

BYLAWS
OF
AGATE CREEK PRESERVE HOMEOWNERS ASSOCIATION
A Colorado Nonprofit Corporation

ARTICLE 1 - INTRODUCTION

These are the Bylaws of the AGATE CREEK PRESERVE HOMEOWNERS ASSOCIATION (the "Association"), which shall operate the Common Interest Community known as Lots 1 through 16, inclusive, Agate Creek Preserve, County of Routt, Colorado, in accordance with the Colorado Common Interest Ownership Act, as amended (the "Act"), the Colorado Revised Nonprofit Corporation Act, and the Declaration of Covenants, Conditions, Restrictions and Easements for Agate Creek Preserve (the "Declaration"). The Association shall promote the health, safety, welfare and common benefit of the owners of said Common Interest Community.

ARTICLE 2 - MEMBERSHIP

✓ **Section 2.1 Membership.** Membership of the Association shall consist exclusively of all Lot Owners of Lots 1 through 16, inclusive, Agate Creek Preserve, according to the Plat thereof recorded 06/25/99 1999, at File No. BK759/84 according to the records of the Clerk and Recorder's Office, Routt County, Colorado, and as provided by Section 301 of the Act. There shall be one (1) membership for each of the sixteen Lots owned within the Common Interest Community.

Section 2.2 Annual Meeting. Annual Meetings of Lot Owners shall be held in Routt County, Colorado at such date set forth in the notice of meeting. At these meetings, the Directors of the Association (herein referred to as the "Executive Board") shall be elected by vote of the Lot Owners, in accordance with the provisions of Article 3 of the Bylaws. The Lot Owners may transact other business as may properly come before them at these meetings.

Section 2.3 Budget Meeting. Meetings of Lot Owners to consider ratification of proposed budgets shall be called in accordance with the Act. The budget may be considered at Annual or Special Meetings called for other purposes as well.

Section 2.4 Special Meetings. Special Meetings of the Association may be called by the president, by a majority of the members of the Executive Board or by Lot Owners comprising twenty percent (25%) of the votes in the Association.

Section 2.5 Place of Meetings. Meetings of the Lot Owners shall be held in Routt County, Colorado, at a suitable place convenient to the Lot Owners, as may be designated by the

Executive Board or the President.

Section 2.6 Notice of Meetings. The secretary or other officer specified in the Bylaws shall cause notice of meetings of the Lot Owners to be hand-delivered or sent prepaid by United States mail to the mailing address of each Lot Owner or to the mailing address designated in writing by the Lot Owner, not less than ten (10) nor more than fifty (50) days in advance of a meeting. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including any amendment to the Declaration or Bylaws, any budget changes and any proposal to remove an officer or member of the Executive Board. No action shall be adopted at a meeting except as stated in the notice.

Section 2.7 Waiver of Notice. Any Lot Owner may, at any time, waive notice of any meeting of the Lot Owners in writing, and the waiver shall be deemed equivalent to the receipt of notice.

Section 2.8 Adjournment of Meeting. At any meeting of Lot Owners, a Majority of the Lot Owners who are present at that meeting, either in person or by proxy, may adjourn the meeting to another time.

Section 2.9 Order of Business. The order of business at all meetings of the Lot Owners shall be as follows:

- (a) Roll call (or check-in procedure);
- (b) Proof of notice of meeting;
- (c) Reading of minutes of preceding meeting;
- (d) Reports;
- (e) Establish number and term of memberships of the Executive Board (if required and noticed);
- (f) Election of inspectors of election (when required);
- (g) Election of Members of the Executive Board (when required);
- (h) Ratification of budget (if required and noticed);
- (i) Unfinished business; and
- (j) New business.

Section 2.10 Voting.

(a) Voting shall be one (1) vote per Lot. If only one (1) of several Owners of a Lot is present at a meeting of the Association, the Owner present is entitled to cast all the votes allocated to the Lot. If more than one (1) of the Owners are present, the votes allocated to the Lot may be cast only in accordance with the agreement of a majority in interest of the Owners. There is a majority agreement if any one (1) of the Owners casts the votes allocated to the Lot without protest being made promptly to the person presiding over the meeting by another Owner of the Lot.

(b) Votes allocated to a Lot may be cast under a proxy duly executed by a Lot Owner. If a Lot is owned by more than one (1) person, each Owner of the Lot may vote or register protest to the casting of votes by the other Owners of the Lot through a duly executed proxy. A Lot Owner may revoke a proxy given under this Section only by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one (1) year after its date, unless it specifies a shorter term.

