

**ARTICLES OF INCORPORATION**  
**OF**  
**THOMPSON CORNER HOMEOWNERS ASSOCIATION**  
**(a Colorado Nonprofit Corporation)**

The undersigned, acting as incorporator of a corporation under Colorado Revised Statutes, Title 7, Articles 20-29, as amended from time to time (the "Colorado Nonprofit Corporation Act"), adopts the following Articles of Incorporation for Thompson Corner Homeowners Association (the "Association"). Capitalized terms not otherwise defined herein shall have the meanings set forth in the Amended and Restated Declaration of Protective Covenants for Thompson Corner recorded February 25, 1998 in Book 1054 at Page 914 (Reception No. 520825) in the Office of the Clerk and Recorder of Garfield County, Colorado, and any supplement or amendment thereto (hereinafter referred to as the "Declaration"). All of the lands that become subject to said Declaration from time to time are hereinafter referred to as the "Common Interest Community."

**ARTICLE I**

**NAME**

The name of the corporation is **THOMPSON CORNER HOMEOWNERS ASSOCIATION**.

**ARTICLE II**

**DURATION**

The period of its duration shall be perpetual.

**ARTICLE III**

**PURPOSES**

The business, objects and purposes for which the Association is organized are for the acquisition, construction, management, maintenance and care of "association property" (as that term is used and defined in Section 528 of the Internal Revenue Code and its regulations), including, but not limited to, the following:

1. To be and constitute the Association to which reference is made in the Declaration made, executed and recorded by Crystal River Limited Partnership, a Delaware limited partnership (hereinafter it and its successors and assigns are referred to as the "Declarant") pursuant to the Colorado Nonprofit Corporation Act and Colorado

Revised Statutes, Title 38, Article 33.3 (as amended from time to time, hereinafter referred to as the "Colorado Common Interest Ownership Act"), and to perform all obligations and duties of the Association and to exercise all rights and powers of the Association described in said Declaration, as it may be amended from time to time.

2. To provide an entity for the furtherance of the interests of all of the Owners and Occupants in the Common Interest Community, including the Declarant named in the Declaration, with the objective of establishing and maintaining the Common Interest Community as a residential project of the highest possible quality and value and enhancing and protecting its value, desirability and attractiveness, and to promote the health, safety and welfare of the Owners and Occupants within the Common Interest Community and any additions thereto as may hereafter be brought within the jurisdiction of this Association.

## **ARTICLE IV**

### **POWERS**

In furtherance of its purposes, the Association shall have all of the powers conferred upon nonprofit corporations by the statutes and common law of the State of Colorado in effect from time to time, including all of the powers necessary or desirable to perform the obligations and duties and exercise the rights and powers of the Association under the Declaration. Such powers shall include, but shall not be limited to, the following:

1. The Association shall have all of the powers, authority and duties permitted pursuant to the Colorado Nonprofit Corporation Act and the Colorado Common Interest Ownership Act;

2. The Association shall have all of the powers, authority and duties necessary and proper to manage the business affairs of the Common Interest Community, including without limitation those conferred upon it by the Declaration, as it may be amended from time to time;

3. Subject to applicable law, the Association shall have all of the powers, authority and duties necessary and proper to acquire, own, operate, construct, manage, lease, maintain, care for, sell, encumber and otherwise deal with the Common Areas, as defined in the Declaration.

**ARTICLE V**

**EXECUTIVE BOARD**

1. The affairs of the Association shall be conducted, managed and governed by an Executive Board. The duties, qualifications, number and term of members of the Executive Board (the "Directors") and the manner of their election and removal shall be as set forth in the Bylaws.

2. The initial Executive Board shall consist of three (3) members. The names and addresses of the persons who shall serve until the first election of Directors and until their successors are duly elected and qualified are as follows:

<u>Name</u>	<u>Address</u>
Michael Staheli	614 Paseo Road Carbondale, CO 81623
William Paladino	P. O. Box 2033 Basalt, CO 81621
Steven Rane	0981 Sunking Drive Glenwood Springs, CO 81601

**ARTICLE VI**

**PERIOD OF DECLARANT CONTROL**

1. In the Declaration, Declarant has reserved the right to appoint and remove Directors and officers until the date which is the earlier of (a) sixty (60) days after conveyance of 75% of the Lots that may be created to Owners other than Declarant, (b) two (2) years after the last conveyance of a Lot by Declarant in the ordinary course of business, or (c) two (2) years after any right to add new Lots was last exercised by Declarant (the "Turnover Date").

2. During the Period of Declarant Control: (a) Not later than sixty (60) days after conveyance of 25% of the Lots that may be created to Owners other than Declarant, at least one member and not less than 25% of the members of the Executive Board must be elected by Owners other than Declarant; and (b) not later than sixty (60) days after the conveyance of 50% of the Lots that may be created to Owners other than Declarant,

not less than 33-1/3% of the members of the Executive Board must be elected by Owners other than Declarant.

3. At any time prior to the Turnover Date, the Declarant may voluntarily surrender and relinquish the right to appoint and remove officers and members of the Executive Board. In such event, Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Executive Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. As to such actions, Declarant may give its approval or disapproval in its sole discretion and option, and its disapproval shall invalidate any such action by the Executive Board or the Association.

