

8. Registered agent mailing address:
(if different from above)

P.O. Box 3081

(Street name and number or Post Office Box information)

Telluride

(City)

CO

(State)

81435-3081

(Postal/Zip Code)

United States

(Province – if applicable)

(Country – if not US)

9. If the corporation's period of duration
is less than perpetual, state the date on
which the period of duration expires:

(mm/dd/yyyy)

10. (Optional) Delayed effective date:

(mm/dd/yyyy)

11. Name(s) and address(es) of
incorporator(s): (if an individual):

Kennedy

(Last)

Thomas

(First)

G.

(Middle)

(Suffix)

OR (if a business organization):

P.O. Box 3081

(Street name and number or Post Office Box information)

Telluride

(City)

CO

(State)

81435-3081

(Postal/Zip Code)

United States

(Province – if applicable)

(Country – if not US)

(if an individual)

(Last)

(First)

(Middle)

(Suffix)

OR (if a business organization)

(Street name and number or Post Office Box information)

(City)

(State)

(Postal/Zip Code)

United States

(Province – if applicable)

(Country – if not US)

(if an individual)

(Last)

(First)

(Middle)

(Suffix)

OR (if a business organization)

(Street name and number or Post Office Box information)

(City)

(State)

(Postal/Zip Code)

United States

(Province – if applicable)

(Country – if not US)

(If more than three incorporators, mark this box and include an attachment stating the names and addresses of all incorporators.)

12. The nonprofit corporation is formed under the Colorado Revised Nonprofit Corporation Act.
13. The corporation will **OR** will not have voting members.
14. A description of the distribution of assets upon dissolution is attached.
15. Additional information may be included pursuant to §7-122-102, C.R.S. and other organic statutes. If applicable, mark this box and include an attachment stating the additional information.

Notice:

Causing this document to be delivered to the secretary of state for filing shall constitute the affirmation or acknowledgment of each individual causing such delivery, under penalties of perjury, that the document is the individual's act and deed, or that the individual in good faith believes the document is the act and deed of the person on whose behalf the individual is causing the document to be delivered for filing, taken in conformity with the requirements of part 3 of article 90 of title 7, C.R.S., the constituent documents, and the organic statutes, and that the individual in good faith believes the facts stated in the document are true and the document complies with the requirements of that Part, the constituent documents, and the organic statutes.

This perjury notice applies to each individual who causes this document to be delivered to the secretary of state, whether or not such individual is named in the document as one who has caused it to be delivered.

16. Name(s) and address(es) of the individual(s) causing the document to be delivered for filing:

Kennedy	Thomas	G.	
<i>(Last)</i>	<i>(First)</i>	<i>(Middle)</i>	<i>(Suffix)</i>
P.O. Box 3081			
<i>(Street name and number or Post Office Box information)</i>			
Telluride			
<i>(City)</i>	CO	81435-3081	
	<i>(State)</i>	<i>(Postal/Zip Code)</i>	
United States			
<i>(Province – if applicable)</i>		<i>(Country – if not US)</i>	

(The document need not state the true name and address of more than one individual. However, if you wish to state the name and address of any additional individuals causing the document to be delivered for filing, mark this box and include an attachment stating the name and address of such individuals.)

Disclaimer:

This form, and any related instructions, are not intended to provide legal, business or tax advice, and are offered as a public service without representation or warranty. While this form is believed to satisfy minimum legal requirements as of its revision date, compliance with applicable law, as the same may be amended from time to time, remains the responsibility of the user of this form. Questions should be addressed to the user's attorney.

**ARTICLES OF INCORPORATION
OF
BEAR CREEK LOFTS HOMEOWNERS' ASSOCIATION, INC.,
A COLORADO NONPROFIT CORPORATION**

For the purpose of forming a non-profit corporation pursuant to the provisions of the Colorado Revised Nonprofit Corporation Act, Colorado Revised Statutes Title 7, Articles 121-137, as amended (“**Act**”), the undersigned hereby associate themselves together and have made, signed and acknowledged the following articles:

ARTICLE I

Name

The name of the corporation is “Bear Creek Lofts Homeowners’ Association, Inc., a Colorado nonprofit corporation”.

