

# Page 1



ARTICLES OF INCORPORATION  
OF  
ELKHORN VILLAGE HOMEOWNERS ASSOCIATION

KNOW ALL MEN BY THESE PRESENTS:

That the undersigned has associated for the purpose of forming a corporation under the Nebraska Nonprofit Corporation Act, as amended, and does hereby adopt the following Articles of Incorporation:

ARTICLE I  
NAME

The name of the corporation shall be Elkhorn Village Homeowners Association.

ARTICLE II  
MUTUAL BENEFIT CORPORATION

This Association is a mutual benefit corporation.

ARTICLE III  
DURATION

The corporation shall have perpetual existence.

ARTICLE IV  
PURPOSES

The purposes for which the corporation is organized are:

1. To maintain a residential community designated for harmonious living conditions in the area.
2. To promote the collective and individual interests and rights of all persons owning residential property in the subdivision known as Elkhorn Village, situated in the City of Elkhorn, Douglas County, Nebraska.
3. To enter into a maintenance agreement with the City of Elkhorn, which obligates the Association on a permanent and continuous basis to provide for the proper and continuous ownership, maintenance and upkeep of all medians, street islands, outlots and common areas within the Elkhorn Village subdivision including all subdivision signs, entrance signs and related fixtures, including all landscaping.
4. To exercise any and all powers provided in the Declaration of Covenants, Conditions, Restrictions and Easements for Elkhorn Village or provided in the corporation's by-laws.

**Page 2**

5. To establish, levy, collect and enforce the assessments provided in the Declaration of Covenants, Conditions, Restrictions and Easements for Elkhorn Village or provided in the corporation's by-laws.

6. To exercise any and all powers that may be delegated to it from time to time by the members of the Association owning residential property in the subdivision.

7. To do everything necessary and proper or advisable for the accomplishment of the purposes set forth herein.

**ARTICLE V  
DISSOLUTION**

The Association may be dissolved with the written assent of the City of Elkhorn, and with the assent given in writing and signed by not less than eighty percent (80%) of the votes entitled to be cast thereon. The City of Elkhorn's written assent to dissolution of the Association shall only be provided if another proper entity, as approved by the City of Elkhorn, assumes full responsibility for the maintenance agreement required in Article IV (3), plus ownership of all outlots within the Elkhorn Village subdivision. Upon dissolution of the Association, other than incident to a merger or consolidation, the assets of the Association shall be dedicated to an appropriate public body to be used for purposes similar to those for which this Association was created. In the event that such dedication is refused acceptance, such assets shall be granted, conveyed and assigned to any non-profit corporation, association, trust or other organization to be devoted to such similar purposes.

**ARTICLE VI  
REGISTERED OFFICE AND REGISTERED AGENT**

The address of the corporation's initial registered office is 13304 West Center Road, Suite 222, Omaha, Nebraska, 68144, and the name of its initial registered agent at such address is Daniel D. Walsh.

**ARTICLE VII  
INCORPORATOR**

The name and address of the incorporator is:

Daniel D. Walsh  
13304 West Center Road  
Suite 222  
Omaha, NE 68144

**ARTICLE VIII  
MEMBERS**

**Page 3**

The membership of the corporation shall be limited to the property owners in the residential subdivision, and each property owner of a lot that is located within the Elkhorn Village subdivision shall be a member of the corporation.

ARTICLE IX  
MANAGEMENT OF AFFAIRS

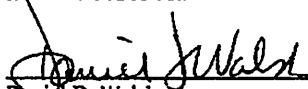
The affairs of the corporation shall be conducted by a Board of Directors of not less than three (3) members nor more than ten (10), the exact number of which shall from time to time be fixed by the By-Laws.

ARTICLE X  
LIABILITY OF DIRECTORS INCORPORATOR AND OFFICERS

The private property of the incorporator, directors and officers of the corporation shall not be subject to the debts or obligations of the corporation to any extent whatsoever.

IN WITNESS WHEREOF, the undersigned incorporator does make and file these Articles of Incorporation, hereby declaring and certifying that the facts set forth are true and accordingly has signed his name this 25 day of March, 2005.

INCORPORATOR:

  
Daniel D. Walsh

BY-LAWS  
OF  
ELKHORN VILLAGE HOMEOWNERS ASSOCIATION

ARTICLE I  
NAME AND LOCATION

The name of the corporation is the Elkhorn Village Homeowners Association, hereinafter referred to as the "Association". The principal office of the corporation shall be located at 11506 Nicholas Street, #200, Omaha, NE 68154, but meetings of members and directors may be held at such places within the State of Nebraska, County of Douglas, as may be designated by the Board of Directors.

ARTICLE II  
DEFINITIONS

Section 1. "Association" shall mean and refer to the Elkhorn Village Homeowners Association, its successors and assigns.

Section 2. "Properties" shall mean and refer to that certain real property described in the Declaration of Covenants, Conditions, Restrictions and Easements for Elkhorn Village in the City of Elkhorn, Douglas County, Nebraska, and such additions thereto as may hereafter be brought within the jurisdiction of the Association.

Section 3. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of the Properties with the exception of the Common Area.