4. Not later than the Turnover Date, the Lot Owners (including Declarant) shall elect an Executive Board of at least three (3) members, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant, and the Executive Board shall elect the officers, with such Executive Board members and officers to take office upon election.

5. Within sixty (60) days after Owners other than Declarant elect a majority of the members of the Executive Board, Declarant shall deliver to the Association all property of the Lot Owners and of the Association held or controlled by Declarant, including without limitation those items specified in Section 38-33.3-303(9) of the Colorado Common Interest Ownership Act.

## **ARTICLE VII**

### **MEMBERS AND VOTING RIGHTS**

1. There shall be one "Membership" in the Association for each Lot within the Common Interest Community. The Person or Persons who constitute the Owner of a Lot shall automatically be the holder of the Membership appurtenant to that Lot, and shall collectively be the "Member" of the Association with respect to that Lot, and the Membership appurtenant to that Lot shall automatically pass with fee simple title to the Lot. Declarant shall hold a Membership in the Association for each Lot owned by Declarant. Membership in the Association shall not be assignable separate and apart from fee simple title to a Lot, and may not otherwise be separated from ownership of a Lot.

2. Each Lot in the Common Interest Community shall be entitled to one (1) vote in the Association, *i.e.*, one (1) vote per Owner/Member. Occupants of Lots shall not have voting rights. If title to a Lot is owned by more than one (1) Person, such persons shall collectively vote their interest as a single vote.

**ARTICLE VIII**  
**PROXY VOTING**

A Member shall be entitled to vote in person on any matters on which such Member is entitled to vote, and may vote on such matters by proxy in the manner set forth in the Bylaws.

**ARTICLE IX**  
**CUMULATIVE VOTING**

Cumulative voting by Members in the election of Directors shall not be permitted.

**ARTICLE X**  
**INITIAL REGISTERED OFFICE AND AGENT**

The initial registered office of the Association shall be 1030 Highway 133, Carbondale, CO 81623. The initial registered agent at such office shall be Michael Staheli.

**ARTICLE XI**  
**INUREMENT AND DISSOLUTION**

No part of the income or net earnings of the Association shall inure to the benefit of, or be distributable to, any Member, Director, or officer of the Association or to any other private individual, except that: (i) reasonable compensation may be paid for services rendered to or for the Association affecting one or more of its purposes; (ii) reimbursement may be made for any expenses incurred for the Association by any officer, Director, Member, agent or employee, or any other Person or corporation, pursuant to and upon authorization of the Executive Board; and (iii) rebates of excess membership dues, fees, or Assessments may be paid.

In the event of dissolution of the Association, the property and assets thereof remaining after providing for all obligations shall then be distributed pursuant to the Colorado Nonprofit Corporation Act at Article 26, and if the Common Interest Community is terminated then pursuant to the Colorado Common Interest Ownership Act at Section 38-33.3-218.

## **ARTICLE XII**

### **ELIMINATION OF CERTAIN LIABILITIES OF DIRECTORS**

There shall be no personal liability, either direct or indirect, of any Director of the Association to the Association or to its Members for monetary damages for any breach or breaches of fiduciary duty as a Director; except that this provision shall not eliminate liability of a Director to the Association or to its Members for monetary damages for any breach, act, omission or transaction as to which the Colorado Nonprofit Corporation Act or the Colorado Common Interest Ownership Act prohibits expressly the elimination of liability. This provision is in the Association's original Articles of Incorporation and thus is effective on the date of the Association's incorporation. This provision shall not limit the rights of Directors of the Association for indemnification or other assistance from the Association in accordance with applicable law. This provision shall not restrict or otherwise diminish the provisions of Colorado Revised Statutes, Section 13-21-116(2)(b) (concerning no liability of directors except for wanton and willful acts or omissions), any amendment or successor provision to such Section, or any other law limiting or eliminating liabilities, such as Colorado Revised Statutes, Section 38-33.3-303(2) (fiduciary duties of officers and directors if appointed by Declarant; if not so appointed, then no liability except for wanton and willful acts or omissions). Any repeal or modification of the foregoing provisions of this Article by the Members of the Association or any repeal or modification of the provision of the Colorado Nonprofit Corporation Act which permits the elimination of liability of directors by this Article shall not affect adversely any elimination of liability, right or protection of a Director of the Association with respect to any breach, act, omission, or transaction of such Director occurring prior to the time of such repeal or modification.

## **ARTICLE XIII**

### **AMENDMENT OF ARTICLES; CONFLICTS**

1. These Articles of Incorporation may be amended from time to time in the manner set forth in the Colorado Nonprofit Corporation Act, provided always that such amendments are consistent with the terms and provisions of the Declaration.
2. In the event of a conflict between the terms and provisions of these Articles and the terms and provisions of the Declaration, the terms and provisions of the Declaration shall govern and control.
3. In the event of a conflict between the terms and provisions of these Articles and the terms and provisions of the Bylaws adopted by the Executive Board, the terms and provisions of these Articles shall govern and control.

**ARTICLE XIV**  
**INCORPORATOR**

The name and address of the Incorporator of the Association is as follows:

<u>Name</u>	<u>Address</u>
Lori Dixon	Suite 3200 555 Seventeenth Street Denver, CO 80202

EXECUTED this \_\_\_\_\_ day of March, 1998.

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Lori Dixon

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