

**ARTICLES OF INCORPORATION**  
**FOR**  
**THE SANCTUARY HOMEOWNERS ASSOCIATION**

The undersigned, desiring to establish a nonprofit corporation pursuant to the Colorado Nonprofit Corporation Act, hereby certifies:

**ARTICLE I**  
**Definitions**

Terms used but not defined herein shall have the meanings set forth in the Protective Restrictions, Covenants, Limitations, Easements and Approvals for The Sanctuary to be recorded in the real property records of Routt County, Colorado (the "Declaration"). References to the Declaration shall include all amendments and supplemental declarations recorded from time to time.

**ARTICLE II**  
**Name**

The name of the corporation shall be: The Sanctuary Homeowners Association. The corporation is sometimes hereinafter called the "Association."

**ARTICLE III**  
**Duration**

The Association shall have perpetual existence.

**ARTICLE IV**  
**Purposes and Powers**

(a) **Purposes.** The objects and purposes of the Association shall be: (i) to provide for the administration, care, upkeep, operation, maintenance and supervision of the common area (as defined in the Declaration) located within The Sanctuary, a subdivision within the City of Steamboat Springs, Routt County, Colorado (the "Subdivision"); (ii) to provide for architectural and aesthetic control within the Subdivision; (iii) to enforce the provisions of the Declaration, these articles of incorporation, the bylaws and the rules and regulations of the Association; (iv) to define membership in the Association and the voting rights of the members; (v) to regulate and control the relationships among the owners, and (vi) to exercise any and all powers and authority delegated, described or provided, expressly or implicitly, to the Association in the Declaration.

(b) **Powers.** In furtherance of the foregoing purposes, the Association shall have and may exercise all of the following powers:

(i) **Real and Personal Property.** To acquire, by gift, purchase, trade or any other method and to own, operate, build, manage, rent, sell, develop, encumber and otherwise deal in and with and dispose of interests in real property in the Subdivision or in real property adjacent to the Subdivision and interests in personal property of every kind and character, tangible and intangible, used or useful in connection with the Subdivision, including the granting or dedication of roads, trails, paths, walks, and easements for access, utility, public and other purposes.

(ii) **Borrowing.** To borrow funds or raise monies in any amount for any of the purposes of the Association, and from time to time to execute, accept, endorse and deliver as evidence of such borrowing all kinds of instruments and securities including, without limitation, promissory notes, drafts, bills of exchange, warrants, bonds, debentures, property certificates, trust certificates and other negotiable or non-negotiable instruments and evidences of indebtedness, and to secure the payment and performance of such obligations by mortgage on, or pledge, conveyance, deed or assignment in trust of, the whole or any part of the assets of the Association, real, personal or mixed, including contract rights, whether at the time owned or thereafter acquired, and specifically including without limitation, the Association's rights with respect to assessments for common expenses and liens. In connection with any such borrowings the Association is specifically authorized and empowered to provide information and make disclosures regarding its financial condition and assessments, fees and charges to members and any associated liens.

(iii) **Contracts.** To enter into, make, amend, perform and carry out, or cancel and rescind contracts, leases, permits, licenses, concessions and agreements or undertakings of any nature.

(iv) **Guaranties.** To make any guaranty respecting securities, indebtedness, notes, interests, contracts or other obligations created by any individual, partnership, association, corporation or other entity, and to secure such guaranties by encumbrance upon any and all assets of the Association, to the extent that such guaranty is made in pursuance of the purposes herein set forth.

(v) **Loans and Investments.** To lend money for Association purposes and invest Association funds from time to time, and take and hold real and personal property as security for funds loaned or invested.

(vi) **Assessments.** To fix, determine, assess, levy and collect periodic, general and special assessments and other fees and charges to cover common expenses and other costs and expenses incurred in connection with the operation and administration of the Association and common areas, including without limitation,

assessments to fund any reserve deemed appropriate by the board of directors or required by the Declaration. The Association is specifically empowered to establish procedures by which such assessment, fees and charges are made known to and collected from the parties obligated for the payment thereof; and with respect to unpaid assessments, fees and charges the Association shall have and may exercise all rights and remedies available pursuant to applicable law, the Declaration, these articles of incorporation or the bylaws and rules and regulations of the Association. Without limitation, the Association is empowered to assess, levy and collect penalties and liquidated damages for specific violations or infractions, and to assess, levy and collect costs of collection and enforcement, including attorneys' fees, late charges, costs and interest.

(vii) Rule Making. To make and enforce rules and regulations with respect to activities within the Subdivision subject to the Association's powers or control.

(viii) Construction, Management, Maintenance and Repair. To provide for the administration, management, maintenance and repair of the common areas within the Subdivision.