(c) The vote of a corporation or business trust may be cast by any officer of that corporation or business trust in the absence of express notice of the designation of a specific person by the Executive Board of Directors or Bylaws of the owning corporation or business trust. The vote of a partnership may be cast by any general partner of the owning partnership in the absence of express notice of the designation of a specific person by the owning partnership. The vote of a limited liability company ("LLC") may be cast by any Manager in the absence of express notice of the designation of a specific person by the owning LLC. The moderator of the meeting may require reasonable evidence that a person voting on behalf of a corporation, partnership, LLC, or business trust owner is qualified to vote.

(d) Votes allocated to a Lot owned by the Association may not be cast.

✓ **Section 2.11 Quorum.** Except as otherwise provided in these Bylaws, the Lot Owners present in person or by proxy at any meeting of Lot Owners, (but no less than twenty-five percent (25%) of the members), shall constitute a quorum at that meeting.

✓ **Section 2.12 Majority Vote.** The vote of a majority of the Lot Owners present in person or by proxy at a meeting at which a quorum shall be present shall be binding upon all Lot Owners for all purposes, except where a higher percentage vote is required in the Declaration, these Bylaws or by law.

Section 2.13 Telephone Communication in Lieu of Attendance. To the extent allowed or permitted by law, a Lot Owner may attend a meeting of Lot Owners by using an electronic or telephonic communication method whereby the Lot Owner may be heard by the other Lot Owners and may hear the deliberations of the other Lot Owners on any matter properly brought before the Owners. The Lot Owner's vote shall be counted and the presence noted as if the Owner were present in person.

ARTICLE 3 - EXECUTIVE BOARD

Section 3.1 Number and Qualification - Termination of Declarant Control.

(a) The affairs of the Common Interest Community and the Association shall be governed by an Executive Board consisting of not less than two (2) nor more than three (3) directors who shall be Lot Owners. The initial Executive Board shall consist of two (2) directors. Not later than sixty

(60) days after conveyance of 25% of the Lots to Lot Owners other than the Declarant at least one (1) director shall be elected by Lot Owners other than the Declarant. Not later than sixty (60) days after conveyance of 50% of the Lots to Lot Owners other than the Declarant not less than one-third (1/3) of the directors shall be elected by Lot Owners other than the Declarant. Subject to the above provisions and the time limitations and restrictions of Section 38-33.3-303(5) and (6) of the Act, Declarant has reserved the right in the Declaration to appoint and remove the director and the officers of the Association during the Declarant Control Period described in the Declaration. Following the termination of the period of Declarant Control, the Executive Board shall consist of three (3) directors. If any Lot is owned by a partnership, limited liability company or corporation, any officer, partner, manager or employee of that Lot Owner shall be eligible to serve as a Director and shall be deemed to be a Lot Owner for the purposes of the preceding sentence. Directors shall be elected by the Lot Owners, except for those appointed by the Declarant during the Declarant Control Period. At any meeting at which Directors are to be elected, the Lot Owners may, by resolution, adopt specific procedures which are not inconsistent with these Bylaws or the Colorado Nonprofit Corporation Act for conducting the elections.

(b) The terms of all of the directors on the Executive Board not appointed by the Declarant shall expire annually.

(c) At any time after Lot Owners, other than the Declarant, are entitled to elect a Director, the Association shall call a meeting and give not less than ten (10) nor more than fifty (50) days' notice to the Lot Owners for this purpose. This meeting may be called and the notice given by any Lot Owner if the Association fails to do so.

(d) The Executive Board shall elect the officers, except for those appointed by the Declarant during the Declarant Control Period. The Directors and officers shall take office upon election.

Section 3.2 Powers and Duties. The Executive Board may act in all instances on behalf of the Association, except as provided in the Declaration, these Bylaws or the Act. The Executive Board shall have, subject to the limitations contained in the Declaration and the Act, the powers and duties necessary for the administration of the affairs of the Association and of the Common Interest Community, including the following powers and duties:

- (a) Adopt and amend Bylaws and Rules and Regulations;
- (b) Adopt and amend budgets for revenues, expenditures and reserves;
- (c) Collect assessments for Common Expenses from Lot Owners;
- (d) Hire and terminate managing agents;
- (e) Hire and discharge other employees, independent contractors and agents other than

managing agents;

