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# STATE OF ARIZONA

## Corporation Commission



To all to Whom these Presents shall Come, Greeting:

GEORGE M. DEMPSEY

SECRETARY OF THE ARIZONA

CORPORATION COMMISSION, DO HEREBY CERTIFY THAT the annexed is a true and complete copy of the ARTICLES OF INCORPORATION

OF

COLONIA DEL NORTE UNIT ONE HOMEOWNERS ASSOCIATION, INC.

which were filed in the office of the Arizona Corporation Commission on the 3rd day of August, 1973, as provided by law.

IN WITNESS WHEREOF, I HAVE HERETO SET MY HAND AND AFFIXED THE OFFICIAL SEAL OF THE ARIZONA CORPORATION COMMISSION, AT THE CAPITOL, IN THE CITY OF PHOENIX, THIS 3rd DAY OF August, A. D. 1973

*George M. Dempsey*  
BY SECRETARY

ASSISTANT SECRETARY

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## ARTICLES OF INCORPORATION

OF

COLONIA DEL NORTE UNIT ONE HOMEOWNERS ASSOCIATION, INC.

In compliance with the requirement of Section 10-451 (1956) et seq., Arizona Revised Statutes, as amended, the undersigned, all of whom are residents of Maricopa County, Arizona, 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 COLONIA DEL NORTE UNIT ONE HOMEOWNERS ASSOCIATION, INC., hereinafter called the "Association".

## ARTICLE II

## PRINCIPAL OFFICE

The principal office of the Association is located at 19 West Alameda, Tempe, Arizona 85252.

## ARTICLE III

## STATUTORY AGENT

Unofficial Document

Harry J. Cavanagh, Suite 1800, First Federal Savings Building, 3003 North Central Avenue, Phoenix, Arizona 85012, who has been a bona fide resident of Arizona for at least three (3) years, is hereby appointed and designated statutory agent for the corporation, for the State of Arizona, upon whom service of process may be had. This appointment may be revoked at any time by the filing of the appointment of another agent.

## ARTICLE IV

## PURPOSE AND POWERS OF THE ASSOCIATION

This Association does not contemplate pecuniary gain or profit to the members thereof, and the paramount and primary purpose of this Association is to promote and protect the common good and general welfare of the people of the community encompassed within this Association through the preservation and maintenance of the architecture, ecology, and aesthetic beauty of the Common Area and the Lots included within that certain property described as follows:

COLONIA DEL NORTE UNIT ONE, a subdivision of Maricopa County, Arizona, recorded in the Office of the County Recorder of Maricopa County, Arizona, in Book 161, Page 19.

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and to promote the health, safety, and welfare of the residents within the above described Properties and any additions thereto as may hereafter be brought within the jurisdiction of this Association, and for these purposes 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 Properties and recorded or to be recorded in the Office of the County Recorder of Maricopa County, Arizona, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth in full herein;

(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 <sup>Original Document</sup> or 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;

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(f) Participate in mergers and consolidations with other nonprofit corporations organized for the same purpose, 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) Establish and adopt, amend and repeal Bylaws and rules and regulations deemed necessary and expedient to carry into effect the object and purposes heretofore recited in accordance with the laws of the State of Arizona relating to nonprofit corporations;

(h) Accept as part of the Properties and exercise jurisdiction over all property annexed thereto, and to accept all Owners thereof (including Declarant) as Members of the Association;

(i) Accept and exercise jurisdiction over, (1) all Common Area which may be conveyed, leased or otherwise transferred to it by Declarant, (2) all Common Area which may be annexed to the Properties, and (3) all easements for operation and maintenance purposes which may be conveyed to it by Declarant over any and all Common Area within the Properties;

(j) Operate and maintain, or provide for the operation and maintenance of (1) all Common Area which may be conveyed, leased or otherwise transferred to it by Declarant, (2) all Common Area which may be annexed to the Properties, (3) all Common Area within the Properties in which it owns an easement for operation and maintenance purposes, and (4) all other areas which the Board of Directors determines should be included within the activities of the Association, and to keep all improvements of whatever kind and for whatever purpose from time to time located thereon in good order and repair;

(k) Enter upon and maintain, or provide for the maintenance of, any improvement, structure, or landscaping on any Lot which is not maintained by the Owner responsible therefor in accordance with the requirements of the Declaration;

