

Sun Valley Elkhorn Association, Inc.



Articles of Incorporation

Amended and Restated December 30, 2008

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**ARTICLES OF INCORPORATION
OF
SUN VALLEY ELKHORN ASSOCIATION, INC.**

EXHIBIT C

KNOW ALL MEN BY THESE PRESENT: That we, the undersigned, each being a natural person of full age and a citizen of the United States of America, have voluntarily and do hereby associate ourselves together for the purpose of forming a corporation under the laws of the State of Idaho, Idaho Code, Title 30, Chapter 1, Section 117A. We do hereby certify, declare and adopt the following Articles of Incorporation.

ARTICLE I

The name of the corporation is: SUN VALLEY ELKHORN ASSOCIATION, INC.

ARTICLE II

The period of existence and the duration of the life of this corporation shall be perpetual.

ARTICLE III

This corporation shall be a non-profit, membership corporation.

ARTICLE IV

The location and post office address of the registered office of this corporation shall be the City of Sun Valley, Blaine County, Idaho 83353.

ARTICLE V

A. The nature of the business and the object and purpose of this corporation shall be as follows:

(a) To form a corporation under Title 30, Chapter 1, Section 117A of the Idaho Code, for the purpose of providing a Master Association to which all owners of Condominiums or Lots located in Elkhorn, Blaine County, Idaho, shall belong for the purpose of maintaining and creating an environment that will provide maximum opportunity for the orderly development of a year-round recreational resort. This corporation shall be the Master Association defined in the Master Declaration of Covenants, Conditions, and Restrictions of Elkhorn at Sun Valley (hereinafter referred to as the "Master Declaration") which Master Declaration is filed of record as Instrument No. 142929, March 24, 1972, Records of Blaine County, State of Idaho. All of the words or terms, which are capitalized herein, shall have the same meaning and definition as contained in the definitions section of the Master Declaration, which definitions are incorporated herein by reference.

(b) To form an association in which the rights, privileges, burdens, responsibilities and interest of all Members shall be based upon the ownership of each Lot or Condominium in Elkhorn. This corporation shall have all powers incidental to a corporation structure except, as its powers are restricted in the Master Declaration.

(c) To receive and accept and to be obligated to receive and accept from Grantor, grants of right, title and interest in Association Property, to assume the functions and obligations imposed upon the Association property as provided for under the Master Declaration. All Association Property, both real and personal, received and accepted by the corporation shall be held for the benefit and use of the members of the corporation.

(d) To prosecute any violation in law or equity against any person or persons who violate or attempt to violate any provisions of the Elkhorn Restrictions as set forth in the Master Declaration and to do all acts reasonably necessary or convenient to carry out all the provisions of the Elkhorn Restrictions.

(e) To receive and accept, to take and to hold, directly or indirectly, by request, devise, gift, purchase or lease either absolutely or in trust any real or personal property without limitation as to amount or value for any of the purposes and objectives set forth in these Articles of Incorporation.

(f) The corporation shall actively foster, promote and advance the interests of its members. It shall have the power to transfer or assign such duties, obligations or responsibilities to other persons or entities as may be permitted by the Idaho Corporation Law.

(g) The corporation shall have the power to levy regular or special assessments to fulfill the obligations and purposes set forth in these Articles of Incorporation and in the Master Declaration.

B. In addition to the foregoing, where not inconsistent with the laws of the State of Idaho and in particular Title 30, Chapter 1, Section 117A of the Master Declaration the corporation shall have the following powers:

(a) The authority set forth in Title 30 of the Idaho Code relating to the organization and conduct of general business corporations.

(b) To buy, sell, acquire, hold or mortgage, or enter into security agreements, pledge, lease, assign, transfer, trade and deal in and with all kinds of personal property, goods, wares and merchandise of every kind, nature and description.

(c) To buy, sell, lease, let, mortgage, exchange or otherwise acquire or dispose of lands, Lots, houses, Condominiums, buildings, and real property, hereditaments and appurtenances of all kinds and wheresoever situated, and of any interest and rights therein, to the same extent as natural persons might or could do, and without limit as to amount.

(d) To borrow money, to draw, make, accept, enforce, transfer and execute promissory notes, debentures and other evidences of indebtedness, and for the purpose of securing any of its obligations or contracts to convey, transfer, assign, deliver, mortgage and/or pledge all or any part of the Property or assets, real or personal, at any time owned or held by this corporation.

