

NONPROFIT

FILED
BONETTA DAVIDSON
COLORADO SECRETARY OF STATE

**ARTICLES OF INCORPORATION
OF
ELKSTONE OWNERS ASSOCIATION, INC.**

The undersigned incorporator, being a natural person over the age of eighteen years or more, and desiring to form a nonprofit corporation under the laws of the State of Colorado, does hereby adopt the following Articles of Incorporation.

ARTICLE I

Name and Principal Address

20031156029 C

\$ 100.00

SECRETARY OF STATE

The name of the nonprofit corporation shall be **ELKSTONE OWNERS ASSOCIATION, INC.** (the "Association"). The address of the Association's initial principal office shall be 620 Mountain Village Blvd., Suite 2c, Mountain Village, Colorado 81435

ARTICLE II

Period of Duration

This Association shall exist perpetually unless voluntarily dissolved earlier in accordance with the Declaration (as defined in Article III) or involuntarily dissolved according to law.

ARTICLE III

Purposes and Definitions

A. The Association is organized exclusively for the purpose of constituting the Association to which reference is made in the Declaration of Covenants, Conditions and Restrictions for Elkstone (the "Declaration") to be recorded in the records of the Clerk and Recorder of San Miguel County, Colorado, performing all obligations and duties of the Association and exercising all rights and powers of the Association. The Association is one which does not contemplate pecuniary gain or profit to the members of the Association.

B. Capitalized terms that are used in these Articles without definition but are defined in the Declaration shall have the same meaning in these Articles as in the Declaration, unless the context requires otherwise.

ARTICLE IV

No Private Benefit

No part of the net earnings, revenues and assessments of the Association shall inure to the benefit of or be distributable to any Owner, Director or officer of the Association, or any other private person, except that the Association may reimburse reasonable expenses to such persons and may pay reasonable compensation and reimburse reasonable expenses to third parties for services rendered to the Association, may make payments and distributions in furtherance of its purposes and may make distributions on dissolution as provided in Article X below. No Owner, Director or officer shall receive a salary or other payment for serving as such, except as provided above, without the vote of Owners holding a majority of the votes in the Association.



ARTICLE V
Powers of the Association

A. The Association shall serve as the Owners' association for the common interest community known as Elkstone in Mountain Village, Colorado (the "Community"), and shall be responsible for the maintenance, repair, operation and administration of Common Elements of the Community, and other areas as specifically permitted or required by the Declaration, in accordance with the Declaration, the Colorado Common Interest Ownership Act, as amended, and the Colorado Revised Nonprofit Corporation Act.

B. The Association shall promote the health, safety, welfare and common benefit of the Owners.

C. The Association shall have power to do any and all acts permitted to common interest community associations under the Act, including but not limited to the following:

1. To make and to collect Assessments against members of the Association for the purposes set forth in the Declaration (including the expenses incurred in exercising its powers or performing its functions).

2. To manage, control, operate, maintain, repair, replace and improve the Common Elements, and other areas as specifically permitted or required by the Declaration, and improvements thereon, as provided in the Declaration and as provided by law.

3. To enforce the terms, covenants, restrictions, conditions, uses, limitations and obligations set forth in the Declaration, these Articles and the Bylaws of the Association, and to make and enforce rules and regulations as provided therein.

4. To engage in activities that will foster, promote and advance the interests of the Owners, including the interests of the Declarant during the Declarant Control Period.

5. To manage the Association through volunteers, employees or third party contractors, as contemplated by the Declaration, who may exercise those duties and powers granted to it by the Executive Board (except those powers that the Executive Board, by law, may not delegate).

6. To buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, hold, use, operate and otherwise deal with and in, real, personal and mixed property of all kinds, and any right or interest therein, for any purpose of the Association, subject to compliance with the Declaration.

7. To borrow money for any purpose of the Association, limited in amount or in other respects as may be provided in the Declaration or in the Bylaws of the Association.

8. To enter into, make, perform or enforce contracts of every kind and description, and to do all other acts necessary, appropriate or advisable in carrying out any purpose of the Association, with or in association with any person, firm, association, corporation or other entity or agency, public or private, profit or non-profit, including contracts with other owners' associations and other entities for the benefit and enjoyment of the Owners.

9. To adopt, alter, amend or repeal such Bylaws as may be necessary or desirable for the proper management of the affairs of the Association, provided, however, that such Bylaws may

not be inconsistent with or contrary to any provisions of these Articles of Incorporation or the Declaration.

10. To secure rights to recreational, service or other amenities for the Owners by entering into licenses, leases or other contractual agreements or by participating in the creation, formation, merger or consolidation of or with other nonprofit corporations or associations including master associations organized for the same general purposes as the Association or for the purpose of providing recreational or other services and amenities.

The foregoing enumeration of powers shall not limit or restrict in any manner the exercise of other and further rights and powers which may now or hereafter be allowed or permitted by law; and the powers specified in each of the subparagraphs of this Article V are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provisions of these Articles of Incorporation.

ARTICLE VI

Membership Rights, Qualifications and Voting

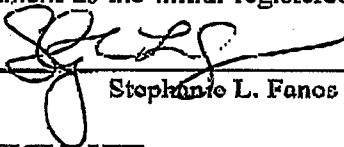
There shall be a single class of members of the Association, whose qualifications, membership rights, voting rights and duties shall be as set forth in the Declaration or in the Bylaws. All members of the Association shall be voting members and the voting rights of the members shall be as set forth in the Declaration or in the Bylaws.

ARTICLE VII

Registered Office and Agent

The street address of the initial registered office of the Association shall 620 Mountain Village Blvd., Suite 2C, Mountain Village, Colorado 81435, and the name of the Association's initial registered agent at that office shall be Stephanie L. Fanos. The registered office and the identity of the registered agent may be changed in the manner provided by law.

The undersigned consents to the appointment as the initial registered agent of Elkstone Owners Association, Inc.


Stephanie L. Fanos

ARTICLE VIII

Executive Board

A. The business and affairs of the Association shall be conducted, managed and controlled by the Executive Board. The Executive Board shall have not less than three (3) members. Subject to the limitations set forth in these Articles of Incorporation, the number, terms of office and provisions regarding election and removal of Directors and filling of vacancies on the Executive Board shall be as set forth in the Bylaws, which shall not be inconsistent with the provisions of the Declaration.

B. The Executive Board may appoint such committees as it deems necessary or appropriate in the conduct of its affairs.

C. The Declarant shall have additional rights and qualifications as provided under the Act and the Declaration, including the right to appoint all members of the Executive Board during the Declarant Control Period.

D. The number of Directors constituting the initial Executive Board shall be three (3). The names and addresses of these Directors are as follows:

Jeffrey Essakow 3252 Holiday Court, Suite 224
La Jolla, CA 92037

Timothy A. Chutz 4995 Idylwild Trail
Boulder, CO 80301

Howard Schachat 3252 Holiday Court, Suite 224
La Jolla, CA 92037

ARTICLE IX

Officers

The officers of the Association shall consist of a president, a secretary, a treasurer and such other officers as are provided in the Bylaws of the Association. The officers shall be elected or appointed and shall have such duties as may be prescribed in the Bylaws and by law.

ARTICLE X

Distribution of Assets upon Dissolution

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

1. All liabilities and obligations of the Association shall be paid and discharged, or adequate provision 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 not subject to liabilities, conditions or use limitations, as specified in subparagraphs 1 and 2 above, shall be distributed to the Owners in accordance with the Declaration, subject to offset as to any Owner by any obligation owed by such Owner to the Association and subject to the rights of mortgagees; and

4. 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 Colorado Revised Nonprofit Corporation Act and which is not inconsistent with the Declaration or with these Articles of Incorporation.

ARTICLE XI

Amendments

Amendments to these Articles of Incorporation shall be adopted, if at all, in the manner set forth in the Bylaws of the Association; provided, however, that no amendment to these Articles of Incorporation shall be contrary to or inconsistent with the laws of Colorado or the provisions of the Declaration.

ARTICLE XII

Indemnification

A. The Association shall have the power to indemnify, to the fullest extent permitted by law (including without limitation in circumstances in which, in the absence of this Article XII, indemnification would be discretionary under the laws of Colorado or limited or subject to particular standards of conduct under such laws), each of its Directors, officers, members of committees of the Association created by the Executive Board, employees and fiduciaries (each hereinafter, for purposes of this Article, referred to as an "indemnitee") against all costs, expenses and liability, including reasonable attorneys' fees, incurred in, relating to or as a result of any action, suit or proceeding to which such indemnitee may be involved or made a party by reason of being or having been a Director, officer, committee member, employee or fiduciary of the Association or while a Director, officer, committee member, employee or fiduciary of the Association, is or was serving at the request of the Association as a Director, officer, committee member, manager, partner, trustee, employee, fiduciary or agent of any other domestic or foreign corporation, association, limited liability company, partnership, joint venture, trust or other entity or enterprise. The extent to which the Association shall exercise the power to indemnify indemnitees under this subparagraph A shall be governed by the Bylaws.