(ix) General Powers. To do everything and anything necessary, suitable, proper or convenient for the accomplishment of any of the purposes of the Association, the attainment of its objects, or the furtherance of any of the powers above set forth, either alone or in connection with other corporations, firms or individuals, and either as principal or agent, and to do every act or thing incidental or appurtenant to, or growing out of, or connected with any of the aforesaid objects, purposes or powers.

(x) Other Powers. In addition to the foregoing, the Association shall have and may exercise all the rights and powers set forth in the Declaration and bylaws of the Association, and all rights and powers that may from time to time be conferred by applicable law. The foregoing enumeration of specific powers shall not limit or restrict in any manner the general powers of the Association and the enjoyment and exercise thereof as now or hereafter conferred by applicable law.

(c) Restrictions Upon Purposes and Powers. The purposes and powers of the Association are subject to the following limitations:

(i) The directors of the Association may, for any taxable year of the Association, elect to have Section 528 of the Internal Revenue Code apply to the Association. During any taxable year that the directors have elected that said Section 528 shall apply to the Association:

(A) The Association shall be organized and operated solely as a "homeowners' association," as defined in and limited by Section 528(c) of the Internal Revenue Code, for such year;

(B) The Association shall not for such taxable year receive more than 40 percent of its gross income from amounts other than membership dues, fees and assessments from owners of condominium units; and

(C) The Association shall not for such taxable year expend more than 10 percent of its gross expenditures for purposes other than the acquisition, construction, management, maintenance and care of real and personal property held by the Association and other property qualifying as "association property" under Section 528(c)(4) of the Internal Revenue Code.

(ii) No part of the net earnings of the Association shall inure to the benefit of any member of the Association (other than by acquiring, constructing or providing management, maintenance, and care of such property of the Association qualifying as "association property" under Section 528(c)(4) of the Internal Revenue Code, and other than by a rebate of excess membership dues, fees or assessments);

(d) Dividends, Distributions, etc. The Association shall not pay any dividends. Except as otherwise provided in the Declaration, no distribution of the Association's assets to members (as such) shall be made except upon dissolution of the Association and then only after all the Association's debts are paid.

(e) Dissolution. The Association may be dissolved by the affirmative vote of the Declarant, if any, and the vote of members casting sixty-six and two-thirds percent (66-2/3%) or more of the votes cast by members at any regular or special meeting called for that purpose at which a quorum (as defined in the bylaws) shall be represented. Upon such dissolution, the affairs of the Association shall be wound up and its assets liquidated and any proceeds remaining after payment of all debts and cancellation of all liens shall be distributed among the members of the Association in the manner specified in the Declaration, or if not so specified, in proportion to their respective obligations for common expenses of the Association.

#### **ARTICLE V** **Registered Office and Agent**

The operations of the Association shall be conducted at such place within or outside of the United States as may from time to time be determined by the board of directors. The address of the initial registered office of the corporation is P. O. Box 880550, 2155 Resort Drive, Steamboat Springs, Colorado, 80488. The name of its initial registered agent at such address is Ward L. Van Scoyk.

**ARTICLE VI**  
**Members**

(a) **Members.** Any individual, corporation, partnership, limited liability company, association, trust or other legal entity or combination of entities owning an undivided fee simple interest in an ownership unit shall automatically be a member of the Association. Such membership shall be continuous throughout the duration of such ownership. A membership shall terminate automatically, without any Association action, whenever such individual, organization or group ceases to own an ownership unit. Termination of the membership shall not relieve or release any former member from any liability or obligation incurred by virtue of or in any way connected with the ownership of an ownership unit, nor shall it impair any rights or remedies which the Association or others may have against such former member arising out of or in any way connected with such ownership or membership.

(b) **Classes of Membership.** The Association shall have one class of membership.

(c) **Rights of Members.** The rights of the members of each class, including voting rights, shall be as set forth herein, in the bylaws of the Association and in the Declaration. Voting rights in the Association shall be as follows:

(i) Any ownership unit within The Sanctuary shall, for purposes of allocating votes in the Association, be deemed to be a "condominium unit", a "townhome unit", a "single-family lot" or a "multi-family lot", as defined in the Declaration.

(ii) Each single-family lot shall be allocated one vote in the Association.

(iii) Each multi-family lot that is not subject to a recorded condominium declaration and condominium map or a recorded townhome plat shall be allocated four (4) votes per acre of land within such lot.

(iv) Votes shall not be allocated to multi-family lots which are subject to a recorded condominium declaration and condominium map or a recorded townhome plat but instead shall be allocated to the condominium units or townhome units located on such lot. The total number of votes allocable to all condominium units or townhome units located on such lot shall be determined pursuant to subparagraph (iii) above as if such multi-family lot were not subject to a recorded condominium declaration and condominium map or townhome plat. The number of votes so allocated shall be further allocated to the condominium units or townhome units located on the lot in proportion to the relative undivided interests, as tenants in common, of the land upon which such condominium units or townhome units are located and which is appurtenant to the condominium units or townhome units in question.