(e) To have one or more offices to carry on all or any part of its operations and business, and to do all and everything necessary, suitable, convenient or proper for the accomplishment of any of the purposes, or the attainment of any one or more of the objects herein named, or which shall at any time appear conducive or expedient for the protection or benefit of the Master Association, and which now or hereafter may be authorized by law, and this to the same extent and as fully as natural persons might or could do, as principals, agents, contractors, trustees or otherwise, and either alone or in connection with any firm, person, association or corporation.

(f) The foregoing clauses are to be construed both as objects and powers. As hereby expressly provided, an enumeration herein of the objects, powers and purposes shall not be held to restrict in any manner the general powers of the corporation. The corporation shall have the power to do all acts that are necessary and convenient to obtain the objects and purposes herein set forth to the same extent and as fully as any natural person could or might do, within the framework of the Idaho Condominium Property Act, these Articles of Incorporation, and the general corporation laws of the State of Idaho.

ARTICLE VI

In no event shall any income or assets of the corporation be distributed to or inure to the benefit of any Member, director or officer hereof, either directly or indirectly, other than bonafide expenses in carrying out the instructions and directions of the Board of Directors and the Officers in order to accomplish and achieve the purpose and objectives of the corporation.

ARTICLE VII

A. The corporation shall not issue any capital stock, but shall issue membership certificates to each member hereof, including Grantor, under the terms and conditions hereinafter set forth. Each Owner (including Grantor) of a Lot or Condominium, by virtue of being such an Owner and for so long as he is such an Owner, shall be deemed a Member of the Master Association. The Master Association membership of each Owner (including Grantor) shall be appurtenant to said Lot or Condominium and shall not be transferred, pledged or alienated in any way except upon the transfer of title to said Lot or Condominium, and then only to the transferee of title to said Lot or Condominium. Any attempt to make a prohibited transfer shall be void. Any transfer of title to said Lot or Condominium shall operate automatically to transfer said membership to the new Owner thereof.

B. There shall be two classes of membership designated as Class A and Class B membership. Class A members shall originally be all Owners with the exception of Grantor, and shall be entitled to one vote for each Lot and/or Condominium owned. Grantor shall become a Class A member with regard to Lots or Condominiums owned by Grantor in a particular Tract or Condominium Project upon the conversion of Grantor's Class B membership to Class A membership with regard to that tract or Condominium Project as provided herein below. The Owner of each Lot or condominium in Elkhorn may, by notice to the Association, designate a person (who need not be an Owner) to exercise by the guardian of an Owner's estate or by his conservator, or in the case of a minor having no guardian, by the parent entitled to his custody, or during the administration of any Owner's estate, by his executor or administrator where the latter's interest in said property is subject to administration in his estate. The Class B member shall be Grantor. Upon the first sale of a Lot or Condominium to an Owner in each Tract or Condominium Project, Grantor shall thereupon be entitled to three (3) votes for each Lot in that Tract or each Condominium in that Condominium Project owned by Grantor. As to each Tract and Condominium Project, the Class B membership shall cease as to that Tract or Condominium Project and be converted to Class A membership on the happening of any of the following events, whichever occurs earlier:

- (1) When the total votes outstanding in the Class A membership for that Tract or Condominium Project equal the total votes outstanding in the Class B membership for that Tract or Condominium Project, or
- (2) Two years from the date of the issuance of the most recent Public Report by the California Commissioner of Real Estate for a Tract or Condominium Project within Elkhorn (but only if such a Public Report has ever been issued, otherwise this subparagraph (2) shall not apply, or
- (3) Five (5) years from the first sale to an Owner of a Lot or Condominium in that Tract or Condominium Project to an Owner.

C. In any election of the members of the Board, every Owner (including Grantor) entitled to vote at such an election shall have the right to cumulate his votes and give one candidate, or divide among any number of the candidates, a number of votes equal to the number of votes to which that Owner is entitled in voting upon other matters multiplied by the number of directors to be elected. The candidates receiving the highest number of votes, up to the number of the Board members to be elected, shall be deemed elected. Any Director may be removed from office by a vote of a majority of the members entitled to vote at an election of directors; provided, however, that unless the entire Board is removed, and individual director shall not be removed if the number of votes cast against his removal exceeds the quotient arrived at when the total number of votes cast is divided by one plus the authorized number of directors. If any or all directors are so removed, new directors may be elected at the same meeting.

