or might be adverse to the interests of the Corporation; provided, however, a Director having an interest adverse to that of the Corporation shall disclose such interest to the Board of Directors. The Corporation shall be prohibited from making loans to any of its Directors or officers.

VII.

Dissolution

Dissolution shall be accomplished in accordance with Chapter 273 of the Kentucky Revised Statutes or its successor. Upon dissolution of the Corporation, the Board of Directors shall, after payment or making provision for the payment of all liabilities of the Corporation, dispose of all remaining assets by distributing such assets to such organization(s) as shall at the time qualify as exempt under Code Section 501(c)(3) and have purposes similar or complementary to those of the Corporation, provided however that the Corporation shall at all

times have the power to convey any or all of its property to the Secretary of HUD exclusively for a public purpose. Any such assets not so disposed of shall be disposed of by a court of competent jurisdiction of Jefferson County, Kentucky, as described in this Article IX.

VIII.

Limitation of Director Liability

No Director shall be personally liable to the Corporation for monetary damages for breach of his or her duties as a Director except for liability:

- (a) For any transaction in which the Director's personal financial interest is in conflict with the financial interests of the Corporation;
- (b) For acts or omissions not in good faith or which involve intentional misconduct or are known to the Director to be a violation of law; or
- (c) For any transaction from which the Director derives an improper personal benefit.

If the Kentucky Revised Statutes are amended after approval of this Article to authorize corporate action further eliminating or limiting the personal liability of Directors, then the liability of a Director of the Corporation shall be deemed to be eliminated or limited by this provision to the fullest extent then permitted by the Kentucky Revised Statutes, as so amended. Any repeal or modification of this Article shall not adversely affect any right or protection of a Director of the Corporation existing at the time of such repeal or modification.

IX.

Amendment of Articles; Conflicts

These Articles may be amended as by the two-thirds majority of the Board of Directors.

In the event of any conflict between the Regulatory Agreement with the Secretary of HUD and the terms of these or future Articles of Incorporation, the Regulatory Agreement shall take precedence.

As long as the Secretary of HUD or his successors or assigns, is the insurer or holder of the mortgage on [Day Spring Group Home], no amendment to these Articles of Incorporation which results in any of the following shall be of force or effect without the prior written consent of HUD: (1) any amendment which modifies the duration of the Corporation; (2) any amendment which results in the requirement that a HUD prior participation certificate be obtained for any additional party; and (3) any amendment which in any way impacts or affects the HUD mortgage or Regulatory Agreement.

ARTICLE XII

Indemnification; Insurance

Every past, present and future Director and officer of the corporation, and their respective heirs, executors, administrators, and estates, shall be indemnified by this Corporation against all costs, expenses, and amounts of liability therefor, including counsel fees, reasonably incurred by or imposed upon them in connection with or resulting from any action, suit, proceeding or claim to which they may be made a party, or in which they may be or become involved by reason of their acts or omission or commission, or alleged acts of omission or commission as such Director or officer, and subject to the provisions hereof, any settlement hereof, whether or not they continue to be such Director or officer at the time of incurring such costs, expenses or amounts; provided however, that such indemnification shall not apply with respect to any matter as to which such Director or officer shall be finally adjudged in such action suit or proceeding to have been individually guilty of willful misfeasance or malfeasance in the performance of its, his or her duty as such Director or officer; and provided, further that the indemnification herein provided shall with respect to any settlement of any such suit, action, proceeding or claim, include reimbursement of any amounts paid and expenses reasonably incurred in settling any such suit, action, proceeding or claim, when, in the judgment of the Board of Directors of this Corporation, such settlement and reimbursement appear to be for the best interests of this Corporation. The foregoing right of indemnification shall be in addition to and not exclusive of any and all other rights as to which any such Director or officer may be entitled by law or under any agreement, or otherwise.

In no case, however, shall the Corporation indemnify, reimburse, or insure any person for any taxes imposed on such individual under Chapter 42 of the Code. If at any time the Corporation is deemed to be a private foundation within the meaning of section 509 of the Code, then, during such time, no payment shall be made under this Article if such payment would constitute an act of self-dealing or a taxable expenditure, as defined in sections 4941(d) or 4945(d), respectively, of the Code.

The Board of Directors may, in the Corporation's name or in the name of any officer and Director, obtain and pay for such insurance as will protect the Corporation from the obligations and expenses herein assumed.

* * *

I, the undersigned, do hereby certify that these Amended and Restated Articles of Incorporation were submitted to a vote of the members entitled to vote thereon and approved by the Directors of the Corporation and the Member's Board of Directors at a duly held meeting on the 19th day of October, 2023. These Amended and Restated Articles of Incorporation shall be effective as of the date and time of filing with the Secretary of State of the Commonwealth of Kentucky.

* * *

WITNESS the signature of the Corporation by its duly authorized officer on this 24th day
of October, 2023.

Day Spring, Inc.

By: Margaret Harrott
Secretary

This Instrument Prepared By:

Emily Lineweaver
Emily H. Lineweaver
Wyatt, Tarrant & Combs
400 West Market Street, Suite 2000
Louisville, Kentucky 40202
(502) 562-7246