ARTICLE II

Duration

The period of duration of the corporation shall be perpetual.

ARTICLE III

Purposes

The business, objectives and purposes for which the corporation is formed are as follows:

- 3.1. To be and constitute the “**Association**”, to which reference is made in the Declaration of Covenants, Conditions and Restrictions for Bear Creek Lofts Homeowners’ Association (“**Declaration**”) establishing a plan for Bear Creek Lofts Homeowners’ Association, Town of Telluride, San Miguel County, Colorado (“**Community**”), said Declaration to be recorded in the office of the County Clerk and Recorder of San Miguel County, Colorado;
- 3.2. To perform all obligations and duties of the Association and to exercise all rights and powers of the Association, as specified in the Declaration.
- 3.3. To provide an entity for the furtherance of the interest of the Owners of separate common interest ownership units, Units or parcels (“**Units**”) in the Community.

ARTICLE IV

Powers

In furtherance of its purposes, but not otherwise, the corporation shall have the following powers:

- 4.1. All of the powers conferred upon non-profit corporations by the common law and the statutes of the State of Colorado in effect from time to time.
- 4.2. All of the powers necessary or desirable to perform the obligations and duties and exercise the rights and powers of the Association under the Declaration, including, without limitation, the following powers:

- 4.2.1. To make and collect general, limited and/or special assessments against Members for the purpose of defraying the costs, expenses and any losses of the Association, or of exercising its powers or of performing its functions.
- 4.2.2. To manage, control, operate, maintain, repair and improve Community common elements, as defined in the Act and the Declaration.
- 4.2.3. To enforce covenants, restrictions or conditions affecting any Community property, to the extent the Association may be authorized under any such covenants, restrictions or conditions, and to make and enforce rules and regulations for use of the Community.
- 4.2.4. To engage in activities which will actively foster, promote and advance the common ownership interests of Owners of the Units.
- 4.2.5. To buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, withdraw, grant or obtain easements, licenses, permits and the like, 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.
- 4.2.6. To borrow money for any purpose of the Association, limited in amount or in other respects as may be provided in the Bylaws of the Association (the “**Bylaws**”).
- 4.2.7. 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 or any Members, with or in association with any person, firm, association, corporation or other entity or agency, public or private.
- 4.2.8. To act as agent, trustee, or other representative of other corporations, firms, individuals, and as such to advance the business or ownership interests of such corporations, firms or individuals, including, without limitation, any Members.
- 4.2.9. To adopt, alter, and 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 the Declaration.
- 4.2.10. 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 paragraphs of this Article IV are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provisions of this Article IV.

ARTICLE V
Memberships

- 5.1. The corporation shall be a membership corporation without certificates or shares of stock. Subject to the limitations set forth in the Declaration, there shall be one class of membership, and there shall be one membership in the corporation for each owner of a Unit. An Owner is defined in the Declaration as the individual, individuals, firm, corporation, partnership, association or other legal entity, or any combination thereof, who owns one or more Units or an undivided interest therein.

