

State of West Virginia



Certificate

I, Ken Hechler, Secretary of State of the State of West Virginia, hereby certify that

by the provisions of Chapter 31, Article 1, Sections 27 and 28 of the West Virginia Code, the Articles of Incorporation of

RIMFIRE LODGE CONDOMINIUM ASSOCIATION, INC.

conform to law and are filed in my office. I therefore declare the organization to be a Corporation for the purposes set forth in its Articles, with the right of perpetual existence.

Therefore, I hereby issue this

CERTIFICATE OF INCORPORATION

to which I have attached a duplicate original of the Articles of Incorporation

Leresa Hoskins
P.O. Box 553
Charleston, WY 25302



Given under my hand and the Great Seal of the State of West Virginia on this
Thirteenth _____ day of
May 19 99

Ken Hechler
Secretary of State

MAY 19 1999
IN THE OFFICE OF
SECRETARY OF STATE
WEST VIRGINIA
C.N. 11541

**ARTICLES OF INCORPORATION
OF
RIMFIRE LODGE CONDOMINIUM ASSOCIATION, INC.**

The undersigned adult natural person, acting as incorporator under West Virginia Code § 31-1-27, hereby adopts the following Articles of Incorporation for such corporation, FILED IN DUPLICATE:

**ARTICLE I
NAME/DURATION**

The name of the corporation is Rimfire Lodge Condominium Association, Inc. The corporation shall have perpetual existence.

**ARTICLE II
NON-PROFIT STATUS**

The Corporation shall be a non-profit corporation within the meaning of W. Va. Code § 31-1-7(n).

**ARTICLE III
PRINCIPAL OFFICE AND APPOINTED AGENT FOR SERVICE**

The address of the principal office of said Corporation shall be 1 Silver Creek Parkway, P. O. Box 361, Snowshoe, West Virginia 26209. The name and address of the appointed person to whom notice or process should be made is the President.

**ARTICLE IV
DEFINITIONS**

As used in these Articles, any capitalized terms shall have the meanings given to them in the Declaration Establishing Rimfire Lodge Condominium at Snowshoe Mountain Resort, Pocahontas County, West Virginia, by Intrawest Resorts, Inc., and recorded in the office of the Clerk of the County Commission of Pocahontas County, West Virginia.

ARTICLE V
MEMBERSHIP AND VOTING

5.01 Membership.

(a) There shall be one Membership appurtenant to each Unit. The Membership appurtenant to a Unit shall be held by the Owners of that Unit and may not be separated from the Unit to which it is appurtenant. A Membership may be transferred or encumbered only in connection with the conveyance or encumbrance of a fee simple interest in the Unit to which the Membership is appurtenant. Any transfer or encumbrance of a Membership other than as permitted in this Section 5.01 shall be void and have no force or effect.

(b) Notwithstanding anything to the contrary contained in paragraph 5.01(a) above, an Owner may assign its voting rights to any Person by a duly executed proxy timely delivered to the Corporation.

5.02 Voting.

(a) The total number of votes appurtenant to the initial 144 Units shall be 221. The 221 votes shall be allocated among the initial Units as follows:

(i) each Residential Unit shall be entitled to one vote;

(ii) each Commercial Unit shall be entitled to the number of votes calculated as follows:

$$\begin{array}{l} \text{Number} \\ \text{of} \\ \text{Votes} \end{array} = 80 \times \frac{\text{(Area of the Commercial Unit)}}{\text{(Total Commercial Unit Area);}}$$

(b) If any Units are added to or withdrawn from the Condominium, or the Area of one or more Commercial Units is increased or decreased, the total number of votes allocated to all Units and the allocation thereof after such addition, withdrawal, increase or decrease shall be recalculated as follows:

(i) each Residential Unit shall be entitled to one vote;

(ii) each Commercial Unit shall be entitled to the number of votes equal to the product obtained by multiplying (A) the quotient obtained by

dividing (I) the Area of that Commercial Unit, by (II) the Total Commercial Unit Area, by (B) a factor equal to 56 percent of the then current number of Residential Units, it being the intent of this Declaration to provide to the Owners of the Commercial Units the ability to elect one-third of the Directors to the Executive Board after the expiration of the Declarant Control Period.

(c) Each Unit shall be entitled to the number of votes allocated to it in accordance with paragraphs 5.01(a) and (b) above, regardless of the number of Owners of the Unit. Fractional voting shall be allowed for votes allocated to Commercial Units, but shall not be allowed for votes allocated to Residential Units. If the Owners of a Residential Unit cannot agree among themselves as to how to cast their votes on a particular matter, they shall lose their right to vote on such matter. If any Owner casts a vote representing a particular Residential Unit, it will thereafter be presumed for all purposes that the Owner was acting with the authority and consent of all other Owners with whom such Owner owns the Residential Unit, unless objection thereto is made by an Owner of that Residential Unit to the Person presiding over the meeting at the time the vote is cast. If more than the number of allocated votes are cast for any particular Unit, none of such votes shall be counted and all of such votes shall be deemed null and void.