(l) Pay all property taxes and all other taxes and assessments levied upon any real or personal property conveyed, leased or otherwise transferred to the Association, to the extent not assessed to the Owners thereof. Such taxes and assessments may be contested or compromised by the Association; provided, however, that they are paid or a bond insuring the payment is posted prior to the sale or other disposition of any property to satisfy the payment of such taxes;

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(m) In the sole discretion of the Board, contract for or provide (to the extent adequate services are not provided by a public authority) police and fire protection, refuse disposal, security patrol, street light maintenance and such other services, facilities and maintenance of a public or quasi-public nature as may be deemed necessary or desirable for the effectuation of the purposes of the Declaration. In connection with the provision of such facilities and services, the Association may contract with, assign, or delegate its duties to any public authority, governmental body or special district;

(n) Obtain and maintain in force such policies of insurance, including but not limited to, indemnity bonds, as the Board shall deem necessary or expedient to carry out the Association functions as set forth in the Declaration, the Articles and Bylaws. Such insurance where applicable, and to the extent possible, shall name as separately protected insureds Declarant, the Association, the Board, the architectural committee, and their representatives, members and employees, the members of any other committees appointed by the Board, all officers of the Association, the agents, representatives and employees of the Association, and the Association members (as a class), with respect to any liability arising out of the activities of the Association and the maintenance and use of any area or property of the Association;

(o) Make, establish, promulgate, amend and repeal the Association Rules as provided for in said Declaration;

(p) Appoint and remove members of the architectural committee as provided for in said Declaration.

(q) In its own name, on its own behalf or on behalf of any Owner or Owners who consent thereto, commence and maintain actions and suits to restrain and enjoin any breach or threatened breach of the Declaration and to enforce, by mandatory injunction or otherwise, all of the provisions of said Declaration. When in the discretion of the Board it is determined that an Owner or Member has failed, refused, or neglected to comply with any provision contained in the Declaration, the Association may remedy the non-compliance, and in such event, the Owner or Member shall reimburse the Association for all expenses incurred in connection therewith upon demand, including, as such expenses, and without limitation thereof, all reasonable attorney and accountant fees, court costs, investigation, and collection fees;

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(r) Employ the services of any person, corporation, or other entity, as Manager, and other employees, including, but not limited to, one or more secretaries, architects, engineers, consultants, attorneys, to manage and conduct the business of the Association, and, to the extent not inconsistent with the laws of the State of Arizona and upon such conditions as are otherwise deemed advisable by the Board, to delegate to any of said persons any of its rights, powers and duties;

(s) The Board may, in its sole discretion, establish whatever committees it deems necessary, either temporary or permanent, to carry out the intent and purposes of the Declaration, the Articles and the Bylaws. Any committee member may be a member of the Board, an Owner, a Member, or such other person as the Board may appoint, for whatever term or terms the Board deems appropriate. To the extent not inconsistent with the laws of the State of Arizona, and upon such conditions as are otherwise deemed advisable by the Board, the Board may delegate to any such Committee or committees any of its rights, powers, and duties;

(t) Except as to the payment of assessments, grant to any Owner or Member a variance, waiver, or modification of and from any of the provisions of the Declaration, the Articles, or the Bylaws, upon the unanimous approval of the Board, whenever it is determined by the Board that same would be in the best interests of the Association;

(u) Upon such terms and conditions as the Board may determine, the Association may issue an estoppel certificate binding the Association to the position or determination stated therein relating to the payment of assessments by an Owner, and past and present, but not future, actions of the Association. Anyone interested therein shall be entitled to rely on the matters stated therein. Said certificate to be valid and binding on the Association shall be executed by at least one Member of the Board, or the President of the Association, or such other person or persons as the Board in its discretion may determine and designate.