- 5.2. All Members shall be entitled to vote on all matters, each vote weighted in accordance with the percentage of ownership of the Common Elements of the Community attributable to each respective Unit and Class, as applicable, as set forth in the Declaration. Cumulative voting is prohibited. No person or entity other than an Owner of a Unit may be a Member of the corporation.
- 5.3. If title to a Unit is held by more than one person or by a firm, corporation, partnership, association or other legal entity, or any combination thereof, such Owners shall execute a proxy appointing and authorizing one person or alternate persons to attend all annual and special meetings of Members and thereat to cast whatever vote the Owner might cast if he or it were personally present. Such proxy shall be effective and remain in force unless voluntarily revoked, amended or sooner terminated by operation of law; provided, however, within thirty (30) days after such revocation, amendment or termination, the Owner shall reappoint and authorize one person or alternate persons to attend all annual and special meetings as is provided in this paragraph.
- 5.4. A 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 an appurtenance to transfer of title to the Unit to which the membership pertains; provided, however, the rights of membership may be assigned to the holder of the mortgage, deed of trust or other security instrument on a Unit as further security for a loan secured by a lien on such Unit.
- 5.5. A transfer of membership shall occur automatically upon the transfer of title to the Unit to which the membership pertains; provided, however, the Bylaws may contain reasonable provisions and requirements with respect to recording such transfers on the books and records of the corporation.
- 5.6. The corporation may suspend the voting rights of a Member for failure to comply with rules and regulations or the Bylaws or with any other obligations of the Owners of a Unit under the Declaration or any agreement created thereunder.
- 5.7. The Bylaws may contain provisions, not inconsistent with the foregoing, setting forth the rights, privileges, duties and responsibilities of the Members.

ARTICLE VI **Executive Board**

- 6.1. The business and affairs of the corporation shall be conducted, managed and controlled by an Executive Board (the “**Executive Board**”), the members of which are designated as “**Directors**”.
- 6.2. The Executive Board shall initially consist of three (3) Directors, but may consist of as many as five (5) Directors.
- 6.3. The method of election and the term of office of Directors of the Executive Board shall be determined by the Bylaws. A member of the Executive Board need not have an ownership interest in a Unit. A member of the Executive Board need not be a Member of the Community.
- 6.4. Directors may be removed and vacancies on the Executive Board shall be filled in the manner provided in the Bylaws.

ARTICLE VII

Officers

The Executive Board may appoint a President, one or more Vice-Presidents, a Secretary, a Treasurer and such other officers as the Executive Board believes will be in the best interest of the Association. The officers shall have such duties as may be prescribed in the Bylaws and shall serve at the pleasure of the Executive Board. An officer need not be a Member of the Community.

ARTICLE VIII

Conveyances and Encumbrances

Corporate property may be conveyed or encumbered by authority of the Executive Board or such person or persons to whom such authority may be delegated by resolution of the Executive Board. Conveyances or encumbrances shall be by instrument executed by the President or a Vice-President and by the Secretary or the Treasurer or an Assistant Secretary or Assistant Treasurer or executed by such other person or persons to whom such authority may be delegated by the Executive Board.

ARTICLE IX

Initial Registered Office and Agent

- 9.1. The initial physical address for the registered office and the registered agent of the corporation shall be 307 East Colorado Avenue, Suite #203, P.O. Box 3081, Telluride, Colorado 81435. The initial mailing address for the registered office and the registered agent is P.O. Box 3081, Telluride, Colorado 81435.
- 9.2. The initial registered agent at such office shall be The Law Offices of Thomas G. Kennedy, P.C.
- 9.3. The initial physical address for the principal place of business of the corporation is 307 East Colorado Avenue, Suite #203, Telluride, Colorado 81435. The initial mailing address for the principal place of business of the corporation is P.O. Box 3081, Telluride, Colorado 81435. US Mail is not delivered to the physical address of the corporation and must be sent only to the mailing address of the corporation. US Mail is not delivered to the physical address of the principal place of business of the corporation and must be sent only to the mailing address of the principal place of business.
- 9.4. **US Mail is not delivered to the physical address of the registered office or to the registered agent of the corporation and all mail must be sent only to the stated mailing address of the registered office and the registered agent of the corporation.**

ARTICLE X

Incorporation

The incorporator of the corporation is Thomas G. Kennedy, whose physical address is 307 East Colorado Avenue, Suite #203, P.O. Box 3081, Telluride, Colorado 81435 and whose mailing address is P.O. Box 3081, Telluride, Colorado 81435. US Mail is not delivered to the physical address of the incorporator and must be sent only to the mailing address of the incorporator.

