

Department of Commerce  
Division of Corporations and Commercial Code  
I hereby certify that the foregoing has been filed  
and approved on this \_\_\_\_\_ day of \_\_\_\_\_ 19\_\_\_\_  
in the office of this Division and hereby issue  
this Certificate thereof.

Copy

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Examiner \_\_\_\_\_ Date \_\_\_\_\_  
*Karla S. Woods*  
KORLA T. WOODS  
Division Director

ARTICLES OF INCORPORATION  
OF

ORCHARD VILLA TOWNHOMES HOMEOWNERS ASSOCIATION, INC.

KNOW ALL MEN BY THESE PRESENTS:

We, the undersigned, natural persons of the age of 18  
years or more, acting as incorporators of this nonprofit  
corporation under the Utah Nonprofit Corporation and Co-operative  
Association Act, hereby adopt the following Articles of  
Incorporation for such corporation:

ARTICLE I

NAME

ORCHARD VILLA TOWNHOMES HOMEOWNERS ASSOCIATION, INC.

ARTICLE II

DURATION

Term of existence of corporation is perpetual.

ARTICLE III

PURPOSE

This corporation is organized as a nonprofit  
corporation and is organized to engage in any lawful act or  
activity for which a nonprofit corporation may be organized under  
the Utah Nonprofit Corporation and Co-operative Association Act,  
including but not limited to the following:

1. To be and constitute the Association (the  
"Association" and hereinafter reference to the corporation or  
Association is reference to Orchard Villa Townhomes Homeowners

By filing this certificate, the filing fee has been paid and the certificate is hereby issued. This Certificate shall be valid for the period of 10 years from the date of filing.

Examiner *JP* Date *3/7/94*  
*Karla S. Woods*  
KORLA T. WOODS  
Division Director



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Association, Inc.) to which reference is made in Declaration of Covenants, Conditions and Restrictions of Orchard Villa Townhomes, Phase One ("Declaration") dated January 14, 1994, and recorded in the Grand County, Utah Recorder's Office on January 14, 1994, in Book 459 and page 511-531, and any supplemental declarations recorded thereafter.

2. To perform all duties and obligations of the Association and to exercise all rights and powers of the Association.

3. To provide an entity for the furtherance of the interests of all the owners and members of the Association (as defined hereinafter), including establishing and maintaining a prime townhome ownership project of the highest possible quality and value and enhancing and protecting its value, desirability and attractiveness.

#### ARTICLE IV

##### POWERS

1. The corporation shall have all the powers given a nonprofit corporation by statutes and common law of Utah including, but not be limited to the following:

a. Make and collect common expense assessments against members of the Association for the purpose of payment of common expenses (including expenses incurred in exercising its powers or of performing its functions).

b. To manage, control, operate, maintain, repair, improve and enlarge the common elements.

c. To enforce the terms, covenants, restrictions, conditions, uses, limitations and obligations set forth in the Declaration and bylaws, and to make and enforce rules and regulations as provided therein.

d. To engage in activities to actively foster, promote and advance the interests of all owners of townhome units (as defined in the Declaration) including the interests of Declarant (as defined by the Declaration this is Portal Development, L.L.C., a Utah limited liability company) during the development of the project and its ownership of townhome units.

e. To hire a Managing Agent to exercise those duties and powers granted him by the Board of Trustees, but not those by law the Board of Trustees may not delegate.

2. At such time, and only at such time, as 100% of the townhome units within the townhome project subject to the Declaration have been sold, then, unless 75% of the memberships (hereinafter defined) have given written approval, the corporation shall not be empowered or entitled to:

a. By act or omission, seek to abandon, or terminate the townhome regime.

b. Partition or subdivide any townhome unit.

c. By act or omission, seek to abandon, partition, subdivide, encumber, sell or transfer the common elements.

d. Use hazard insurance proceeds for loss to the improvements for other than the repair, replacement or reconstruction of such improvements.

## ARTICLE V

### MEMBERS AND MEMBERSHIPS

1. This corporation shall be a membership corporation without certificates or shares of stock. There shall be one class of membership. Each townhome unit shall have one membership in the corporation. All owners shall be members of the Association. Multiple owners of a townhome unit shall hold and share the membership related to that townhome unit in the same proportionate interest and by the same type of tenancy which the title to the townhome unit is held, provided only one membership per townhome unit. No person or entity other than an owner of a townhome unit may be a member of the corporation.

2. Each membership shall have one vote. If more than one person the holds the membership attached to one townhome unit, they may appoint a proxy to cast the vote for that membership. Members who share a membership and who cannot agree on how to vote that membership will be treated as having abstained.

3. Membership in the corporation and the share of a member in the assets of the corporation, shall not be assigned, encumbered or transferred in any manner except as appurtenant to the transfer of title to the townhome unit to which membership pertains. However, the rights of membership may be assigned to the holder of a mortgage, deed of trust or other security instrument on a townhome unit as further security for a loan secured by a lien on such townhome unit.

4. Transfer of membership occurs automatically upon the transfer of title to the townhome unit to which membership pertains - the bylaws of the corporation may contain reasonable provisions and requirements with respect to notice and recording such transfers on the books and records of the corporation.

5. Members have the right to purchase other townhome units and memberships appurtenant as provided in the Declaration.

6. The corporation may suspend the voting rights of a member for failure to comply with rules and regulations of the corporation or with any other obligations of the owners of any townhome unit under the Declaration and bylaws.

