

ARTICLES OF INCORPORATION **FILED EFFECTIVE**

2014 FEB -3 AM 9:33

OF

COURTYARD TOWNHOMES HOMEOWNERS ASSOCIATION, INC.

SECRETARY OF STATE  
STATE OF IDAHO

The undersigned adult natural person, acting as incorporator, hereby establishes a nonprofit corporation pursuant to the Idaho Nonprofit Corporation Act, Idaho Statutes, Title 30, Chapter 3 (the "Act") and adopts the following Articles of Incorporation:

ARTICLE I

NAME

The name of the nonprofit corporation is COURTYARD TOWNHOMES HOMEOWNERS ASSOCIATION, INC.

ARTICLE II

DURATION AND MEMBERS

The nonprofit corporation shall have perpetual existence. The Owners of Homes in the Courtyard Townhomes property in Rexburg, Madison County, Idaho will constitute the members of the nonprofit corporation.

ARTICLE III

REGISTERED OFFICE AND AGENT

The office address of its initial registered agent for the nonprofit corporation is 859 S. Yellowstone Highway Suite #201, Rexburg, Idaho 83440, and the name of its initial registered agent at such address is TROY KARTCHNER

ARTICLE IV

MAILING ADDRESS FOR CORRESPONDENCE

The mailing address to which all correspondence should be addressed for the nonprofit corporation is 859 S. Yellowstone Highway Suite #201, Rexburg, Idaho 83440.

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**ARTICLE V**  
**DEFINITIONS**

5.1 **Declaration.** As used herein, "**Declaration**" means the "Declaration of Protective Easements, Covenants, Conditions and Restrictions (Including Homeowner's Association Bylaws) for the Courtyard Townhomes Subdivision, as the same may be amended from time to time, recorded in the Official Records of Madison County, Idaho. The term "**Declarant**" means the signatory to the Declaration.

5.2 **Other Definitions.** Unless otherwise defined herein, all capitalized terms used herein have the meanings given to them in the Declaration.

**ARTICLE VI**  
**PURPOSES AND POWERS**

6.1 **Purposes.**

The Association, which is organized as a nonprofit corporation, has the following purposes:

- a. To manage, operate, insure, construct, improve, repair, replace, alter, and maintain the common areas of the Courtyard Townhomes Subdivision and any improvements thereto;
- b. To provide certain facilities, services, and other benefits to the Owners;
- c. To administer and enforce the protective easements, covenants, conditions, restrictions, and reservations created by the Declaration;
- d. To fix, levy, collect, and enforce payment by any lawful means, of all annual and special assessments authorized by the terms of the Declaration in the amounts and utilize the methods of collection as may be established by the Board of Directors; enforce assessments by civil action or by the forfeiture of membership, or both, upon notice given in writing twenty (20) days before commencement of such action or such forfeiture; secure assessments by a lien upon the real property to which the membership rights are appurtenant; establish bank accounts; and pay all expenses incident to the conduct of the business of the Association;
- e. To enter into agreements with other persons, including, without limitation, easements, licenses, leases, and other agreements with or without the vote or consent of the Owners, Mortgagees, insurers or guarantors of mortgages, or of any other person, for facilities and services that serve the Association;

f. To take any action that it deems necessary or appropriate to protect the interests and general welfare of the Owners and the Courtyard Townhomes Subdivision;

g. To regulate and manage the Courtyard Townhomes Subdivision; and

h. To execute and record, on behalf of all Owners, any amendment to the Declaration which has been approved by the vote or consent necessary to authorize such amendment.

## 6.2 Powers.

a. Unless expressly prohibited by law, the Declaration, or the Bylaws of the Association (the "Bylaws"), the Association may: (i) take any and all actions that it deems necessary or advisable to fulfill its purposes; (ii) exercise any powers conferred on it by the Act, the Declaration, or the Bylaws; and (iii) exercise all powers that may be exercised in Idaho by nonprofit corporations.

b. Without in any way limiting the generality of subsection 6.2(a) above, the Association may, but is not obligated to:

i. To the extent not provided by a public, quasi-public, or private utility provider, provide certain facilities and services to the owners, such as (A) recreational facilities and services, (B) water, sewer, natural gas, electric, cable and/or satellite television, and other utility services, (C) parking facilities, and (D) trash collection facilities and services for residential purposes only;

ii. Acquire, sell, lease, and grant easements over, under, across, and through the Common Areas that are reasonably necessary to the ongoing development, maintenance, and operation of the Courtyard Townhomes Subdivision;

iii. Borrow monies and grant security interests in the Common Areas and in the assets of the Association as collateral therefor;

iv. Make capital improvements, repairs, and replacements to the Common Areas; and

v. Hire and terminate Managing Agents and other employees, agents, and independent contractors.

vi. Fix, levy, collect, and enforce payment by any lawful means, of all annual and special assessments authorized by the terms of the Declaration and utilize the amounts and methods of collection as may be established by the Board of Directors; enforce assessments by civil action or by the forfeiture of membership, or both, upon notice given in writing twenty (20) days before commencement of such

action or such forfeiture; secure assessments by a lien upon the real property to which the membership rights are appurtenant; establish bank accounts; and pay all expenses incident to the conduct of the business of the Association.

6.3 Restrictions on Purposes and Powers. The purposes and powers of the Association described in Sections 6.1 and 6.2 above are subject to the following limitations:

a. The Association is organized and operated exclusively for nonprofit purposes as set forth in Section 528 of the Internal Revenue Code of 1986, as amended, or in any corresponding provision of any future law of the United States of America providing for exemption of similar organizations from income taxation.

b. No part of the net earnings of the Association may inure to the benefit of any individual Owner, except as expressly permitted in paragraph 6.3(c) below with respect to the dissolution of the Association.

c. The Association may not pay any dividends. No distribution of the Association's assets to Owners may be made except as provided in Article XIII herein.

## **ARTICLE VII**

### **MEMBERSHIP**

Every person or entity who is the contract purchaser or record owner of a fee interest in any platted single-family home Lot located within the Courtyard Townhomes Subdivision is a member of the Association; provided, however that if any Lot is held jointly by two (2) or more persons, the several owners of such interest shall designate one of their number as the "member." The failure of any group of owners to designate a person as the "member" may result in waivers of voting privileges. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separate from ownership of or the contract purchaser's interest in any Lot. Upon transfer of the fee interest to, or upon the execution and delivery of the contract of sale of (or of an assignment of a contract purchaser's interest in) any Lot, the membership in the Association shall *ipso facto* be deemed to be transferred to the grantee, or contract purchaser, as the case may be. Ownership of, or a contract purchaser's interest in, any such Lot is the sole qualification for membership.

## **ARTICLE VIII**

### **VOTING**

#### **8.1 Voting.**

a. At any meeting of the Association, the votes attributable to each Lot may be voted in connection with issues presented to the Owners for vote.

b. Except as set forth in the Declaration (which provides that Declarant has three votes per Lot), each Lot has one vote.

c. Except as set forth in the Declaration (which provides that Declarant has three votes per Lot), each Lot is entitled to one vote, regardless of the number of Owners of the Lot. If the Owners of a Lot cannot agree among themselves as to how to cast their vote on a particular matter, they will lose their right to vote on such matter. If any Owner casts a vote representing a particular Lot, it will thereafter be presumed for all purposes that the Owner was acting with the authority and consent of all other Owners with whom such Owner shares the Lot, unless objection thereto is made by an Owner of that Lot to the person presiding over the meeting at the time the vote is cast. If more than the number of allocated votes are cast for any particular Lot, none of such votes may be counted and all of such votes will be deemed null and void other than to determine whether a quorum exists.

d. In any case in which the Act or the Declaration requires the vote of a stated percentage of the Owners for approval of an act or transaction, such requirement will be fully satisfied by obtaining, with or without a meeting, consents in writing to such transaction from Owners who collectively hold 100 percent of required votes. Such written consents are subject to the following conditions:

i. All necessary consents must be obtained before the expiration of ninety (90) days after the first consent is given by any Owner.

ii. Any change in ownership of a Lot which occurs after consent has been obtained by the Owner having an interest therein may not be considered or taken into account for any purpose.

