

**LOS OLIVOS HERMOSO-TOWNHOME ASSOCIATION  
AMENDED AND RESTATED ARTICLES OF INCORPORATION**

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AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
LOS OLIVOS HERMOSO - TOWNHOME ASSOCIATION

These Amended and Restated Articles of Incorporation of Los Olivos Hermoso - Townhome Association (the “Articles”) are made January 1, 2005.

A. By those Certain Articles of Incorporation duly recorded July 25, 1975, in Docket 11501, Pages 730-735 of the official records of Maricopa County, Arizona, (the “Original Articles”), the incorporators imposed certain rights, obligations, duties, and privileges of membership in the Corporation, the general nature of the activities of the Corporation, the organization for the conduct of the affairs of the Corporation, and provisions for funding the purposes of the Corporation. The Original Articles were amended by that certain Certificate of Amendment to The Articles of Incorporation duly filed March 9, 1989, and were further amended by that certain Articles of Amendment to Articles of Incorporation filed May 24, 2000, and that certain Certificate of Amendment filed September 23, 2002, (the Original Articles, together with that certain Certificate of Amendment filed March 9, 1989, and that certain Articles of Amendment filed May 24, 2000, and that certain Certificate of Amendment filed September 23, 2002, are collectively known as the “Prior Articles”).

B. Article X of the Original Articles provided for the amendment of the Original Articles to be by the affirmative vote of a majority of the votes entitled to be cast by the Members of the Corporation at any annual or special meeting of the Corporation called for that purpose. The Certificate of Amendment filed March 9, 1989 provided for the amendment of the Articles of Corporation to be by an affirmative vote of three-fourths (3/4) of the votes entitled to be cast by the Members of the Corporation; that certain Articles of Amendment, filed May 24, 2000, provided that the time of commencement of this Corporation shall be the date upon which the Arizona Corporation Commission shall issue its Certificate of Incorporation and the life of the Corporation shall be perpetual; and the Certificate of Amendment filed September 23, 2002, changed the annual meeting date from the first Tuesday in the month of May to the fourth Tuesday in the month of October.

C. Twenty-nine years since the recording of the Original Articles having expired, by the execution of an instrument signed by not less than seventy-five percent (75%) of the Members, the Members of the Corporation have approved this Amended and Restated Articles of Incorporation of Los Olivos Hermoso -Townhome Association.

D. The Members desire that the entire Property subject hereto be held, conveyed, hypothecated, encumbered, leased, occupied, built upon, and otherwise used, improved, or transferred in whole or in part, subject to these Amended and Restated Articles of Incorporation as amended or modified from time to time.

NOW THEREFORE, the Articles (as Amended) are hereby amended and revoked in their entirety and the provisions of these Amended and Restated Articles of Incorporation are hereby imposed upon the Corporation.

**Article 1. Name and Address.** The name of the Corporation shall be Los Olivos Hermoso -Townhome Association, and its principal place of business shall be Phoenix, Arizona, but other offices may be established and maintained within Maricopa County, Arizona, at such places as the Board of Directors may designate, where meetings of Members of the Association and Directors may be held.

**Article 2. Commencement and Duration.** The commencement of this Corporation shall be from the date of issuance of a Certificate of Incorporation by the Corporation Commission of the State of Arizona, and it shall have perpetual duration and succession in its Corporate name or until the termination thereof as provided by the laws of the State of Arizona.

**Article 3. Purpose.** The purpose for which this Corporation is formed shall be nonprofit and the general nature of the activities of the Corporation shall be: to manage an organization consisting of Members who are or become Owners of property in and known as Los Olivos Hermoso, 29<sup>th</sup> Street and Glenrosa, Phoenix, Arizona, hereinafter referred to as the Property.

**Article 4. Powers.** The Corporation has the powers to do all things necessary to carry out its affairs. The designation of any object, purpose, or activity shall not be construed to be a limitation, or qualification, or in any manner to limit or restrict the objects, purposes, or activities of the Corporation, consistent with the lawful objects of a nonprofit corporation. The Corporation shall have the powers to:

- (a) Purchase, receive, lease, use, or otherwise acquire and deal with real or personal property, or any interest in property;
- (b) Sell, convey, mortgage, pledge, lease, exchange, or otherwise dispose of property;
- (c) Manage, maintain, repair, replace, and improve real and personal property;
- (d) Provide services for the Members;
- (e) Levy and collect assessments against each Lot Owner and each Lot in said Property, to provide necessary funds to carry out the purposes and activities of the Corporation;
- (f) Provide for the maintenance of common areas;
- (g) Maintain and enforce any and all deed restrictions, and the restrictions of the Restated Declaration of Covenants, Conditions, and Restrictions, the Restated Bylaws, and the Association Rules and Regulations which are or may become applicable to said Property;
- (h) Do any acts not inconsistent with law that further the activities and affairs of the Corporation;