(v) Except for the purpose of determining the percentage of common expense responsibility allocated to the Declarant, for each ownership unit owned by the

Declarant, the Declarant shall be allocated five (5) times the number of votes that would otherwise be allocated to such ownership unit if it were owned by a person other than the Declarant.

(vi) In allocating votes, fractional votes (to two decimal places) shall be permitted.

Cumulative Voting shall not be allowed in the election of directors or for any other purpose. The Association and any governmental entity shall not be entitled to vote with respect to any ownership unit owned by the Association or such governmental entity, and no ownership unit owned by the Association or by any governmental entity shall be allocated any votes during the period of such ownership. This paragraph (c) may be amended only by the affirmative vote of the Declarant, if any, and the unanimous vote of all the members.

(d) Designation of Voting Member. If a lot is owned by one person, the record owner shall have the right to cast any vote associated with such owner's lot. If a lot is owned by more than one person, the individual entitled to cast the vote for the lot shall be as designated in a written statement made for such purpose, which statement shall be in a form acceptable to the board of directors, signed by at least a majority in interests of all of the record owners of the lot and filed with the secretary of the Association. If a lot is owned by a corporation, partnership, limited liability company, association, trust or other legal entity (an "organizational member"), the individual entitled to cast the vote of the lot for the organizational member shall be as designated in a written statement made for such purpose, which statement shall be in a form acceptable to the board of directors, duly executed on behalf of the organizational member and filed with the secretary of the Association. The person designated in any such written statement as the party entitled to cast the vote for a lot shall be known as the "voting member." Except as hereinafter provided with respect to lots owned by a husband and wife, if a voting member has not been designated for any lot owned by more than one person or by an organizational member, no vote may be cast with respect to such lot and the vote of such lot shall not be considered in determining the requirement for a quorum, the requirement for taking action or for any other purpose. Any designation of a voting member shall remain in effect until superseded by a subsequent written statement made as provided above or until a change in ownership of the ownership unit concerned. Notwithstanding the foregoing, if an ownership unit is owned jointly by a husband and wife, the following provisions shall be applicable:

(i) They may, but shall not be required to, designate a voting member.

(ii) If they do not designate a voting member and if both are present at a meeting they may vote jointly, but if they are unable to concur in their decision on any subject requiring a vote, they shall lose their right to vote on that subject at that meeting.

(iii) Where they do not designate a voting member and only one is present at a meeting, the person present may cast the lot vote, just as though he or she owned the ownership unit individually and without establishing the concurrence of the absent person.

**ARTICLE VII**  
**Board of Directors**

(a) **Board of Directors.** The control and management of the affairs of the Association and the disposition of its funds and property shall be vested in a board of directors consisting of not less than one nor more than seven (7) persons, subject to the foregoing, the number of directors shall be determined as provided in the bylaws. The initial board of directors shall consist of the two (2) directors named below who (along with any replacements appointed pursuant to the bylaws) shall hold office until the first election or appointment of the directors as provided in the bylaws. At the first annual meeting of the members and all subsequent annual meetings, the members of the Association shall elect or appoint directors as set forth below:

(i) Until twenty-five (25) years after the date the Declaration is first recorded in Routt County, Colorado, Declarant reserves and shall have the exclusive right to select and replace all members of the board of directors of the Association, subject to Declarant's right to transfer or terminate its status as Declarant, as provided in the Declaration.

(ii) From and after the time Declarant is no longer entitled to appoint all of the members of the board of directors pursuant to clause (i) above, the members of the board of directors of the Association shall be elected by the members.

The first and subsequent annual meeting of the members shall be held on the dates specified pursuant to the bylaws. The classifications, if any, qualifications, terms of office and the manner of selection or election of directors shall be determined according to the articles of incorporation and bylaws of the Association from time to time in effect. The names and addresses of those comprising the first board of directors, to serve until their successors are duly appointed or elected are as follows:

<u>Name</u>	<u>Address</u>
Martin T. Hart	P. O. Box 61307 Denver, Colorado 80206
Masanori Senno	2305 Mt. Werner Circle Steamboat Springs, Colorado 80487

(b) **Committees of the Board of Directors.** The board of directors may, by resolution, designate two or more of their number to constitute executive, architectural



control or other committees which shall have and exercise all of the powers of the board of directors in the management of the business and affairs of the Association or such lesser authority as may be set forth in such resolution. No delegation of the authority of the board shall relieve the board or any member of the board from any responsibility imposed by law.

#### **ARTICLE VIII** **Officers**

The Association shall have such officers as may from time to time be prescribed by the bylaws. Their terms of office and the manner of their designation or selection shall also be determined according to the bylaws.

