

**ARTICLES OF INCORPORATION  
OF  
DIAMOND VALLEY TOWNHOMES ASSOCIATION, INC.**

In compliance with the requirements of SDCL 47-22, the undersigned, all of whom are residents of Sioux Falls, South Dakota, and all of whom are of full age, have this day voluntarily associated themselves together for the purpose of forming a corporation not for profit and do hereby certify:

**ARTICLE I  
NAME**

The name of the corporation is DIAMOND VALLEY TOWNHOMES ASSOCIATION, INC., hereinafter called the "Association".

**ARTICLE II  
PRINCIPAL OFFICE**

The principal office of the Association is located at 230 South Phillips Avenue, Suite 202, Sioux Falls, South Dakota 57104.

**ARTICLE III  
REGISTERED AGENT**

Donald A. Dunham, Jr., whose address is 230 South Phillips Avenue, Suite 202, Sioux Falls, South Dakota 57104, is hereby appointed the initial registered agent of this Association.

**ARTICLE IV  
PURPOSE AND POWERS OF THE ASSOCIATION**

This Association does not contemplate pecuniary gain or profit to the members thereof, and the specific purposes for which it is formed are to provide for maintenance, preservation and architectural control of the residence lots and common area within that certain tract of property described as the Diamond Valley Addition to the city of Sioux Falls, SD and to promote the health, safety and welfare of the residents within the above-described property and any additions thereto as may hereafter be brought within the jurisdiction of this Association for this purpose to:

(a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded in the Office of Register of Deeds, Lincoln County, South Dakota, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

(b) fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration; to pay all expenses in connection therewith and all office and other expenses incident to the conduct of the business of the Association, including all licenses, taxes or governmental charges levied or imposed against the property of the Association;

(c) acquire (by gift, purchase, or otherwise) own, hold, improve, build upon, operate, maintain, convey, sell, lease, transfer, dedicate for public use or otherwise dispose of real or personal property in connection with the affairs of the Association;

(d) borrow money, and with the assent of two-thirds (2/3) of each class of members mortgage, pledge, deed in trust, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred;

(e) dedicate, sell or transfer all or any part of the Common Area to any public agency, authority, or utility for such purposes and subject to such conditions as may be agreed to by the members. No such dedication or transfer shall be effective unless an instrument has been signed by two-thirds (2/3) of each class of members, agreeing to such dedication, sale or transfer;

(f) participate in mergers and consolidations with other nonprofit corporations organized for the same purposes or annex additional residential property and Common Area, provided that any such merger, consolidation or annexation shall have the assent of two-thirds (2/3) of each class of members,

(g) have and to exercise any and all powers, rights and privileges which a corporation organized under the Non-Profit Corporation Law of the State of South Dakota by law may now or hereafter have or exercise.

## **ARTICLE V MEMBERSHIP**

Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. 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 separated from ownership of any Lot which is subject to assessment by the Association.

## **ARTICLE VI VOTING RIGHTS**

The Association shall have two classes of voting membership:

**Class A.** Class A members shall be all Owners, with the exception of the Declarant, and shall be entitled to one vote for each Lot owned. When more than one person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they determine, but in no event shall more than one vote be cast with respect to any Lot.

The Unit's vote shall be suspended if more than one person seeks to exercise it.

**Class B.** The Class B Member shall be the Declarant. The rights of the Class B member, including the right to approve actions taken under this Declaration and the By-Laws, are specified elsewhere in this Declaration or the By-Laws. The Class B member shall be entitled to one vote per Unit owned and in addition, shall be entitled to appoint a majority of the members of the Board of Directors during the Class B control period as specified in Article III, Section 2 of the By-Laws. After termination of the Class B control period, the Class B member shall have the right to disapprove actions of the Board of Directors and any committee as provided in Article III, Section 3 of the By-Laws.

The Class B Membership shall cease and terminate upon the happening of either of the following events, whichever first occurs:

- a. When 100% of the Units within Diamond Valley Townhomes Association are sold; or
- b. On December 31, 2012.
- c. When in its discretion, the Class B Member so determines.