ARTICLE XI

Dissolution

In the event of the dissolution of the corporation, either voluntarily by the members hereof, by operation of law, or otherwise, then the assets of the corporation shall be deemed to be owned by the members in

ARTICLE XII
Amendments

Amendments to these Articles of Incorporation shall be adopted, if at all, in the manner as set forth in the Act.

ARTICLE XII
Captions

Unless otherwise defined herein, all capitalized terms contained herein shall have the meaning ascribed in the Declaration.

IN WITNESS WHEREOF, the undersigned, being the incorporator designated in Article X of the foregoing articles of incorporation, has executed these Articles of Incorporation as of this the 1st day of May, 2005.

By: 


Thomas G. Kennedy, Incorporator

ACCEPTANCE OF REGISTERED AGENT

The appointment of the undersigned as the initial registered agent of the corporation is hereby accepted by and on behalf of the undersigned as of this the 1st day of May, 2005.

REGISTERED AGENT:

THE LAW OFFICES OF
THOMAS G. KENNEDY, P.C.

By: 

Thomas G. Kennedy, President

**ADDENDUM TO
ARTICLES OF INCORPORATION OF
BEAR CREEK LOFTS HOMEOWNERS' ASSOCIATION, INC.,
A COLORADO NONPROFIT CORPORATION**

Capitalized terms not otherwise defined herein shall have the meaning set forth in the Declaration of Covenants, Conditions and Restrictions for Bear Creek Lofts Homeowners' Association and any supplement or amendment thereto ("**Declaration**"). All of the lands that become subject to said Declaration from time to time are hereinafter referred to as the "Common Interest Community."

In the event of a conflict between the terms, conditions and provisions of this Addendum and the Articles of Incorporation, this Addendum shall control.

ARTICLE ONE
Purposes

The business, objectives and purposes for which the corporation is formed are as follows:

1. To be and constitute the "**Association**", to which reference is made in the Declaration of Covenants, Conditions and Restrictions for Bear Creek Lofts Homeowners' Association ("**Declaration**") establishing a plan for Bear Creek Lofts Homeowners' Association, Town of Telluride, San Miguel County, Colorado ("**Community**"), said Declaration to be recorded in the office of the County Clerk and Recorder of San Miguel County, Colorado.
2. To perform all obligations and duties of the Association and to exercise all rights and powers of the Association, as specified in the Declaration.
3. To provide an entity for the furtherance of the interest of the Owners of separate common interest ownership Units, parcels or units ("**Units**") within the Community.

ARTICLE TWO
Powers

In furtherance of its purposes, but not otherwise, the corporation shall have the following powers:

1. All of the powers conferred upon non-profit corporations by the common law and the statutes of the State of Colorado in effect from time to time.
2. All of the powers necessary or desirable to perform the obligations and duties and exercise the rights and powers of the Association under the Declaration, including, without limitation, the following powers:
 - a. To make and collect general, limited and/or special assessments against Members for the purpose of defraying the costs, expenses and any losses of the Association, or of exercising its powers or of performing its functions.
 - b. To manage, control, operate, maintain, repair and improve Community common elements, as defined in the Act and the Declaration.
 - c. To enforce covenants, restrictions or conditions affecting any Community property, to the extent the Association may be authorized under any such covenants, restrictions or conditions, and to make and enforce rules and regulations for use of the Community.

- d. To engage in activities which will actively foster, promote and advance the common ownership interests of Owners of the Units.
- e. To buy or otherwise acquire, sell or otherwise dispose of, mortgage or otherwise encumber, exchange, lease, withdraw, grant or obtain easements, licenses, permits and the like, 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.
- f. To borrow money for any purpose of the Association, limited in amount or in other respects as may be provided in the Bylaws of the Association (the “**Bylaws**”).
- g. 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 or any Members, with or in association with any person, firm, association, corporation or other entity or agency, public or private.
- h. To act as agent, trustee, or other representative of other corporations, firms, individuals, and as such to advance the business or ownership interests of such corporations, firms or individuals, including, without limitation, any Members.
- i. To adopt, alter, and 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 the Declaration.
- j. 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 paragraphs of this Article are independent powers, not to be restricted by reference to or inference from the terms of any other paragraph or provisions of this Article.