(d) The Corporation shall have no voting rights for any membership appurtenant to any Unit owned by the Corporation.

(e) In any election of Directors to the Executive Board, every Unit shall have the number of votes equal to the product obtained by multiplying the number of notes allocated to that Unit in accordance with Section 5.02(a) and (b) by the number of Directors to be elected. Cumulative voting shall be allowed for the election of Directors of the Executive Board, but for no other purpose.

ARTICLE VI PURPOSES AND POWERS

6.01 Purposes and Powers.

(a) The Corporation's purposes are:

(i) to manage, operate, insure, improve, repair, replace and maintain the Common Elements;

(ii) to provide certain facilities, services and other benefits to the Owners;

(iii) to administer and enforce the covenants, conditions, restrictions, reservations and easements created hereby;

(iv) to levy, collect and enforce the Assessments, charges and liens imposed pursuant hereto;

(v) to enter into agreements with other Persons, including, without limitation, easements, licenses, leases and other agreements with the Declarant, any governmental or quasi-governmental entity or any other Person, which contemplates the sharing of expenses among the Corporation and such other Persons for Improvements, facilities and services that serve the Corporation and such other Persons;

(vi) to take any action that it deems necessary or appropriate to protect the general welfare of Owners; and

(vii) to regulate and manage the Condominium.

(b) Unless expressly prohibited by law or any of the Association Documents, the Corporation may:

(i) take any and all actions that it deems necessary or advisable to fulfill its purposes;

(ii) exercise any powers conferred on it by the Act or any Association Document; and

(iii) exercise all powers that may be exercised in West Virginia by nonprofit corporations.

(c) Without in any way limiting the generality of paragraph 4.02(b) above, the Corporation may, but is not obligated to:

(i) provide or contract for certain facilities and services to the Owners, such as (A) recreational facilities and services, (B) water, sewer, gas, electric, cable television and other utility services, (C) parking facilities, (D) trash collection facilities and services, and (E) snow removal facilities and services;

(ii) acquire, sell, lease and grant easements over, across and through Common Elements;

(iii) borrow monies and grant security interests in the Common Elements and in the assets of the Corporation as collateral therefor;

(iv) make capital improvements, repairs and replacements to the Common Elements; and

(v) hire and terminate managing agents and other employees, agents and independent contractors.

6.02 Restrictions on Purposes and Powers.

The purposes and powers of the Corporation described in Sections 6.01 above are subject to the following limitations:

(a) To the extent eligible, the Corporation shall be organized and operated exclusively for nonprofit purposes as set forth in Section 528 of the Internal Revenue Code of 1986, as amended, or in any corresponding provision of any future law of the United States of America providing for exemption of similar organizations from income taxation.

(b) No part of the net earnings of the Corporation shall inure to the benefit of any Owner, except as expressly permitted in paragraph 6.02(c) below with respect to the dissolution of the Corporation.

(c) The Corporation shall not pay any dividends. No distribution of the Corporation's assets to Owners shall be made until all of the Corporation's debts are paid, and then only upon the final dissolution of the Corporation as permitted in the Declaration. Upon payment of all of the Corporation's debts and final dissolution, any remaining assets of the Corporation shall be distributed among the Owners in accordance with the terms and conditions of the West Virginian Common Ownership Interest Act.

ARTICLE VII
EXECUTIVE BOARD

7.01 Executive Board.

(a) The business and affairs of the Corporation shall be controlled, conducted and managed by the Executive Board, except as otherwise provided in the West Virginia Corporation Act, the Declaration, these Articles or the Bylaws.

(b) Except as provided by law or in the Declaration, these Articles or the Bylaws, the Executive Board may act on behalf of the Corporation in all instances. The Executive Board may not however, act on behalf of the Corporation to (i) amend the Declaration; (ii) terminate the Corporation, the Declaration or the Condominium; (iii) elect Directors to the Executive Board, other than to fill a vacancy for the unexpired portion of any Director's term, subject to Declarant's rights under Section 7.02 below; or (iv) determine the qualifications, powers and duties, or terms of office, of Directors.

(c) The Executive Board shall consist of three Directors. The names and addresses of the initial Directors are as follows:

<u>Name</u>	<u>Address</u>
Thomas M. Wallington	1 Silver Creek Parkway, P. O. Box 361 Snowshoe, WV 25209-0361
Rebecca B. Furbee	1 Snowshoe Drive, Snowshoe Discovery Center P. O. Box 363 Snowshoe, WV 26209
Nate Fisher	1 Silver Creek Parkway, P. O. Box 361 Snowshoe, WV 25209-0361

7.02 Declarant Control Period.

(a) Subject to the terms and conditions of paragraphs 7.02(b) and (c) below, but notwithstanding anything else to the contrary contained in these Articles or in any other Association Document, Declarant shall have the exclusive right to appoint and remove all Directors and Officers during the Declarant Control Period. The phrase "Declarant Control

Period" means the period commencing on the date hereof and ending on the earliest to occur of:

(i) the date that is sixty days after conveyance to Purchasers of 75 percent of the maximum number of Units that may be created by Declarant under the Declaration;

(ii) the date that is two years after the last conveyance of a Unit by Declarant or a Successor Declarant in the ordinary course of business; or

(iii) the date that is two years after any right to add new Units was last exercised.