D. Suspension of Voting Rights. There shall be no violation of the Elkhorn Restrictions. If any Owner, his family, or any licensee, lessee or invitee violates the Elkhorn Restrictions, the Board may impose a special assessment upon such person of not more than Fifty Dollars (\$50) per day for each violation and/or may suspend the right of such person to use the Association properties, under such conditions as the Board may specify for a period not to exceed one (1) year for each violation. Before invoking any such assessment or suspension the Board shall give such person notice and hearing. Any assessment imposed hereunder, which remains unpaid for a period of ten (10) days or more, shall become a lien upon the Owner's Lot or Condominium upon its inclusion in a notice of assessment lien recorded pursuant to Article IX, Section 9.06 of the Master Declaration.

E. Subsections, A, B and C of this Article (Article VII) shall not be amended without the consent of eighty per cent (80%) of the combined number of Lots and Condominiums then within Elkhorn, plus, until Completion, the written consent thereto of Grantor.

F. The following sections of the Master Declaration dealing with specific voting requirements which require special action of the membership are incorporated herein by reference: Section 6.05M, Section 7.03B (2), Section 9.04 and Section 10.02.

G. The Association may not convey, transfer or encumber Association property except in the following cases:

- (1) The value of the real property or encumbrances is \$25,000 or less, and the acreage 5 acres or less, or
- (2) The value of the amenity is \$10,000 or less, or
- (3) Association real property is exchanged for like real property in size and value within or contiguous to Elkhorn.

In all other cases, the consent of fifty-one percent (51%) of the voting power of the members voting in person or by proxy at the regular or a special meeting called for that purpose shall first be obtained.

ARTICLE VIII

Each Member shall be liable for payment of all regular and special assessments provided for in the Master Declaration and for payment and discharge of the liabilities of the corporation as provided for in the Master Declaration and as set forth in the Bylaws of the Corporation.

ARTICLE IX

The Bylaws of this corporation may be altered, amended or new Bylaws adopted at any regular or any special meeting of the corporation called for that purpose by the affirmative vote of two-thirds (2/3) of the votes entitled to be cast by the Members present at such meeting.

ARTICLE X

For the purpose of specifying in detail the rights, responsibilities, duties and obligations of the Board of Directors, the officers, the Manager, or other employees and agents of the Master Association and the Members thereof, including the obligation of the Members to accept Master Association Property and the liability of the Members for the payment of assessments, the Bylaws may incorporate by reference the provisions of the Master Declaration recorded in Blaine County, State of Idaho, provided a true and correct copy of the Master Declaration is attached to and made a part of the Bylaws of the corporation.

ARTICLE XI

The business and affairs of the Master Association shall be managed and controlled by a Board of Directors. The original Board of Directors shall be three (3); however, the Bylaws of the Master Association may provide for an increase or decrease in their number, provided that the number of directors shall not be greater than nine (9) nor less than three (3).

ARTICLE XII

The names and post office address of the incorporators are as follows:

John S. Simko, 4641 Seymour Drive, Boise, Idaho

Karl Jeppesen, Route 3, Boise, Idaho

Shirley Ditty, 5903 Norwood Drive, Boise, Idaho

Diana Gratton, 431 Ada, Boise, Idaho

Florence Banks, 200 North 3rd, Boise, Idaho

ARTICLE XIII

The personal liability of a director to the Association or its members for monetary damages for breach of fiduciary duty as a director is eliminated except as follows:

- A. For any breach of the director's duty of loyalty to the Association or its members.
- B. For acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law.
- C. Provided for in Section 30-1-48, Idaho Code.
- D. For any transaction from which the director derived an improper personal benefit.

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 19th day of June 1972.

/s/ John S. Simko
 /s/ Karl Jeppesen
 /s/ Shirley Ditty
 /s/ Diana Gratton
 /s/ Florence Banks

STATE OF IDAHO)
COUNTY OF ADA)

On this 19th day of June, 1972, before me, the undersigned, a Notary Public in and for said County and State, personally appeared John S. Simko, Karl Jeppesen, Shirley Ditty, Diana Gratton, and Florence Banks, known to me to be the persons whose names are subscribed to the foregoing instrument, and acknowledged to me that they executed the same.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal the day and year in this certificate first above written.

/s/ John H. Read
 Notary Public for Idaho
 Residing at Boise, Idaho