B. In the event of any action, suit or proceeding in which an indemnitee is involved or which may give rise to a right on the part of an indemnitee to be indemnified under this Article XII, the Association shall, following written request to the Association by the indemnitee, pay to the indemnitee, to the fullest extent permitted by law (including without limitation in circumstances in which, in the absence of this Article XII, advancement of expenses would be discretionary under the laws of Colorado or limited or subject to particular standards of conduct under such laws) and not prohibited by the Bylaws, amounts to cover expenses incurred by the indemnitee in, relating to or as a result of such action, suit or proceeding in advance of its final disposition.

C. The Association shall not be liable under this Article XII for any amounts paid in settlement of any action, suit or proceeding effected without its written consent. The Association shall not settle any action, suit or proceeding in any manner that would impose any penalty or limitation on an indemnitee or other party without the written consent of such indemnitee or other party. Consent to a proposed settlement of any action, suit or proceeding shall not be unreasonably withheld by either the Association or an indemnitee, but nothing in this subparagraph C shall create any right to indemnification in circumstances where such indemnification is prohibited by law or by the Bylaws.

D. The Association may purchase and maintain insurance on behalf of any person who is or was a Director, officer, committee member, employee, fiduciary or agent of the Association, or who is or was serving at the request of the Association as a Director, officer, committee member, manager, partner, trustee, employee, fiduciary or agent of any other domestic or foreign corporation, association, limited liability company, partnership, joint venture, trust or other entity or enterprise, against any liability asserted against and incurred by such person in any such capacity or arising out of such person's status as

such, whether or not the Association would have the power to indemnify such person against such liability under the provisions of this Article.

E. Except as otherwise provided in the Bylaws, the rights to indemnification and advancement of expenses provided in this Article shall be in addition to any other rights an indemnitee may have or hereafter acquire under any law, any other or further provision of these Articles of Incorporation, any vote of the Members or Directors of the Association, any agreement or otherwise. Except as otherwise provided in the Bylaws, the Association shall have the right, but shall not be obligated, to indemnify or advance expenses to any agent of the Association not otherwise covered by this Article XII in accordance with and to the fullest extent permitted by law.

F. The rights to indemnification and advancement of expenses provided in this Article shall be applicable to acts or omissions that occurred prior to the adoption of this Article, shall continue as to any indemnitee during the period such indemnitee serves in any one or more of the capacities covered by this Article, shall continue thereafter so long as the indemnitee may be subject to any possible action, suit or proceeding by reason of the fact that the indemnitee served in any one or more of the capacities covered by this Article, and shall inure to the benefit of the estate and personal representatives of each such indemnitee. No repeal or modification of this Article or of any provision hereof shall affect any rights or obligations then existing.

ARTICLE XIII

Limitation on Liability

To the fullest extent permitted by the laws of Colorado, as the same exist or may hereafter be amended, a Director, officer or committee member of the Association shall not be personally liable to the Association or its Members for monetary damages for breach of fiduciary duty in such capacity. Any repeal or modification of this Article by the members of the Association shall be prospective only and shall not adversely affect any right or protection of a Director, officer or committee member of the Association existing at the time of such repeal or modification.

ARTICLE XIV

Incorporator

The name and address of the incorporator are as follows:

Stephanie L. Fanos
Reed & Fanos
620 Mountain Village Blvd., Suite 2C
Mountain Village, Colorado 81435

IN WITNESS WHEREOF, the above named incorporator signed these Articles of Incorporation this 13th day of May, 2003.

By: 
Stephanie L. Fanos

The (a) name or names, and (b) mailing address or addresses, of any one or more of the individuals who cause this document to be delivered for filing, and to whom the Secretary of State may deliver notice if filing of this document is refused, are:

Stephanie L. Fanos
620 Mountain Village Boulevard, Suite 2c
Mountain Village, Colorado 81435

The Colorado Secretary of State may contact the following authorized person regarding this document:

Stephanie L. Fanos
620 Mountain Village Boulevard, Suite 2c
Mountain Village, Colorado 81435
(970) 728-6237
(970) 728-7939 (fax)
alfanos@telluride