## **ARTICLE VII BOARD OF DIRECTORS**

The affairs of the Association shall be managed by an initial Board of Directors consisting of not less than three (3) Directors, who need not be members of the Association. At the first annual meeting, the number of directors shall be increased from three (3) to five (5). The number of directors may be changed by amendment of the By-Laws of the Association. The names and addresses of the persons who are to act in the capacity of directors until the selection of their successors are:

<u>NAME</u>	<u>ADDRESS</u>
Donald A. Dunham, Jr.	230 South Phillips Avenue, Suite 202 Sioux Falls, SD 57104

Brenda Clow 230 South Phillips Avenue, Suite 202  
Sioux Falls, SD 57104

Darla Jorgensen 230 South Phillips Avenue, Suite 202  
Sioux Falls, SD 57104

At the first annual meeting, the members shall elect two directors for a term of one year and three directors for a term of two years..

**ARTICLE VIII  
INCORPORATORS**

The name and address of each Incorporator is as follows:

<u>NAME</u>	<u>ADDRESS</u>
Donald A. Dunham, Jr.	230 South Phillips Avenue, Suite 202 Sioux Falls, SD 57104
Brenda Clow	230 South Phillips Avenue, Suite 202 Sioux Falls, SD 57104
Darla Jorgensen	230 South Phillips Avenue, Suite 202 Sioux Falls, SD 57104

**ARTICLE IX  
REGULATION OF INTERNAL AFFAIRS AND DISSOLUTION**

Provisions for the regulation of the internal affairs of the Association are set forth in the By-Laws and include, but are not necessarily limited to the following: The Association may be dissolved with the assent given in writing and signed by not less than two-thirds (2/3) of each class of members. 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 agency 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 nonprofit corporation, association, trust or other organization to be devoted to such similar purpose.

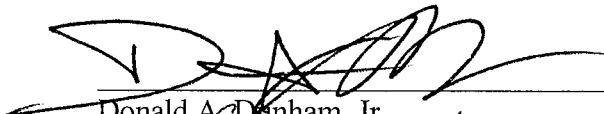
**ARTICLE X  
DURATION**

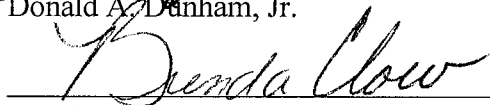
The corporation shall exist perpetually.

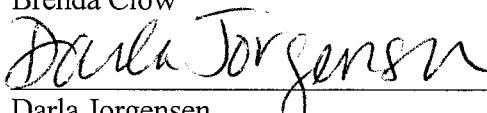
ARTICLE XI  
AMENDMENTS

Amendment of the Articles shall require the assent of 75 percent (75%) of the entire membership.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of South Dakota, we, the undersigned, constituting the incorporators of this Association, have executed these Articles of Incorporation this 22<sup>nd</sup> day of December, 2004.

  
\_\_\_\_\_  
Donald A. Dunham, Jr.

  
\_\_\_\_\_  
Brenda Clow

  
\_\_\_\_\_  
Darla Jorgensen

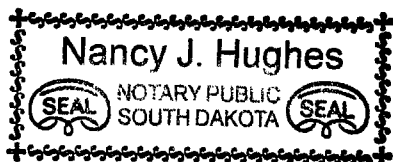
STATE OF SOUTH DAKOTA )

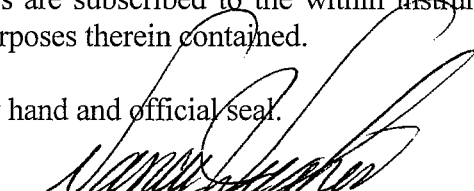
:SS

COUNTY OF MINNEHAHA )

On the 22<sup>nd</sup> day of December, 2004, before me, the undersigned officer, personally appeared Donald A. Dunham, Jr., Brenda Clow, and Darla Jorgensen, known to me or satisfactorily proven to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and official seal.

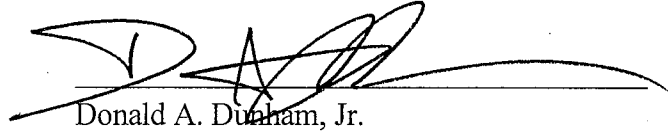


  
\_\_\_\_\_  
Notary Public - South Dakota  
My commission expires: 9/30/09

**CONSENT OF APPOINTMENT BY THE REGISTERED AGENT**

I, Donald A. Dunham, Jr., hereby consent to serve as registered agent for Diamond Valley Townhomes Association, Inc.

Dated December 22, 2004.

  
Donald A. Dunham, Jr.