Section 4. "Owner" shall mean and refer to the record owner, whether one or more persons or entities of the fee simple title to any lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 5. "Declarant" shall mean and refer to 208<sup>th</sup> & Maple, L.L.C., its successors and assigns if such successors or assigns should acquire more than one undeveloped lot from the Declarant for the purpose of development.

Section 6. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the office of the Register of Deeds of Douglas County, Nebraska.

Section 7. "Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

ARTICLE III  
MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of five o'clock, P.M., unless the President or the Board of Directors determines a different date and time .

Section 2. Special Meetings. Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the Class A Membership.

Section 3. Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice to each member entitled to vote thereat, addressed to the members address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special meeting, the purpose of the meeting.

Section 4. Quorum. The presence at the meeting of members entitled to cast, or of proxies entitled to cast, one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

Section 5. Proxies. At a meeting of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his/her Lot.

#### ARTICLE IV BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of this Association shall be managed by a Board of three (3) Directors, who need not be members of the Association.

Section 2. Term of Office. At the first annual meeting, the members shall elect one Director for a term of one year, one Director for a term of two years, and one Director for a term of three years, and at each annual meeting thereafter, the members shall elect one Director for a term of three years.

Section 3. Removal. Any Director may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

Section 4. Compensation. No Director shall receive compensation for any service he/she may render to the Association. However, any Director may be reimbursed for his/her actual expenses incurred in the performance of his/her duties.

Section 5. Action Taken Without a Meeting. The Directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the Directors. Any action so approved shall have the same effect as though taken at a meeting of the Directors.

#### ARTICLE V NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating Committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting of the members, to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. At such election the members of their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provision of the Declaration. The person receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

#### ARTICLE VI MEETINGS OF DIRECTORS

Section 1. Regular Meetings. Regular meetings of the Board of Directors shall be held annually without notice, at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. Special Meetings. Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days notice to each Director.

Section 3. Quorum. A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

#### ARTICLE VII

## POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 1. Powers. The Board of Directors shall have power to:

- (a) Suspend the voting rights of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association.
- (b) Exercise for the Association all powers, duties and authority set forth in these By-Laws, the Articles of incorporation, or the Declaration;
- (c) Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive, regular meetings of the Board of Directors; and
- (d) Employ a manager, an independent contractor or such other employees as they deem necessary and to prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;
- (b) Supervise all officers, agents and employees of this Association and to see that their duties are properly performed;
- (c) As more fully provided in the Declaration, to:
  - (1) Fix the amount of the annual assessment against each lot at least thirty (30) days in advance of each annual assessment period;
  - (2) Send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and
  - (3) Foreclose the lien against any property for which assessments are not paid within thirty (30) days after due date or to bring an action at law against the Owner personally obligated to pay the same.
- (d) Issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

- (e) Cause all officers or employees having fiscal responsibilities to be bonded; as it may deem appropriate;
- (f) Maintain insurance and outside maintenance in accordance with the Declaration.
- (g) Enter into and comply with the duties and obligations of the maintenance agreement required in Article XIII (2).

ARTICLE VIII  
OFFICERS AND THEIR DUTIES

Section 1. Enumeration of Officers. The officers of this Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, and a Treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. Election of Officers. The election of officers shall take place at the first meeting of the Board of Directors following such annual meeting of the members.

Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. Special Appointments. The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. Resignation and Removal. Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. Vacancies. A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. Multiple Offices. The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other specified offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. Duties. The duties of the officers are as follows:

President



- (a) The president shall preside at all meetings of the Board of Directors; shall see the orders and resolutions of the Board are carried out; shall sign all written instruments and shall co-sign all checks.

Vice President

- (b) The vice-president shall act in the place and stead of the president in the event of his/her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board.

Secretary

- (c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

- (d) The treasurer shall receive and deposit in appropriate bank account all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

ARTICLES IX  
BOOKS AND RECORDS

The books, records and papers of the Association shall at all times during reasonable business hours, be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at a reasonable cost.

ARTICLE X  
ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual assessments which are secured by a continuing lien upon the property against which the assessment is made. Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at the rate of nine (9%) percent per annum and

the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for any reason.

ARTICLE XI  
CORPORATE SEAL

The Association may have a seal in circular form having within its circumference the words: Elkhorn Village Homeowners Association.

ARTICLE XII  
AMENDMENTS

Section 1. These By-Laws may be amended at a regular or special meeting of the members by sixty percent (60%) vote of the members present.

ARTICLE XIII  
MISCELLANEOUS

Section 1. The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except that the first fiscal year shall begin on the date of incorporation.

Section 2. The Homeowner's Association shall enter into a maintenance agreement with the City of Elkhorn which obligates the Association on a permanent and continuous basis to provide for the proper and continuous ownership, maintenance and upkeep of all medians, street islands, outlots and common areas within the Properties including all subdivision signs, entrance signs and related fixtures, including all landscaping. This provision of these By-Laws shall not be amended, deleted, or modified in any manner without the advance written consent of the City of Elkhorn.

IN WITNESS WHEREOF, we, being all of the Directors of Elkhorn Village Homeowners Association, have hereunto set our hands this 29 day of March, 2005.

Directors:

