

**COPY**

RECEIVED

NOV 09 2004

Utah Div. of Corp. & Comm. Code

**ARTICLES OF INCORPORATION  
OF  
THE PRESERVE  
HOMEOWNER'S ASSOCIATION**

JBB

The undersigned natural person being at least eighteen years of age, acting as incorporator of a corporation under the Utah Revised Nonprofit Corporation Act, Utah Code Ann. § 16-6a-101, *et seq.*, adopts the following Articles of Incorporation for such corporation.

**ARTICLE I  
NAME**

The name of the corporation is THE PRESERVE HOMEOWNER'S ASSOCIATION.

**ARTICLE II  
PURPOSE**

The corporation is organized to perform those obligations, duties and services of The Preserve Homeowner's Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions for The Preserve Development (the "Preserve"), located in Summit County, Utah, recorded in the Office of the County Recorder for Summit County (the "Declaration"), and to engage in any other lawful acts, activities and pursuits for which a nonprofit corporation may be organized under the Utah Revised Nonprofit Corporation Act. Capitalized terms herein shall have the same meaning ascribed to such terms in the Declaration.

This Corporation does not contemplate pecuniary gain or profit to its Members, and the specific purposes for which it is formed are to promote the health, safety and welfare of its Members and to provide for architectural control of The Preserve, and maintenance and preservation of certain Common Areas and other areas of responsibility of the Corporation. The Subdivision is governed by the Declaration.

The Corporation shall have the power to participate in mergers and consolidations with other corporations organized for the same purposes or annex additional residential property and streets. Consolidation or annexation, except as provided in the Declaration, shall have the assent of at least two-thirds of the votes cast at a quorum of Members voting in person or by proxy.

**ARTICLE III  
MEMBERS AND VOTING**

Membership in the Corporation is deemed an appurtenance to each Lot and is transferable only in conjunction with the transfer of title to the Lot. The Corporation

11-09-04 P04:45 RCVD

shall have two classes of membership. Declarant shall be the only Class A member and shall be entitled to cast 3 votes for each Lot it owns. All other Owners shall be Class B members and shall be entitled to cast one vote for each Lot he or she owns. IN the case of a Lot with multiple Owners, the Owners will agree among themselves how the vote applicable to that Lot will be cast. If no agreement can be reached, no vote will be received from that Lot.

#### **ARTICLE IV SHARES**

The corporation shall not issue shares of stock evidencing membership in the corporation.

#### **ARTICLE V REGISTERED AGENT AND OFFICE**

The address of the initial registered office of the corporation is Eagle Gate Tower, Suite 1200, 60 E. South Temple, Salt Lake City, UT 84111. The name of the corporation's initial registered agent at the office is Kevin Egan Anderson, Esq.

#### **ARTICLE VI INITIAL BOARD OF TRUSTEES**

The affairs of this Corporation shall be managed by a Board of Trustees/Directors (the "Board") of not less than three (3) persons. The number and term of Board members shall be provided in the By-laws of the Corporation. The names and addresses of the initial Directors to serve until the next annual meeting of Members or until their successors are elected and qualified are :

Kirkpatrick MacDonald  
114 West 78<sup>th</sup> Street  
New York, NY  
10024

William Coleman  
2200 Park Avenue, Building B  
Park City, UT  
84060

Jim Lavender  
2 South Main, Suite 2A  
Heber City, UT  
84032

Date: 11/09/2004  
Receipt Number: 1290108  
Amount Paid: 522.00

## **ARTICLE VII LIABILITY**

To the fullest extent permitted by the Utah Revised Nonprofit Corporation Act or any other applicable law as now in effect or as it may hereafter be amended, the Board members of this corporation shall not be personally liable to the corporation or its members for monetary damages for any action taken or any failure to take any action as a Board member.

## **ARTICLE VIII INCORPORATOR**

The original incorporator is Kevin E. Anderson, Esq., whose address is Eagle Gate Tower, Suite 1200, 60 E. South Temple, Salt Lake City, UT 84111.

## **ARTICLE IX DISSOLUTION**

The Corporation may be dissolved only in accordance with the provisions of the Declaration and in accordance with the Utah law. Any dissolution shall be approved in writing by the holders of not less than seventy-five (75%) percent of the total votes of Members entitled to vote and, upon dissolution, other than incident to a merger or consolidation, the assets shall be dedicated to an appropriate public agency to be used for purposes similar to those for which this Corporation was created. In the event that such dedication is refused acceptance, the assets shall be granted, conveyed and assigned to any nonprofit corporation, association, trust, or other organization to be devoted to such similar purposes.

## **ARTICLE X INDEMNIFICATION**

The Corporation may indemnify any person against liability and expenses, including without limitation, attorneys' fees, judgments, fines and amounts paid in settlement, actually and reasonably suffered or incurred by reason of the fact that he/she is or was a director, officer, employee or agent of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner, trustee, employee or agent of another corporation, partnership, joint venture, trust or other entity, in all circumstances in which, and to the extent that, such indemnification is permitted by law. Any indemnification hereunder shall be made by the Corporation only as authorized by the Board.

The Corporation shall have the power to purchase and maintain insurance on behalf of any person who is or was a director or officer of the Corporation, or was serving at the request of the Corporation as a director or officer, against any liability asserted against

such director or officer and incurred by such director or officer in any such capacity or arising out of the director's or officer's status as such whether or not the Corporation would have had the power to indemnify such director or officer against such liability under this Article.

#### ARTICLE XI AMENDMENT


These Articles may be amended by the vote of not less than seventy-five percent (75%) of the total votes cast by Members entitled to vote, but no amendment may conflict with the Declaration or affect any reserved rights or privileges or exemptions of the Declarant, and amendments shall first be proposed by the Board to the extent required by law. Notice of proposed amendments and the meeting at which such will be considered shall be given to the members in accordance with the notice provisions set forth in the By-laws. Amendment of the Corporation By-laws may be made by the Board of the Corporation, subject to amendment or repeal by the vote of not less than seventy-five percent (75%) of the total votes cast by Members entitled to vote. Declarant reserves the absolute right of its own volition, and without any other consent, to amend these Articles should such amendment be required in order to achieve compliance with any laws.

#### ARTICLE XII CONFLICTS

In the case of any conflict between the terms hereof and the Declaration, the Declaration shall always control, and in the case of a conflict with the By-laws, these Articles of Incorporation shall control.

DATED this 9<sup>th</sup> day of NOVEMBER, 2004.

INCORPORATOR:

  
\_\_\_\_\_  
Kevin E. Anderson

The undersigned hereby accepts and acknowledges appointment as the initial registered agent of the corporation named above, and confirms that the undersigned meets the requirements of Utah Code Ann. § 16-6a-501 of the Utah Revised Nonprofit Corporation Act.

  
\_\_\_\_\_  
Kevin E. Anderson, Registered Agent.

STATE OF UTAH )  
 )  
 ) SS.  
 )  
 COUNTY OF SALT LAKE )

Subscribed and sworn to before me on this 9<sup>th</sup> day of November, in the year 2004, by Kevin E. Anderson.



Lani Willis  
NOTARY PUBLIC

Utah  
Department of Commerce  
Licensing and Enforcement System

Payer: PRESERVE HOMEOWNER'S ASSO  
Drawer ID: terminal0  
User: jbella  
Date: 11/09/2004  
Application Fee    f        22.00        22.00  
                                  Check        322.00  
  
Amount Due:        322.00  
Amount Paid:       322.00  
Receipt #: 1290108

NON, THE