(i) Elect Directors, appoint officers, hire employees and agents of the Corporation, define their duties, and fix their compensation;

(j) Suspend Member's privileges for misconduct; violation of the Community Documents, nonpayment of assessments, monetary fines, and penalties; and restore membership privileges to such persons;

(k) Borrow money and issue bonds, debentures, notes, contracts, and other evidence of indebtedness or obligations; invest its funds; to make and perform contracts of every kind and description; do any and all things which a natural person might or could do, and which now or hereafter may be authorized by law; and do all other things incident to or implied from the foregoing, consistent with the lawful objects of a nonprofit corporation;

(l) Establish, adopt, amend, and rescind Bylaws and Association Rules and Regulations deemed necessary and expedient to carry into effect the objects and purposes of the Corporation. Such documents shall not be inconsistent with these Articles of Incorporation, the Amended and Restated Declaration of Covenants, Conditions, and Restrictions, and the laws of the State of Arizona relating to nonprofit corporations;

(m) Eliminate or limit the liability of its Directors.

## **Article 5. Board of Directors**

**5.1 Number.** The affairs of the Corporation shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint. All Directors and officers must be Members of the Corporation. The number of Directors shall not be fewer than three (3) or more than seven (7).

**5.2 Term and Election.** Each Director shall hold office for a term of three (3) years, and the election of Directors shall be staggered so that the terms of office of not more than three (3) Directors shall expire in any one (1) year. Each year of a Director's term of office shall coincide with the fiscal year (January 1 to December 31). Directors shall be elected by the eligible Members of the Corporation, at least thirty (30) days prior to the end of the fiscal year, to fill the positions of Directors whose terms are due to expire or have been vacated during the year. Any vacancy that occurs on the Board of Directors during the year by reason of death, resignation, or disqualification, shall be filled by the remaining Directors who shall elect an interim Director to complete the current year of the vacated term; at the regular election of Directors, Members of the Corporation shall elect a Director to either: (i) a three (3) year term, if the term of the vacated position would normally expire at the end of the current fiscal year, or (ii) complete the unexpired portion of the term if the term of the vacated position would normally expire in one or two year.

**5.3 Powers.** The Board of Directors is expressly authorized to adopt, amend, and rescind Bylaws and Association Rules and Regulations for the Corporation.

**5.4 Quorum and Notice.** In the event of an emergency, if a quorum of the Corporation Directors cannot be assembled because of the local, state, or national emergency, the Board of Directors may modify lines of succession and rules for notice.

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**Article 6. Membership.** Each Owner of a Lot in the Property, by virtue of being an Owner and for so long as he or she remains an Owner, shall be a Member of the Corporation. The rights and obligations of a Member shall not be assigned, transferred, pledged, conveyed, or alienated in any way except upon transfer of title to the Owner's Lot and then only to the transferee of title to such Lot. Any attempt to make a prohibited transfer is void. The rights, duties, privileges, and obligations of a Member

of the Corporation shall be those set forth in these Articles of Incorporation, the Amended and Restated Bylaws of the Corporation, and the Amended and Restated Declaration of Covenants, Conditions, and Restrictions covering said Property. Such rights and privileges of Members may be suspended by the Board of Directors for violations or breaches of the provisions of the Community Documents. With respect to voting, Members shall be those Owners as defined in the Amended and Restated Declaration of Covenants, Conditions, and Restrictions covering said Property.

**Article 7. Meeting of Members.** A meeting of the Members of the Corporation shall be held at least once each year.

**Article 8. Liability of Members.** A Member of the Corporation is not personally liable for the acts, debts, liabilities, or obligations of the Corporation, and the private property of the Members, Directors, and officers of this Corporation shall be forever exempt from its debt and obligations, except as hereinafter set forth.

**Article 9. Assessments.** For the purpose of providing necessary funds for carrying out of the objectives of the Corporation and the operating expenses of the Corporation, there shall be levied against each Lot Owner in said Property, an annual assessment and other assessments, in the amounts and by the procedures set forth in the recorded Amended and Restated Declaration of Covenants, Conditions and Restrictions for said Property. Said assessments shall be due, payable, and enforceable in the manner set forth in said Declaration.

**Article 10. Indebtedness.** The highest amount of indebtedness or liability, direct or contingent to which the Corporation is at any time to subject itself is One Hundred Thousand Dollars (\$100,000.00).