(v) 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 Arizona by law may now or hereafter have or exercise;

(w) 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 non-profit corporation;

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(x) No part of the net earnings of the Association shall inure to the benefit of, or be distributed to, its Members, Board of Directors, officers and other private persons, except that the Association shall be authorized and empowered to pay reasonable compensation for the services rendered and make payments and distributions in furtherance of the purposes set forth in Article IV hereof. No part of the activities of the Association shall be the carrying on of propaganda or otherwise intending to influence legislation, the Association shall not participate in, or intervene in (including the publication or distribution of statements) any political campaign on behalf of any candidate for public office;

(y) Notwithstanding any other provisions in these Articles, the Association shall not carry on any other activity not permitted to be carried on in (i) by a corporation exempt from federal income tax law under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law), or (ii) by a corporation contributions to which are deductible under Section 170(c)(2) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law);

(z) Upon the dissolution of the Association, the Board of Directors shall, after paying or making provision for the payment of all liabilities of the Association, dispose of all the assets of the Association exclusively for the purposes of the Association in such manner or to such organization or organizations organized and operated exclusively for the charitable, educational, religious or scientific purposes as shall at that time qualify as an exempt organization or organizations under Section 501(c)(3) of the Internal Revenue Code of 1954 (or the corresponding provision of any future United States Internal Revenue Law) as the Board of Directors shall determine. Any of such assets not disposed of shall be disposed of by the Superior Court of the State of Arizona in and for the County of Maricopa exclusively for the purposes or to such organization or organizations as said court shall determine, which are organized and operated exclusively for such purposes.

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## ARTICLE V

## MEMBERSHIP

Every person or entity who is a record Owner in any Lot which is subject to the Declaration 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 those Owners as defined in Article V with the exception of the Declarant. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Article V. When more than one person holds such interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one vote be cast with respect to any Lot.

Class B. The Class B member(s) shall be the Declarant (as defined in the Declaration). <sup>Unit(s)</sup> The Class B member(s) shall be entitled to three (3) votes for each Lot in which it holds the interest required for membership by Article V, provided that the Class B membership shall cease and be converted to Class A membership at such time as the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership.

The vote for each such lot must be cast as a unit, and fractional votes shall not be allowed. In the event that joint Owners are unable to agree among themselves as to how their vote or votes shall be cast, they shall lose their right to vote on the matter in question. If any Owner or Owners casts a vote representing a certain lot, it will thereafter be conclusively presumed for all purposes that he or they were acting with the authority and consent of all other Owners of the same lot. In the event more than one vote is cast for a particular lot, none of said votes shall be counted as said votes shall be deemed void.



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In any election of the members of the Board, every Owner entitled to vote at such an election shall have the right to cumulate his votes and give one candidate, or divide among any number of the candidates, a number of votes equal to the number of lots owned by the Owner multiplied by the number of Directors to be elected. The candidates receiving the highest number of votes, up to the number of the Board members to be elected, shall be deemed elected.

In the event any Owner shall be in arrears in the payment of any amounts due under any of the provisions of any recorded Declaration of Restrictions, or shall be in default in the performance of or in breach of any of the terms of any such recorded Declaration of Restrictions, said Owner's right to vote as a member of the Association and right to use of the recreational facilities may be suspended and may remain suspended until all payments are brought current and all defaults and breaches remedied.

## ARTICLE VII

## BOARD OF DIRECTORS

The affairs of the corporation shall be conducted by a Board of Directors and such officers as the Directors may elect or appoint. Neither the Directors nor the officers need be members of the Association. The number of Directors shall not be fewer than three (3) nor more than eleven (11). The number of directors may be changed by amendment of the Bylaws of the Association. The names, residences, and Post Office addresses of the first directors of the Corporation are as follows, the election for Directors having been held at

Tempe, Arizona, on July 31, 1973, at 4:00 o'clock P.M.

Name	Residence	Mailing Address
Thomas A. Cavanagh	3133 N. Valencia Lane Phoenix, Arizona 85018	Same
Thomas E. Knoell	1719 E. Gaylon Drive Tempe, Arizona 85282	Same
Donald R. Lich	12623 S. 71st Street Tempe, Arizona 85283	Same
Jolce Houx	507 Solana Drive Tempe, Arizona	Same
Marilyn Boice	Route #2, Box 102A Chandler, Arizona	Same
James L. Sullins	2166 E. Golf Ave. Tempe, Arizona 85282	Same
John R. Gabler	1961 Del Sur Drive Tempe, Arizona 85282	Same

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The election of the Members of the Board of Directors is hereby ratified and the Directors shall serve until the first Annual Meeting of the Members and until their successors have been elected and qualified.