(b) Declarant may voluntarily surrender its right to appoint and remove Directors and Officers prior to the expiration of the Declarant Control Period, but, in that event, Declarant may require, for the remainder of the Declarant Control Period, that specific actions of the Corporation or the Executive Board, as described in a recorded instrument executed by Declarant, be approved by the Declarant before they become effective.

(c) Notwithstanding anything to the contrary contained in paragraph 7.02(a) above, not later than sixty days after the conveyance of 25 percent of the Units that may be created under the Declaration to Purchasers, one Director appointed by Declarant shall be replaced with a Director elected by Owners other than Declarant.

(d) During the thirty-day period immediately preceding the date on which the Declarant Control Period expires, the Owners shall elect an Executive Board of three Directors, at least a majority of whom must be Owners other than Declarant or designated representatives of Owners other than Declarant. Such Directors shall take office upon election.

ARTICLE VIII LIABILITY AND INDEMNIFICATION

8.01 Limits on Directors' Liability.

To the fullest extent permitted by the West Virginia Common Ownership Act and the West Virginia Corporation Act, as the same exist or may hereafter be amended, a Director shall not be liable to the Corporation or the Owners for monetary damages for breach of fiduciary duty. Any repeal or modification of this Section 8.01 shall be

prospective only and shall not adversely affect any right or protection of a Director existing at the time of such repeal or modification.

8.02 Indemnification.

Each director and officer and former director and officer of the Corporation, his heirs and personal representatives, shall be indemnified by the corporation against costs and expenses at any time reasonably incurred by him arising out of or in connection with any claim, action, suit or proceeding, civil or criminal, against him or to which he may be made a party by reason of his being or having been such director or officer, except in relationship to matters as to which he shall be adjusted in such action, suit or proceeding, to be liable for gross negligence or willful misconduct in the performance of a duty to the Corporation. If, in the judgment of the Board of Directors of the Corporation, a settlement of any claim, action, suit or proceeding, so arising shall be deemed in the best interest of the Corporation, any such director or officer shall be reimbursed for any amounts paid by him in effecting such settlement and reasonable expenses incurred in connection therewith. The foregoing right of indemnification shall be in addition to any and all other rights to which any director or officer may be entitled as a matter of law.

ARTICLE IX BYLAWS

The initial Bylaws of the Corporation shall be adopted by the Executive Board. The Executive Board shall have the power to alter, amend or repeal the Bylaws from time to time and to adopt new Bylaws. The Bylaws of the Corporation may contain any provisions for the regulation or management of the affairs of the Corporation that are not inconsistent with law, the Declaration or these Articles.

ARTICLE X AMENDMENT

The Corporation may amend, alter, change or repeal any provision contained in these Articles by, unless a higher voting requirement is set forth herein with respect to any particular provisions, the vote of the holders of at least 67 percent of the votes allocated to all Memberships at any regular or special meeting called for that purpose at which a quorum is represented. The Corporation's right to amend, alter, change or repeal these Articles is subject to the limitations thereon set forth in the Declaration.

**ARTICLE XI
INCORPORATOR**

The name and address of the incorporator is:

Ellen S. Cappellanti
Jackson & Kelly
1600 Laidley Tower
P. O. Box 553
Charleston, WV 25322

Dated: May 27, 1999

Ellen S. Cappellanti
Incorporator

STATE OF WEST VIRGINIA,

COUNTY OF KANAWHA, to-wit:

I, *Sheila L. Ryker*, a notary public in and for the County and State aforesaid, hereby certify that Ellen S. Cappellanti, whose name is signed to the foregoing Articles of Incorporation, bearing date the 27th day of May, 1999, this day personally appeared before me in my said County and acknowledged her signature to be the same.

Given under my hand and official seal this 27th day of May, 1999.

My commission expires: 2/19/06

Sheila L. Ryker
Notary Public

[NOTARIAL SEAL]

FILED

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POCAHONTAS CO. CLERK
MARLINTON, WEST VA.

WEST VIRGINIA, CLERK'S OFFICE
OF THE COUNTY COMMISSION
OF POCAHONTAS COUNTY

May 17, 1999

... this day presented to me in my
... been and seen together with the
... acknowledgement thereunder
w. ...

Test: Patricia D. Dumbreck Clerk
By: Kay E. Till Deputy

Recorded May 17, 1999 in
the Office of the Clerk of the County
Commission of Pocahontas County, W. Va. in
Deed Book No. 260 Page 157

Patricia D. Dumbreck Clerk
By: Kay E. Till Deputy