**Article 11. Indemnification.** Subject to the further provisions hereof, the Corporation shall indemnify any and all of its Directors, officers, former Directors, and former officers against all expense incurred by them and each of them including, but not limited to legal fees, judgments, and penalties which may be incurred, rendered, or levied in any legal action brought against any of them for, or on account of any action, or omission alleged to have been committed while acting within the scope of employment as Director or officer of the Corporation. The Corporation shall not indemnify Directors or Members for actions taken or failure to take actions for any of the following:

- (a) The amount of a financial benefit received by a Director to which the Director is not entitled;
- (b) An intentional infliction of harm on the Corporation or its Members;
- (c) Voting for or assenting to unlawful distributions of money or property; or
- (d) An intentional violation of criminal law.

Whenever any Director, officer, former Director, or former officer shall report to the President of the Board of Directors that he or she has incurred or may incur expenses, including, but not limited to legal fees, judgments, and penalties in a legal action brought or about to be brought against him or her for or on account of any action or omission alleged to have been committed by him while acting within the scope of his or her employment as a Director or officer of the Corporation, the Board of Directors shall, at its next regular or at a special meeting held within a reasonable time thereafter, determine in good faith whether, in regard to the matter involved in the action or contemplated action, such person acted, failed to act, or refused to act willfully, with gross negligence, or with fraudulent or criminal intent. If the Board of Directors determines in good faith that such person did not act, failed to act, or refused to

act willfully, or with gross negligence, or with fraudulent or criminal intent in regard to the matter involved in the action or contemplated action, indemnification shall be mandatory and shall be automatically extended as specified herein, and as provided for in A. R. S. 10-3850 through 10-3858, provided, however, that no such indemnification shall be available with respect to liabilities under the Securities Act of 1933, and provided further, that the Corporation shall have the right to refuse indemnification in any instance in which the person to whom indemnification would otherwise have been applicable shall have unreasonably refused to permit the Corporation, at its own expense and through counsel of its own choosing, to defend him in the action.

**Article 12. Construction and Validity of Documents.** In the event of any discrepancies, inconsistencies, or conflicts between the provisions of these Restated Articles of Incorporation and the Restated Bylaws, the Restated Articles of Incorporation prevail.

**Article 13. Amendment.** These Articles of Incorporation may be amended by the Board of Directors to the full extent permitted by law or regulation and may also be amended by the affirmative vote of a majority of the votes entitled to be cast by the Members of the Corporation at any annual or special meeting of the Corporation called for that purpose.

**Article 14. Office and Statutory Agent.** The registered office of the Corporation is P.O. Box 45329, Phoenix, Arizona, 85064. The statutory agent of the Corporation is Beth Mulcahy, Mulcahy Law Firm, P.C., 1232 East Missouri, Phoenix, Arizona, 85014; this appointment may be revoked at any time by the filing of the appointment of another agent by the Board of Directors.

IN WITNESS WHEREOF, the undersigned, being the President and the Secretary of the Corporation, hereunto set their hands as of the date first above written, and certify that by a duly held vote of the Members of the Corporation, as evidenced by the signatures of not less than seventy-five percent (75%) of the Owners, a copy of which signatures is attached hereto as Exhibit A, these Amended and Restated Articles of Incorporation are approved.

LOS OLIVOS HERMOSO - TOWNHOME  
ASSOCIATION

By: \_\_\_\_\_  
Its: President

Attested: \_\_\_\_\_  
Its: Secretary

STATE OF ARIZONA        )  
                                          ) ss.  
County of Maricopa        )

On this \_\_\_\_ day of \_\_\_\_\_, 2004, before me, the undersigned notary public, personally appeared \_\_\_\_\_ and \_\_\_\_\_ of Los Olivos Hermoso - Townhome Association, and that as such officers being authorized to do so, executed the foregoing instrument for the purposes therein contained, by signing the name of the Corporation.

Notary Public \_\_\_\_\_

MY COMMISSION EXPIRES: \_\_\_\_\_

The Members of the Board of Directors as of January 1, 2005 are:

Roxanne Dilbeck  
4304 N. 28<sup>th</sup> Way  
Phoenix, Arizona 85016

Allen Herman  
4312 N. 29<sup>th</sup> Place  
Phoenix, AZ 85016

Joel Homan  
2903 Montecito Avenue  
Phoenix, AZ 85016

Tracy Lee  
4317 N. 28<sup>th</sup> Way  
Phoenix, AZ 85016

Cynthia Marsh  
4305 N. 29<sup>th</sup> Place  
Phoenix, Arizona 85016

Larry Schroeder  
2905 Montecito Avenue  
Phoenix, AZ 85016

Carol Thomason  
4320 N 28<sup>th</sup> Way  
Phoenix, AZ 85016