(f) Institute, defend or intervene in litigation or administrative proceedings or seek injunctive relief for violations of the Association's Declaration, Bylaws or Rules in the Association's name, on behalf of the Association or two (2) or more Lot Owners on matters affecting the Common Interest Community;

(g) Make contracts and incur liabilities;

(h) Regulate the use, maintenance, repair, replacement and modification of Common Elements;

(i) Cause additional improvements to be made as a part of the Common Elements;

(j) Acquire, hold, encumber and convey, in the Association's name, any right, title or interest to real estate or personal property, but Common Elements may be conveyed or subjected to a security interest only pursuant to Section 312 of the Act;

(k) Grant easements for any period of time, including permanent easements, and grant leases, licenses and concessions for no more than one (1) year, through or over the Common Elements;

(l) Impose and receive a payment, fee or charge for services provided to Lot Owners and for the use, rental or operation of the Common Elements, other than Limited Common Elements described in Subsections 202(1)(b) and (d) of the Act;

(m) Impose a reasonable charge for late payment of assessments and, after notice and hearing, levy a reasonable fine for a violation of the Declaration, Bylaws, Rules and Regulations of the Association;

(n) Impose a reasonable charge for the preparation and recording of amendments to the Declaration, or statements of unpaid assessments;

(o) Provide for the indemnification of the Association's officers and the Executive Board and maintain Directors' and officers' liability insurance;

(p) Exercise any other powers conferred by the Declaration, Articles of Incorporation or Bylaws;

(q) Exercise any other power that may be exercised in the state by a legal entity of the same type as the Association; and

(r) Exercise any other power necessary and proper for the governance and operation of

the Association.

Section 3.3 Managing Agent. The Executive Board may employ a Managing Agent for the Common Interest Community, at a compensation established by the Executive Board, to perform duties and services authorized by the Executive Board. The Executive Board may delegate to the Managing Agent only the powers granted to the Executive Board by these Bylaws under Section 3.2, Subsections (c), (e), (g) and (h). Licenses, concessions and contracts may be executed by the Managing Agent pursuant to specific resolutions of the Executive Board and to fulfill the requirements of the budget.

Section 3.4 Removal of Directors. The Lot Owners, by an affirmative vote of 75% of all persons present and entitled to vote, at any meeting of the Lot Owners at which a quorum is present, may remove any Director of the Executive Board, other than a Director appointed by the Declarant, with or without cause. If any Director misses three regular meetings of the Executive Board in succession or a total of four regular meetings within any six month period, such Director shall be automatically removed as a member of the Executive Board and such vacancy shall be filled as provided in Section 3.5 hereof.

Section 3.5 Vacancies. Vacancies in the Executive Board may be filled at a special meeting of the Executive Board held for that purpose at any time after the occurrence of the vacancy, even though the Directors present at that meeting may constitute less than a quorum. These appointments shall be made in the following manner:

- (a) As to vacancies of Directors whom Lot Owners other than the Declarant elected, by a majority of the remaining elected Directors constituting the Executive Board; and
- (b) As to vacancies of Directors whom the Declarant has the right to appoint, by the Declarant.

Each person so elected or appointed shall be a Director for the remainder of the term of the Director so replaced.

Section 3.6 Regular Meetings. The first Regular Meeting of the Executive Board following each Annual Meeting of the Lot Owners shall be held within ten (10) days after the Annual Meeting at a time and place to be set by the Lot Owners at the meeting at which the Executive Board shall have been elected. No notice shall be necessary to the newly elected Director in order to legally constitute such meeting, provided a majority of the Directors are present. The Executive Board may set a schedule of additional Regular Meetings by resolution, and no further notice is necessary to constitute Regular Meetings.

Section 3.7 Special Meetings. Special Meetings of the Executive Board may be called by the President or by a majority of the Directors on at least three (3) business days' notice to each Director. The notice shall be hand-delivered or mailed and shall state the time, place and purpose of

the meeting.

Section 3.8 Location of Meetings. All meetings of the Executive Board shall be held within Steamboat Springs, Colorado, unless all Directors consent in writing to another location.

Section 3.9 Waiver of Notice. Any Director may waive notice of any meeting in writing. Attendance by a Director at any meeting of the Executive Board shall constitute a waiver of notice. If all the Directors are present at any meeting, no notice shall be required, and any business may be transacted at such meeting.