#### **ARTICLE IX** **Conveyance of Property**

Authority to convey or encumber the property of the Association and to execute any deed, contract or other instrument on behalf of the Association, for itself or as attorney-in-fact for one or more of the members, is vested in the president, any vice president, or any other officer or agent of the Association authorized to do so by the board of directors.

#### **ARTICLE X** **Management**

The following provisions are inserted for the management of the business and for the conduct of the affairs of the Association, and the same are in furtherance of and not in limitation or exclusion of the powers conferred by law:

(a) **Contracts with Directors, Officers or Members.** No contract or other transaction of the Association with any other person, firm or corporation shall be affected or invalidated by reason of (i) the fact that any one or more of the directors, officers or members of the Association is interested in, or is a director, trustee or officer of another corporation, or (ii) the fact that any director, officer or member, individually or jointly with others, may be a party to or may be interested in any such contract or transaction. Each person who may become a director, officer or member, individually or jointly with others, may be a party to or may be interested in any such contract or transaction. Each person who may become a director, officer or member of the Association is hereby relieved from any liability that might otherwise arise by reason of his contracting with the Association for the benefit of himself or any firm or corporation in which he may be in anywise interested.

(b) **Board of Directors to Exercise General Power.** All corporate powers except those which by law or by these articles of incorporation expressly require the consent of the members, shall be exercised by the board of directors, a committee of the board or by officers of the Association authorized to do so by the articles of incorporation, the Association's bylaws or resolution of the board of directors.



(c) **Removal of Directors.** After the first election of directors by members, when the notice of meeting indicates the purpose any director who was not appointed by the Declarant may be removed and the vacancy filled by vote of the members. Directors may be removed with or without cause. Removal of directors whose terms expire at the next annual meeting of the members shall require at least a majority of the votes entitled to be cast by members present in person or by proxy, and removal directors whose terms do not expire at the next annual meeting of members shall require at least sixty-six and two-thirds percent (66-2/3%) of the votes entitled to be cast by members present in person or by proxy. Until the first election by members, the Declarant may remove any director with or without cause and appoint directors to fill any vacancy. In addition, the Declarant, if any, may at any time remove and appoint a replacement for any director appointed by the Declarant.

(d) **Compensation of Directors, Officers and Members.** Directors shall serve without compensation. The bylaws may provide for the reimbursement of directors' expenses. The board of directors shall fix the basis and conditions upon which such reimbursement shall be paid. Any director of the Association may also serve in any other capacity and receive compensation and reimbursement for such other work.

(e) **Indemnity.** The Association shall indemnify Association directors, officers, employees and agents to the fullest extent permitted by Section 7-22-101.5 of the Colorado Nonprofit Corporation Act or the corresponding provision of any subsequent applicable law, as either are amended from time to time. Such indemnification shall be in addition to any other indemnification allowed by law provided for pursuant to the provisions of these articles of incorporation, or any bylaw, resolution or insurance policy of the Association.

(f) **Limitation on Personal Liability.** The personal liability of a director to the Association or to the members for monetary damages for breach of fiduciary duty as a director is hereby eliminated; except that such provision shall not eliminate or limit the liability of a director to the Association or to the members for monetary damages for:

- (i) Any breach of the duty of loyalty to the Association or to the members;
- (ii) Acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law;
- (iii) Acts specified as being prohibited in Section 7-24-111 of the Colorado Nonprofit Corporation Act, as amended, or any successor thereto; or
- (iv) Any transaction from which the director derived an improper personal benefit.

02/01/91

**ARTICLE XI**  
**Bylaws**

The initial bylaws of the Association shall be as adopted by its board of directors. The board shall have power to alter, amend or repeal the bylaws except to the extent the bylaws expressly limit such power. The bylaws may contain any provisions for the regulation or management of the affairs of the Association.

**ARTICLE XII**  
**Amendment**

The Association reserves the right to amend, alter, change or repeal any provision contained in these articles of incorporation by, unless a higher voting requirement is set forth herein with respect to any particular provision, the approval of the Declarant, if any, and the approval of the members entitled to vote sixty-six and two-thirds percent (66-2/3%) or more of the votes entitled to be cast by members at any regular or special meeting called for the purpose at which a quorum shall be represented.

**ARTICLE XIII**

The name and address of the incorporator is:

Ward L. Van Scoyk  
Weiss and Van Scoyk  
P.O. Box 880550  
Steamboat Springs, CO 80488

Dated this 3<sup>rd</sup> day of February, 1991.

  
Ward L. Van Scoyk

**ACKNOWLEDGEMENT**

The foregoing document was acknowledged before me this 3 day of February, 1991 by Ward L. Van Scoyk.

Witness my hand and official seal.

My commission expires: 2/4/94

{SEAL}

  
Notary Public