## **ARTICLE IX**

### **BOARD OF DIRECTORS**

#### **9.1 Board of Directors.**

a. The business and affairs of the Association will be controlled, conducted, and managed by a Board of Directors, except as otherwise provided in the Act, the Declaration, these Articles, or the Bylaws. The Board is the "board of directors" for purposes of the Act.

b. Except as provided by law or in the Declaration, these Articles, or the Bylaws, the Board may act on behalf of the Association in all instances. The Board may not, however, act on behalf of the Association to: (i) amend the Declaration; (ii) terminate the Association or the Declaration; (iii) elect Directors to the Board, subject to Declarant's voting rights under the Declaration; or (iv) determine the qualifications, powers, and duties, or terms of office, of Directors.

c. The Board will consist of not less than three (3) nor more than seven (7) Directors unless the number of Members is fewer than three (3), in which case the number of Directors shall be no less than the number of Members. Initially, the Board will consist of three (3) Directors. The names and addresses of the initial Directors are as follows:

<u>Name</u>	<u>Address</u>
TROY KARTCHNER	859 S. Yellowstone Highway Suite #201 Rexburg, Idaho 83440.
JAMES ANDERSON	859 S. Yellowstone Highway Suite #201 Rexburg, Idaho 83440.
DAN LARSEN	601 west 1700 south Suite A Logan, Utah 84321

#### **ARTICLE X**

#### **LIABILITY AND INDEMNIFICATION**

10.1 Limits on Directors' Liability. To the fullest extent permitted by the Act, as the same exists or may hereafter be amended, a Director is not be liable to the Association or the Owners for monetary damages for breach of fiduciary duty. Any repeal or modification of this Section 10.1 will be prospective only and will not adversely affect any right or protection existing at the time of such repeal or modification.

10.2 Indemnification. To the fullest extent permitted by the Act, as the same exists or may hereafter be amended, the Association must indemnify each Director and each officer, employee, fiduciary, and agent of the Association.

#### **ARTICLE XI**

#### **BYLAWS**

The initial Bylaws of the Association must be adopted by the Board. The Board has the power to alter, amend, or repeal the Bylaws from time to time and to adopt new Bylaws only as provided in the Act, the Declaration and the Bylaws. The Bylaws of the Association may contain any provisions for the regulation or management of the affairs of the Association that are not inconsistent with law, the Declaration, or these Articles.

#### **ARTICLE XII**

#### **AMENDMENT**

The Association may amend, alter, change, or repeal any provision contained in these Articles by approval of the members by two-thirds (2/3) of the votes cast or a majority of the voting power, whichever is less, and, to the extent required by the Act, approval by the Board. Notwithstanding the foregoing, the Board may adopt amendments without member approval to the extent allowed by the Act. The Association's right to amend, alter, change, or repeal these Articles is subject to the limitations thereon set forth in the Declaration.


**ARTICLE XIII**  
**DISTRIBUTION OF ASSETS UPON DISSOLUTION**

In the event of a voluntary or involuntary dissolution of the Corporation, all assets of the Corporation shall be distributed as follows: (1) All liabilities and obligations of the Corporation shall be paid, satisfied, and discharged, or adequately provided for, (2) assets the Corporation holds upon a condition requiring the return, transfer, or conveyance of such asset shall be so returned, transferred, or conveyed in accordance with that requirement if the dissolution causes the condition to occur, and (3) any remaining assets of the Association shall be distributed among the Owners in accordance with the terms and conditions of the Bylaws to the extent allowed under the Act.

**ARTICLE XIV**  
**INCORPORATOR**

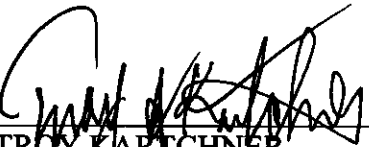
The name of the incorporator is Troy Kartchner. The address of the incorporator is 859 S. Yellowstone Highway Suite #201, Rexburg, Idaho 83440.

IN WITNESS WHEREOF, the above-named incorporator signed these Articles of Incorporation this 30 day of January, 2014.

  
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TROY KARTCHNER, Incorporator

**ACCEPTANCE OF APPOINTMENT OF REGISTERED AGENT**

TROY KARTCHNER, as the appointed Registered Agent for COURTYARD TOWNHOMES HOMEOWNERS ASSOCIATION, INC., an Idaho nonprofit corporation, does hereby accept the Appointment of Registered Agent for the nonprofit corporation.

  
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TROY KARTCHNER