Section 3.10 Quorum of Directors. At all meetings of the Executive Board, a majority of the Directors shall constitute a quorum for the transaction of business, and the votes of a majority of the Directors present at a meeting at which a quorum is present shall constitute a decision of the Executive Board. If, at any meeting, there shall be less than a quorum present, a majority of those present may adjourn the meeting. At any adjourned meeting at which a quorum is present, any business which might have been transacted at the meeting originally called may be transacted without further notice.

Section 3.11 Consent to Corporate Action. If all the Directors severally or collectively consent in writing to any action taken or to be taken by the Association, that action shall be a valid corporate action as though it had been authorized at a meeting of the Executive Board. The secretary shall file these consents with the minutes of the meetings of the Executive Board.

Section 3.12 Telephone Communication in Lieu of Attendance. A Director may attend a meeting of the Executive Board by using an electronic or telephonic communication method whereby the Director may be heard by the other members and may hear the deliberations of the other members on any matter properly brought before the Executive Board. The Director's vote shall be counted and the presence noted as if that Director were present in person on that particular matter.

ARTICLE 4 - OFFICERS

Section 4.1 Designation. The principal officers of the Association shall be the president, the vice president, the secretary and the treasurer, all of whom shall be elected by the Executive Board. The Executive Board may appoint other officers as it finds necessary. The president and vice president, but no other officers, need to be Directors. Any two (2) offices may be held by the same person, except the offices of president and secretary. The office of vice president may be vacant.

Section 4.2 Election of Officers. The officers of the Association shall be elected annually by the Executive Board at the organizational meeting of each new Executive Board. They shall hold office at the pleasure of the Executive Board.

Section 4.3 Removal of Officers. Upon the affirmative vote of a majority of the Directors, any officer may be removed, either with or without cause. A successor may be elected at

any Regular Meeting of the Executive Board or at any Special Meeting of the Executive Board called for that purpose.

Section 4.4 President. The president shall be the chief executive officer of the Association. The president shall preside at all meetings of the Lot Owners and of the Executive Board. The president shall have all of the general powers and duties which are incident to the office of president of a nonprofit corporation organized under the laws of the State of Colorado, including, but not limited to, the power to appoint committees from among the Lot Owners from time to time as the president may decide is appropriate to assist in the conduct of the affairs of the Association. The president may fulfill the role of treasurer in the absence of the treasurer. The president may cause to be prepared and may execute amendments, attested by the secretary, to the Declaration and these Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

Section 4.5 Vice President. The vice president shall take the place of the president and perform the president's duties whenever the president is absent or unable to act. If neither the president nor the vice president is able to act, the Executive Board shall appoint some other Director to act in the place of the president on an interim basis. The vice president shall also perform other duties imposed by the Executive Board or by the president.

Section 4.6 Secretary. The secretary shall keep the minutes of all meetings of the Lot owners and the Executive Board. The secretary shall have charge of the Association's books and papers as the Executive Board may direct and shall perform all the duties incident to the office of secretary of a nonprofit corporation organized under the laws of the State of Colorado. The secretary may cause to be prepared and may attest to execution by the president of amendments to the Declaration and the Bylaws on behalf of the Association, following authorization or approval of the particular amendment as applicable.

Section 4.7 Treasurer. The treasurer shall be responsible for Association funds and securities, for keeping full and accurate financial records and books of account showing all receipts and disbursements and for the preparation of all required financial data. This officer shall be responsible for the deposit of all monies and other valuable effects in depositories designated by the Executive Board and shall perform all the duties incident to the office of treasurer of a nonprofit corporation organized under the laws of the State of Colorado. The treasurer may endorse on behalf of the Association, for collection only, checks, notes and other obligations and shall deposit the same and all monies in the name of and to the credit of the Association in banks designated by the Executive Board. Except for reserve funds described below, the treasurer may have custody of and shall have the power to endorse for transfer, on behalf of the Association, stock, securities or other investment instruments owned or controlled by the Association or as fiduciary for others. Reserve funds of the Association shall be deposited in segregated accounts or in prudent investments, as the Executive Board decides. Funds may be withdrawn from these reserves for the purposes for which they were deposited, by check or order, authorized by the treasurer, and executed by two (2) Directors, one (1) of whom may be the treasurer if the treasurer is also a Director.

Section 4.8 Agreements, Contracts, Deeds, Checks, Etc. Except as provided in Sections 4.4, 4.6, 4.7 and 4.9 of these Bylaws, all agreements, contracts, deeds, leases, checks and other instruments of the Association shall be executed by any officer of the Association or by any other person or persons designed by the Executive Board.