7. The bylaws may contain provisions setting forth the rights, privileges, duties and responsibilities of the members.

ARTICLE VI

BOARD OF TRUSTEES

1. Names and addresses of the first Board of Trustees who shall serve until the first election of trustees and until their successors are duly elected and qualified are as follows:

<u>Name</u>	<u>Address</u>
Ilene Stewart	838 Mountain View Moab, UT 84532
Scott King	3800 Old Lodge Rd. #B-8 Glenwood Springs, CO 81601
Carolyn King	3800 Old Lodge Rd. #B-8 Glenwood Springs, CO 81601

Any vacancies in the Board of Trustees occurring before the first election of Trustees shall be filled by the remaining Trustees.

2. The business affairs of the corporation will be conducted, managed and controlled by the Board of Trustees consisting of not less than three nor more than five members, which specific number to be set forth in the bylaws of the corporation. Trustees must be members.

3. Trustees shall be elected at the annual meeting of the members in a manner determined by the bylaws, provided however that the incorporators (as defined hereinafter) shall be entitled to elect the Board of Trustees until such time as 100% of the townhome units within the townhome project subject to the Declaration have been sold.

4. Subject to ARTICLE VI, paragraph 3, Trustees may be removed and vacancies in the Board of Trustees shall be filled in the manner provided by the bylaws.

#### ARTICLE VII

##### OFFICERS

The Board of Trustees shall elect from among them a president. The Board of Trustees shall elect, but not necessarily from among them, one or more vice presidents, a secretary, a treasurer and other such officers as the Board believes will be in the best interest of the corporation. The officers shall have such duties and serve for such terms of office as shall be prescribed in the bylaws of the corporation.

#### ARTICLE VIII

##### CONVEYANCES AND ENCUMBRANCES

Corporate property may be conveyed or encumbered by authority of the Board of Trustees or by such person or persons to whom such authority may be delegated by resolution of the Board. Conveyances or encumbrances shall be by an instrument executed by the president or a vice president and by the secretary or an assistant secretary or executed by such other person or persons to whom such authority may be delegated by the Board.

ARTICLE IX

INITIAL REGISTERED OFFICE AND AGENT

The address of the initial registered agent of the corporation is 838 Mountain View Drive, Moab, Utah 84352. The name of the initial registered agent at such address shall be Ilene Stewart.

ARTICLE X

AMENDMENTS

Amendments to these Articles of Incorporation shall be adopted, if at all, in the manner set forth in the Utah Nonprofit Corporation and Co-operative Association Act. However, no amendment to these Articles of Incorporation shall be contrary to or inconsistent with the provisions of the Declaration.

ARTICLE XI

MANAGING AGENT FUNCTIONS

The corporation may obtain and pay for the services of a person, persons, or entity to administer and manage its affairs and to be responsible for the operation, maintenance, repair and improving of the common elements and all of the exterior portions of the improvements and to keep the same in good, attractive and sanitary condition, order and repair; provided however, that the Declarant shall have the right to perform such services or appoint an entity to perform the same until the development of the townhome project has been fully completed and all of the



townhome units have been sold. The cost of such services shall be borne by the members according to their percentage interest in the common elements as provided in the Declaration, supplements thereto and bylaws, whether such services are directly rendered by the Declarant or delegated by the Declarant to a person or entity.

ARTICLE XII

INCORPORATORS

The name of and address of each incorporator is as follows:

<u>Name</u>	<u>Address</u>
Portal Development L.L.C., A Utah limited liability company LC#002544	P. O. Box 1409 Moab, UT 84532
Scott L. King	3800 Old Lodge Rd. #B-8 Glenwood Spr., CO 81601
Carolyn C. King	3800 Old Lodge Rd. #B-8 Glenwood Spr., CO 81601
Ilene Stewart	838 Mountain View Moab, UT 84532

ARTICLE XIII

INITIAL PRINCIPAL OFFICE

The address of the initial principal office is 838 Mountain View Drive, Moab, Utah, 84532.

IN WITNESS WHEREOF, the parties to these Articles of Incorporation have hereunto set their hand on the 28<sup>th</sup> day of February, 1994.

PORTAL DEVELOPMENT L.L.C.

By Scott L. King  
Scott L. King, Manager

By Carolyn C. King  
Carolyn C. King, Manager

By Ilene Stewart  
Ilene Stewart, Manager

By Scott L. King  
Scott L. King, individually

By Carolyn C. King  
Carolyn C. King, individually

By Ilene Stewart  
Ilene Stewart, individually

STATE OF Utah )  
County of Grand )

: ss.

The foregoing instrument was acknowledged before me this 28<sup>th</sup> day of February, 1994, by Scott King, Carolyn King, and Ilene Stewart, who, being by me first duly sworn, did say, each for himself or herself, that they are members/managers of Portal Development L.L.C., a Utah limited liability company, and that the within and foregoing instrument was signed on behalf of said

limited liability company by authority on its Articles of Organization and each duly acknowledged to me that said limited liability company executed the same.

Janis Jensen  
Notary Public  
Residing at Moab, Utah

My Commission Expires:

12-11-94

STATE OF Utah )  
County of Grand ) ss.

The foregoing instrument was acknowledged before me this 28th day of February, 1994, by Scott L. King and Carolyn C. King.

Janis Jensen  
Notary Public  
Residing at Moab, Utah

My Commission Expires:

12-11-94

STATE OF UTAH )  
County of Grand ) ss.

The foregoing instrument was acknowledged before me this 28th day of February, 1994, by Ilene Stewart.

Janis Jensen  
Notary Public  
Residing at Moab, Utah


My Commission Expires:

12-11-94

ACKNOWLEDGMENT OF REGISTERED AGENT

The undersigned hereby acknowledges and accepts her appointment as the initial registered agent of Orchard Villa Townhomes Homeowner's Association, Inc., the Utah nonprofit corporation organized pursuant to these Articles of Incorporation to which this acknowledgment is attached.

IN WITNESS WHEREOF, the undersigned registered agent has herewith set its hand the 28<sup>th</sup> day of February, 1994.

  
Ilene Stewart

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