ARTICLE THREE
Memberships

- 1. The corporation shall be a membership corporation without certificates or shares of stock. Subject to the limitations set forth in the Declaration. There shall be one class of membership.
- 2. There shall be one “Membership” in the Association for each Unit within the Common Interest Community. The Person or Persons who constitute the Owner of a Unit shall automatically be the holder of the Membership appurtenant to that Unit, and shall collectively be the “Member” of the Association with respect to that Unit, and the Membership appurtenant to that Unit shall automatically pass with fee simple title to the Unit. Declarant shall hold a Membership in the Association for each Unit owned by Declarant. Membership in the Association shall not be assignable separate and apart from fee simple title to a Unit, and may not otherwise be separated from ownership of a Unit.
- 3. All Members shall be entitled to vote on all matters, each vote weighted in accordance with the percentage of ownership of the Common Elements of the Community attributable to each respective Unit and Class, as applicable, as set forth in the Declaration. Cumulative voting is prohibited. No person or entity other than an Owner of a Unit may be a Member of the corporation.

4. If title to a Unit is held by more than one person or by a firm, corporation, partnership, association or other legal entity, or any combination thereof, such Owners shall execute a proxy appointing and authorizing one person or alternate persons to attend all annual and special meetings of Members and thereat to cast whatever vote the Owner might cast if he or it were personally present. Such proxy shall be effective and remain in force unless voluntarily revoked, amended or sooner terminated by operation of law; provided, however, within thirty (30) days after such revocation, amendment or termination, the Owner shall reappoint and authorize one person or alternate persons to attend all annual and special meetings as is provided in this paragraph.
5. A 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 an appurtenance to transfer of title to the Unit to which the membership pertains; provided, however, the rights of membership may be assigned to the holder of the mortgage, deed of trust or other security instrument on a Unit as further security for a loan secured by a lien on such Unit.
6. A transfer of membership shall occur automatically upon the transfer of title to the Unit to which the membership pertains; provided, however, the Bylaws may contain reasonable provisions and requirements with respect to recording such transfers on the books and records of the corporation.
7. The corporation may suspend the voting rights of a Member for failure to comply with rules and regulations or the Bylaws or with any other obligations of the Owners of a Unit under the Declaration or any agreement created thereunder.
8. The Bylaws may contain provisions, not inconsistent with the foregoing, setting forth the rights, privileges, duties and responsibilities of the Members.

ARTICLE FOUR
Executive Board

1. The business and affairs of the corporation shall be conducted, managed and controlled by an Executive Board (the “**Executive Board**”), the members of which are designated as “**Directors**”.
2. The Executive Board shall initially consist of three (3) Directors, but may consist of as many as five (5) Directors.
3. The method of election and the term of office of Directors of the Executive Board shall be determined by the Bylaws. A member of the Executive Board need not have an ownership interest in a Unit. A member of the Executive Board need not be a Member of the Community.
4. Directors may be removed and vacancies on the Executive Board shall be filled in the manner provided in the Bylaws.

ARTICLE FIVE
PERIOD OF DECLARANT CONTROL

1. In the Declaration, Declarant has reserved the right to appoint and remove Directors and officers until the date which is the earlier of (a) sixty (60) days after the conveyance of 75%

of the Units that may be created to Owners other than Declarant, or (b) two (2) years after the last conveyance of a Unit by Declarant in the ordinary course of business (the “**Turnover Date**”).