Section 4.9 Statements of Unpaid Assessments. The treasurer, a manager employed by the Association or, in their absence, any officer having access to the books and records of the Association may prepare, certify and execute statements of unpaid assessments in accordance with Section 316 of the Act. The Association may charge a reasonable fee for preparing statements of unpaid assessments. The amount of this fee and the time of payment shall be established by resolution of the Executive Board. Any unpaid fees may be assessed as a Common Expense against the Lot for which the certificate or statement is furnished.

ARTICLE 5 - ENFORCEMENT

Section 5.1 Abatement and Enjoinment of Violations by Lot Owners. The violation of any of the Rules and Regulations adopted by the Executive Board, or the breach of any provision of the Documents shall give the Executive Board the right, after notice and hearing, except in case of an emergency, in addition to any other rights set forth in these Bylaws:

(a) To enter the Lot in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Lot Owner, any structure, thing or condition (except for additions or alterations of a permanent nature that may exist on that Lot) that is existing and creating a danger to the Common Elements contrary to the intent and meaning of the provisions of the Documents. The Executive Board shall not be deemed liable for any manner of trespass by this action; or

(b) To enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

Section 5.2 Fine for Violation. By resolution, following notice and hearing, the Executive Board may levy a reasonable fine of up to Fifty Dollars (\$50.00) per day for each day that a violation of the Documents or Rules persists after notice and hearing, but this amount shall not exceed that amount necessary to insure compliance with the rule or order of the Executive Board.

ARTICLE 6 - INDEMNIFICATION

Section 6.1 Indemnification. The Directors and officers of the Association shall have the liabilities, and be entitled to indemnification, as provided in the Colorado Nonprofit Corporation Act, the provisions of which are incorporated by reference and made a part of this document.

ARTICLE 7 - RECORDS

Section 7.1 Records and Audits. The Association shall maintain financial records. The cost of any audit shall be a Common Expense, unless otherwise provided in the Documents.

Section 7.2 Examination. All records maintained by the Association or the Manager shall be available for examination and copying to any Lot Owner, any holder of a Security Interest in a Lot or its insurer or guarantor, or by any of their duly authorized agents or attorneys, at the expense of the person examining the records, during normal business hours and after reasonable notice.

Section 7.3 Records. The Association shall keep the following records:

(a) An account for each Lot, which shall designate the name and address of each Lot Owner, the name and address of each mortgagee who has given notice to the Association that it holds a mortgage on the Lot, the amount of each Common Expense Assessment, the dates on which each assessment comes due, the amounts paid on the account and the balance due;

(b) An account for each Lot Owner showing any other fees payable by the Lot Owner;

(c) A record of any capital expenditures approved by the Executive Board;

(d) A record of the amount and an accurate account of the current balance of any reserves for capital expenditures, replacement and emergency repairs, together with the amount of those portions of reserves designated by the Association for a specific project;

(e) The most recent regularly prepared balance sheet and income and expense statement, if any, of the Association;

(f) The current operating budget adopted pursuant to Section 315(1) of the Act and ratified pursuant to the procedures of Section 303(4) of the Act;

(g) A record of any unsatisfied judgments against the Association and the existence of any pending suits in which the Association is a defendant;

(h) A record of insurance coverage provided for the benefit of Lot Owners and the Association;

(i) A record of any alterations or improvements to Lots or which violate any provisions of the Declarations of which the Executive Board has knowledge;

(j) A record of any violations, with respect to any portion of the Common Interest Community, of health, safety, fire or building codes or laws, ordinances, or regulations of which the Executive Board has knowledge;

- (k) A record of the actual cost, irrespective of discounts and allowances, of the maintenance of the Common Elements;
- (l) Balance sheets and other records required by local corporate law;
- (m) Tax returns for state and federal income taxation;
- (n) Minutes of proceedings of incorporators, Lot Owners, Executive Board, committees of Directors and waivers of notice; and
- (o) A copy of the most current versions of the Declaration, Bylaws, Rules and resolutions of the Executive Board, along with their exhibits and schedules.