Directors shall be elected by the Members of the corporation at the annual meeting thereof to be held on the Second Wednesday in the month of May beginning in 1974. Directors shall hold office for one (1) year, or until their successors are elected and qualified. Any vacancy occurring on the Board of Directors by reason of death, resignation, or disqualification of any such Director shall be filled by the remaining Directors; such replacement Director to serve the unexpired portion of the prior Director's term. The Board of Directors is expressly authorized to adopt, amend, and rescind Bylaws for the Corporation.

## ARTICLE VIII

## DISSOLUTION

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 purposes.

## ARTICLE IX

## 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 endure until the termination thereof as provided by the laws of the State of Arizona with the privilege of renewal as provided by law.

## ARTICLE X

## AMENDMENTS

The Articles of Incorporation may be amended by the affirmative vote of a majority of the Members present at a meeting called for that purpose, provided notice thereof is given in accordance with Arizona Revised Statutes 10-452 C. (1956), as same may be amended from time to time.

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## ARTICLE XI

## INDEBTEDNESS OR LIABILITY

The highest amount of indebtedness or liability, direct or contingent to which the corporation is at any time to subject itself is Five Hundred Thousand Dollars (\$500,000.00).

## ARTICLE XII

## EXEMPTION

The private property of the members, directors, and officers of this corporation shall be forever exempt from its debt and obligations.

## ARTICLE XIII

## ASSESSMENT

For the purpose of providing necessary funds for the carrying out of the purposes of this corporation as aforesaid and the necessary operating expenses of this corporation, there shall be levied against each Lot in the Properties and each Lot Owner and Member of the Association, an annual assessment and other assessments, in the amounts and by the procedures set forth in the Declaration covering the Properties, which said assessments shall be due, payable and enforceable in the manner set forth in said Declaration.

## ARTICLE XIV

## 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. Whenever any director, officer, former director or former officer shall report to the President of the corporation or the Chairman of the Board of Directors that he 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 for or on account of any action or omission alleged to have been committed by him while acting within the scope of his 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

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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 wilfully, with gross negligence or with fraudulent or original intent. If the Board of Directors determines in good faith that such person did not act, failed to act, or refused to act wilfully or with gross negligence or with fraudulent or original 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. 10-198, 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.

IN WITNESS WHEREOF, for the purpose of forming this corporation under the laws of the State of Arizona, we, the undersigned constituting the incorporators of this Association, have executed these Articles of Incorporation this 31 day of July, 1973.

Donald R. Leim  
Donald R. Leim  
12630 N. 71st Street  
Tempe, Arizona 85283

Thomas E. Knoell  
Thomas E. Knoell  
1719 East Gaylen Drive  
Tempe, Arizona 85282

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Thomas A. Cavanagh  
Thomas A. Cavanagh  
3133 N. Valencia Lane  
Phoenix, Arizona 85018

STATE OF ARIZONA )  
                          ) ss  
COUNTY OF MARICOPA )

On this the 31st day of July, 1973, before me, the undersigned officer, personally appeared DONALD R. LEIM, THOMAS E. KNOELL, and THOMAS A. CAVANAGH, known to me to be the persons whose names are subscribed to the within instrument and acknowledged that they executed the same for the purposes therein set forth.

In Witness Whereof, I hereunto set my hand and official seal.

Ella Mae Oliver  
Notary Public

My commission expires  
May 1, 1975

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**ARIZONA CORPORATION COMMISSION**  
INCORPORATING DIVISION

**FILED**

Unofficial Document

**AUG 3 1973**

1:45 P.M.

*(Signed by)*  
**O'Connor, Cavanagh, Anderson, Westover, Killingsworth & Beshears**  
3001 N. Central  
Federal Savings Bldg.,  
Phoenix, Arizona 85012

**SECRETARY**

George M. Dempsey

STATE OF ARIZONA }  
County of Maricopa } ss

I hereby certify that the within instrument was filed and recorded at request of  
**O'CONNOR CAVANAGH & CO**

**AUG 3 1973 2 48**

to Doc# **10252**  
of page **1373-1385**

Witness my hand and official seal this day and year aforesaid.

*(Signature)*  
Deputy Recorder

6.00