2. During the period of Declarant Control: (a) Not later than sixty (60) days after conveyance of 25% of the Units that may be created to Owners other than Declarant, at least one member and not less than 25% of the members of the Executive Board must be elected by Owners other than Declarant; and (b) not later than sixty (60) days after the conveyance of 50% of the Units that may be created to Owners other than Declarant, not less than 33-1/3% of the members of the Executive Board must be elected by Owners other than Declarant.
3. At any time prior to the Turnover Date, the Declarant may voluntarily surrender and relinquish the right to appoint and remove officers and members of the Executive Board. In such event, Declarant may require, for the duration of the Period of Declarant Control, that specified actions of the Association or the Executive Board, as described in a recorded instrument executed by Declarant, be approved by Declarant before they become effective. As to such actions, Declarant may give its approval or disapproval in its sole direction and option, and its disapproval shall invalidate any such action by the Executive Board or the Association.
4. Not later than the Turnover Date, the Unit Owners (including Declarant) shall elect an Executive Board of at least three (3) members, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant, and the Executive Board shall elect the officers, with such Executive Board members and officers to take office upon election.
5. Within sixty (60) days after Owners other than Declarant elect a majority of the members of the Executive Board, Declarant shall deliver to the Association all property of the Unit Owners and of the Association held or controlled by Declarant, including without limitation those items specified in Section 38-33.3-309(9) of the Colorado Common Interest Ownership Act.

ARTICLE SIX **INUREMENT AND DISSOLUTION**

1. No part of the income or net earnings of the Association shall inure to the benefit of, or be distributable to, any Member, Director, or officer of the Association or to any other private individual, except that: (i) reasonable compensation may be paid for services rendered to or for the Association affecting one or more of its purposes; (ii) reimbursement may be made for any expenses incurred for the Association by any officer, Director, Member, agent or employee, or any other person or corporation, pursuant to and upon authorization of the Executive Board; and (iii) rebates of excess membership dues, fees, or Assessments may be paid.
2. In the event of dissolution of the Association, the property and assets thereof remaining after providing for all obligations shall then be distributed pursuant to the Colorado Revised Nonprofit Corporation Act at Article 134, and if the Common Interest Community is terminated then pursuant to the Colorado Common Interest Ownership Act at Section 38-33.3-218.

ARTICLE SEVEN **ELIMINATION OF CERTAIN LIABILITIES OF DIRECTORS**

There shall be no personal liability, either direct or indirect, of any Director of the Association to the Association or to its Members for monetary damages for any breach or breaches of fiduciary duty as a Director; except that this provision shall not eliminate the liability of a Director to the Association or its Members for monetary damages for any breach, act, omission, or transaction as to which the Colorado Revised Nonprofit Corporation Act or the Colorado Common Interest Ownership Act prohibits expressly the elimination of liability. This provision is in the Association's original Articles of incorporation and thus is effective on the date of the Association's incorporation. This provision shall not limit the rights of Directors of the Association for indemnification or other assistance from the Association in accordance with applicable law. This provision shall not restrict or otherwise diminish the provisions of Colorado Revised Statutes, Section 13-21-115.7 (concerning no liability of directors except for wanton and willful acts or omissions), any amendment or successor provision to such Section, or any other law limiting or eliminating liabilities, such as Colorado Revised Statutes, Section 38-33.3-303(2) (fiduciary duties of officers and directors if appointed by Declarant; if not so appointed, then no liability except for wanton and willful acts or omissions). Any repeal or modification of the foregoing provisions of this Article by the Members of the Association or any repeal or modification of the provision of the Colorado Revised Nonprofit Corporation Act which permits the elimination of liability of directors by this Article shall not affect adversely any elimination of liability, right or protection of a Director of the Association with respect to any breach, act, omission, or transaction of such Director occurring prior to the time of such repeal or modification.

ARTICLE EIGHT **Dissolution**

In the event of the dissolution of the corporation, either voluntarily by the members hereof, by operation of law, or otherwise, then the assets of the corporation shall be deemed to be owned by the members in proportion to each Member's Ownership of the Common Elements of the Community.