ARTICLE 8 - MISCELLANEOUS

Section 8.1 Notices. All notices to the Association or the Executive Board shall be delivered to the office of the Manager, or, if there is no Manager, to the office of the Association, or to such other address as the Executive Board may designate by written notice to all Lot Owners and to all holders of Security Interests in the Lots who have notified the Association that they hold a Security Interest in a Lot. Except as otherwise provided, all notices to any Lot Owner shall be sent to the Lot Owner's address as it appears in the records of the Association. All notices to holders of Security Interests in the Lots shall be sent, except where a different manner of notice is specified elsewhere in the Documents, by registered or certified mail to their respective addresses, as designed by them in writing to the Association. All notices shall be deemed to have been given when mailed, except notices of changes of address, which shall be deemed to have been given when received. In the event a Lot Owner desires to additionally be provided notices by facsimile transmittal, said Lot Owner shall provide the Association with a current facsimile transmittal number and thereafter all notices to said Lot Owner shall not only be sent to the Lot Owner's address as provided herein, but shall also be transmitted by facsimile to said number.

Section 8.2 Fiscal Year. The Executive Board shall establish the fiscal year of the Association.

Section 8.3 Waiver. No restriction, condition, obligation or provision contained in these Bylaws shall be deemed to have been abrogated or waived by reason of any failure to enforce the same, irrespective of the number of violations or breaches which may occur.

Section 8.4 Office. The principal office of the Association shall be at such place as the Executive Board may from time to time designate.

Section 8.5 Working Fund. A working fund may be established in an amount set by the Executive Board for each Lot in an equal amount for each lot, not to exceed \$500.00 per lot. Any amounts paid into this fund shall not be considered as advance payment of assessments, but shall be

in addition to Annual Assessments. Each Lot's share of the working fund may be paid to the Association by the Declarant, or may be collected and then contributed to the Association by the Declarant at the time the sale of the Lot is closed.

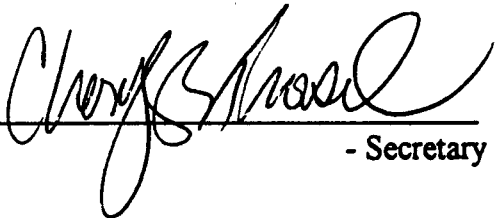
Section 8.6 Reserves. As a part of the adoption of the regular budget, the Executive Board shall include an amount which, in its reasonable business judgment, will establish and maintain an adequate reserve fund for the replacement of improvements to the Common Elements and those Limited Common Elements that it is obligated to maintain, based upon the project's age, remaining life and the quantity and replacement cost of major Common Element improvements.

ARTICLE 9 - AMENDMENTS TO BYLAWS

Section 9.1 Amendments. The Bylaws may be amended only by unanimous vote of the members of the Executive Board, following notice and comment to all Lot Owners, at any meeting duly called for such purpose.

Section 9.2 No amendment of the Bylaws of this Association shall be adopted which would affect or impair the validity or priority of any mortgage covering any Lot or which would change the provisions of the Bylaws with respect to institutional mortgagees of record.

ATTEST: Certified to be the Bylaws adopted by the consent of the Executive Board of the Agate Creek Preserve Homeowners Association, dated June 17, 1999.


- Secretary

ARTICLES OF INCORPORATION
OF
AGATE CREEK PRESERVE HOMEOWNERS ASSOCIATION

FILED - CUSTOMER COPY
VICTORIA BUCKLEY
COLORADO SECRETARY OF STATE

The undersigned, acting as incorporator of a nonprofit corporation under the Colorado Revised Nonprofit Corporation Act, hereby adopts the following Articles of Incorporation:

ARTICLE 1
NAME

19991081539 M
\$ 65.00
SECRETARY OF STATE

The name of the nonprofit corporation is Agate Creek Preserve Homeowners Association (the "Association").

ARTICLE 2
PERIOD OF DURATION

The Association shall exist in perpetuity from and after the date of filing of these Articles of Incorporation with the Secretary of State of the State of Colorado, unless dissolved according to Colorado law.

ARTICLE 3
PURPOSES OF THE ASSOCIATION

The Association is organized exclusively for the purpose of constituting the Association named in the Declaration of Covenants, Conditions, Restrictions and Easements for Agate Creek Preserve (the "Subdivision") in Routt County, Colorado, in accordance with the Colorado Common Interest Ownership Act, C.R.S. 38-33.3-101 et. seq. (the "Act"), and the Colorado Revised Nonprofit Corporation Act, C.R.S. 7-121-101 et. seq. (the "Nonprofit Corporation Act"), as either may be amended from time to time. The purposes of the Association shall be:

1. To provide for the supervision, management, administration, operation, care, upkeep, repair and maintenance of the Roads, the Water System, the Common Area and any and all real and personal property owned by the Association in the Subdivision;
2. To enforce the provisions of the Declaration, as amended from time to time, these Articles of Incorporation, the Bylaws and Rules and Regulations of the Association;
3. To provide for the furtherance of the interests of all the Owners of the Lots in the Subdivision with the objective of establishing and maintaining the Subdivision as one of the highest

possible quality and value, and enhancing and protecting its value, desirability and attractiveness;

4. To promote the general health, safety and welfare of the Owners of Lots in the Subdivision. Terms used in these Articles shall have the same meanings as defined in the Declaration and the Act.

5. No part of the net earnings of the Association shall inure to the benefit of or be distributable to the members, managers, or officers of the Association, or other private persons, except that the Association shall be authorized and empowered to pay reasonable compensation for services rendered to it and to make payments and distributions in furtherance of the purposes set forth herein. The Association does not contemplate pecuniary gain or profit to the members of the Association and is organized for nonprofit purposes.

ARTICLE 4 POWERS

In furtherance of its purposes, the corporation shall have all of the powers conferred upon nonprofit corporations as provided in the Nonprofit Corporation Act and upon associations as provided in the Act in effect from time to time, including all of the powers necessary or desirable to perform the obligations and duties, and to exercise the rights and powers of the corporation under the Declaration which will include, but shall not be limited to, the following:

1. To make and to collect assessments against members of the Association for the purposes of payment of the Common Expenses (including the expenses incurred in exercising its powers of performing its functions);

2. To manage, control, operate, maintain, repair and improve the Common Area;

3. To enforce the terms, covenants, restrictions, conditions, uses, limitations and obligations set forth under the Declaration and Bylaws, and to make and enforce rules as provided herein.

4. To engage in activities which, will actively foster, promote and advance the interests of all of the Owners of Lots, including the interests of the Declarant during development of the Subdivision and his ownership of any Lots.

ARTICLE 5 LIMITATION OF LIABILITY

No director of the Association shall have any liability to the Association or to its members for monetary damages for breach of fiduciary duty as a director, except to the extent such exemption from liability is not permitted under the Nonprofit Corporation Act. Any repeal or modification of the foregoing sentence shall not adversely affect any right or protection of a director in respect of any

act or omission occurring prior to such repeal or modification.

ARTICLE 6 INDEMNIFICATION

The Association shall provide indemnification either directly or indirectly through insurance policies or otherwise, to the fullest extent permitted by law, for any individual who serves as a director, officer, employee or agent of the Association, or who serves at the request of the Association as a director, officer, partner, trustee, employee, or agent of any other foreign or domestic corporation or of any partnership, joint venture, trust, other enterprise or employee benefit plan, against liabilities and expenses such individual incurs in connection with holding such position.

Whenever such an individual seeks indemnification by the Association against any liability or expenses incurred in any threatened, pending or completed proceeding in which the individual is a party because he or she holds or has held any such position, the Association shall proceed diligently and in good faith to make a determination, in the manner permitted in the Nonprofit Corporation Act, whether indemnification is permissible in the circumstances. If indemnification is determined to be permissible, the Association shall indemnify the individual to the fullest extent permissible, provided that any indemnification for expenses shall be limited to the amount found reasonable by an evaluation conducted in a manner permitted by the Nonprofit Corporation Act.

This article shall not be interpreted to limit in any manner any indemnification the Association may be required to pay pursuant to the Nonprofit Corporation Act, any court order, or any contract, resolution or other commitment which is legally valid.

ARTICLE 7 REGISTERED OFFICE AND REGISTERED AGENT

The initial registered office of the Association shall be at 141 - 9th Street, P.O. Box 5106, Steamboat Springs, Colorado 80477. The initial agent at such office shall be Bruce L. Jarchow. The principal office is located at 141 - 9th Street, P.O. 5106, Steamboat Springs, Colorado 80477.

ARTICLE 8 EXECUTIVE BOARD

The control and management of the affairs of the Association and the disposition of its funds and property shall be vested in the directors. All of the directors shall constitute the Executive Board. The number of directors shall be not less than one nor more than three, as may be set by the Bylaws from time to time in effect, and each director shall serve for a term of one year to three years, as may be set by the Bylaws from time to time in effect and until his or her successor shall be duly elected and shall qualify. The initial Executive Board shall consist of two (2) directors, and the names and address of such initial directors, to serve until the first annual meeting of the Association and until their successors shall be duly elected and qualified, are as follows:

1. Ed Trousil
P.O. Box 776290
Steamboat Springs, CO 80477
2. Cheryl B. Trousil
P.O. Box 776290
Steamboat Springs, CO 80477

Pursuant to the Act, as amended, not later than 60 days after conveyance of 25% of the Lots created by the Plat to Owners other than Declarant, at least one director, and not less than 25% of the members of the Executive Board, shall be elected by Owners other than Declarant. Not later than 60 days after conveyance of 50% of the Lots created by the Plat to Lot Owners other than Declarant, not less than one-third of the members of the Executive Board must be elected by Lot Owners other than Declarant. Cumulative voting shall not be allowed in the election of directors or for any other purpose.

ARTICLE 9 MEMBERS

Any person or combination of Persons owning an undivided fee simple interest in a Lot in the Subdivision (including Declarant as respects Lots from time to time owned by Declarant) shall automatically be a member of the Association and such membership shall be continuous throughout the period that such ownership continues. The Association shall have one class of members of the Association, being Owners who own fee simple interests in Lots 1 through 16 in the Subdivision. Each of said sixteen Lots shall be allocated one (1) vote on all matters to be voted on by the Members of the Association. The Owners of the Remainder Parcels and the Owners of Lot 17 and 18 shall not be members by reason of such ownership.

ARTICLE 10 DISTRIBUTION OF ASSETS UPON DISSOLUTION

Upon dissolution of the Association, the Executive Board shall provide for the distribution of all assets and liabilities of the Association in the following manner:

1. All liabilities and obligations of the Association shall be paid and discharged or adequate provisions shall be made therefor.
2. Assets held by the Association on condition requiring return, transfer, or conveyance, which condition occurs by reason of the dissolution, shall be returned, transferred, or conveyed in accordance with such requirement.
3. Assets received and held by the Association, subject to the limitations permitting their use only for charitable, religious, eleemosynary, benevolent, educational, or similar purposes, but not

held upon a condition requiring return, transfer, or conveyance by reason of the dissolution shall be transferred or conveyed to one or more domestic or foreign corporations, societies, or organizations engaged in activities similar to those of this corporation, in accordance with a plan of distribution adopted pursuant to the Nonprofit Corporation Act which is not inconsistent with these Articles of Incorporation.

4. Assets received and held by the Association not subject to liabilities, conditions or use limitations, as specified in paragraphs 1, 2 and 3 above, shall be distributed to the Owners of Units pro rata according to their ownership interests as specified in the Declaration.

5. Any remaining assets may be distributed to such persons, societies, organizations, governmental entities, political subdivisions, or domestic or foreign corporations, whether for profit or nonprofit, as may be specified in a plan of distribution adopted pursuant to the Nonprofit Corporation Act and which is not inconsistent with these Articles of Incorporation.

ARTICLE 11 AMENDMENT

Amendment to these Articles shall require the written consent or affirmative vote of at least 51% of the members of the Association, except where a higher voting requirement is imposed by law, or the Declaration.

ARTICLE 12 INCORPORATOR

The name of the incorporator is Bruce L. Jarchow, whose address is P.O. Box 5106, Steamboat Springs, Colorado 80477.

Dated this 28th day of April, 1999

Bruce L. Jarchow
Bruce L. Jarchow - Incorporator

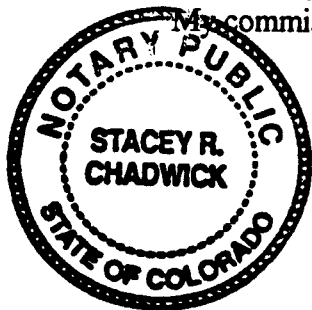
STATE OF COLORADO)
) ss.
COUNTY OF ROUTT)

The foregoing instrument was acknowledged before me this 28th day of April, 1999 by Bruce L. Jarchow.

Witness my hand and official seal.

My commission expires: 7-14-2001

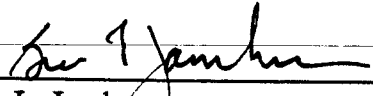
Stacey R. Chadwick
Notary Public



Separate Acceptance

With the execution of this document, the undersigned hereby assents to the undersigned's appointment as initial registered agent of Agate Creek Preserve Homeowners Association, as set forth in the Articles of Incorporation of Agate Creek Preserve Homeowners Association.

Signed this 28th day of April, 1999.



Bruce L. Jarchow

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