

**AMENDED AND RESTATED  
ARTICLES OF INCORPORATION  
OF  
SOMERSET SWIM & TENNIS CLUB  
(A NONPROFIT CORPORATION)**

Pursuant to the provisions of the Colorado Revised Nonprofit Corporation Act ("Act"), the undersigned, Somerset Swim & Tennis Club, a Colorado nonprofit corporation ("Corporation"), adopts the following Amended and Restated Articles of Incorporation.

The Amended and Restated Articles of Incorporation were duly approved and adopted by a vote of the Members of the Corporation in accordance with the Act and consent of two-thirds of a quorum of Members voting, in person or by proxy, at the annual meeting of the Corporation held on June 13, 2023. The number of Members voting for the Amendment and Restatement was sufficient for approval thereof.

Articles FIRST through THIRTEENTH of the Articles of Incorporation dated July 31, 1995, Articles of Amendment FIRST through THIRD dated August 26, 1997, and Articles of Amendment dated June 12, 2012 are removed in their entirety and restated as follows:

**ARTICLE 1 – NAME**

The name of the Corporation is Somerset Swim & Tennis Club.

**ARTICLE 2 – DURATION**

The duration of the Corporation shall be perpetual.

**ARTICLE 3 – PURPOSES AND POWERS OF THE CORPORATION**

3.1 The Corporation is the representative body for a recreational facility ("SSTC") located within the Somerset Estates Subdivision ("Community"), located in the County of Boulder, Colorado and is incorporated under the Colorado Revised Nonprofit Corporation Act, as amended.

3.2 The Corporation shall provide for the management, maintenance, and operation of SSTC. Without limitation of its general powers, the Corporation shall have the power to:

- (a) Adopt, alter, amend, or repeal the Bylaws, Rules and Regulations, and other governing documents of the Corporation for the proper management of the affairs of the Corporation, subject to the terms of these Articles of Incorporation and the Act.
- (b) Adopt and amend budgets for the operation of SSTC; fix, levy, and collect payment of amounts assessed to the Members; and pay all expenses incident to the conduct of business of SSTC.
- (c) Subject to the Act, to acquire by lease, purchase, contract, concessions, or otherwise, and to own, develop, explore, exploit, improve, operate, lease, subdivide, enjoy, control, manage, mortgage, encumber, grant, sell, exchange, convey, or otherwise dispose of any and all real estate, lands, options, concessions, grants, land patents, franchises, rights, privileges, easements, tenements, estates, hereditaments, interests, and properties of every description and nature whatsoever which the Corporation may deem wise and proper;

- (d) Subject to the Act, to purchase or otherwise acquire, own, hold, manage, manufacture, develop, sell, lease, encumber or otherwise dispose of and deal in personal property of every kind and description, tangible or intangible, including, but not being limited to, water, water rights, options, warrants, debentures, bonds; and other obligations and securities of corporations or other entities, whether in connection with or incidental or related to the purposes herein set forth or otherwise;
- (e) Plant, construct, install, reconstruct, repair, and maintain landscaping, irrigation, and drainage facilities;
- (f) Pay taxes, if applicable, on any income of the Corporation, its common properties and facilities;
- (g) Obtain and maintain insurance and provide for the indemnification of its officers and directors as further provided in the Bylaws;
- (h) Subject to the Act, to borrow funds for the benefit of the Corporation;
- (i) Hire and terminate managers and other employees, agents, and independent contractors;
- (j) Institute, defend, or intervene in litigation or administrative proceedings in its own name on matters affecting the Corporation;
- (k) Enforce the terms and provisions of any Rules and Regulations adopted hereafter;
- (l) Enter into, make, perform or enforce contracts, licenses, easements, leases and agreements of every kind and description, incur liabilities, and do all other acts necessary, appropriate or advisable in carrying out any purpose of the Corporation with any person, firm, corporation or other entity or agency, public or private; and,
- (m) Engage in activities which will foster, promote and advance the interests of SSTC.

3.3 In addition, the Corporation may conduct, engage in, and carry on the transaction of all lawful business, do any and all permitted acts, and shall have and exercise any and all powers, rights, and privileges which are granted to a nonprofit corporation under the laws of the State of Colorado.

#### **ARTICLE 4 – NONPROFIT**

The Corporation shall be a nonprofit corporation, and there shall be no capital stock of the Corporation.

#### **ARTICLE 5 – MEMBERSHIP AND VOTING RIGHTS**

5.1 Any person or entity who holds title to a Lot in the Community shall be a Member of the Corporation, except that the single owner of 8564 and 8580 Strawberry Lane holds one membership. Only Members that are current in payment of dues, whether assessed in past years or in the current year, are entitled to vote and have access to SSTC facilities (“Active Members”). Dues that are unpaid accrue to the Member’s account balance and are added to the balance due in each subsequent year. Members with outstanding dues may not use the facilities nor vote (“Inactive Members”). Members may not transfer their use of the facilities to a non-member or Inactive Member. Membership shall be automatically transferred to a new owner or owners upon the conveyance of a Lot; however, any unpaid dues also transfer to the new owner or owners. The total account balance including any unpaid and accrued dues is reported to the title company during escrow. Buyers must be told that if the balance of unpaid and accrued dues is not paid, they will not have access to SSTC facilities nor the right to vote, and the balance will remain with the Lot and continue to accrue. It is the intention of the Corporation for all unpaid and accrued dues to be paid in escrow per negotiation between the buyer and seller.

5.2 In addition to the Lots in the Community, the owners of 8401 Greenwood Dr and 8311 Sawtooth Ln, Niwot, Colorado are members with the same rights, privileges, and responsibilities as owners in the Community if all dues, current and past, are paid in full, with the exception that the membership for 8311 Sawtooth Ln is not transferable to a new owner and will terminate when the property is sold. Should either of these two become Inactive Members for a period of three years, the Board of Directors may permanently terminate such membership. No new memberships shall be offered.

5.3 Only Active Members may vote. Voting shall be one vote per Lot. No partial votes may be cast. If two or more individuals or entities own interests in a Lot, a Lot owner (or the designated representative of a Lot owner which is a corporation, partnership, limited liability company, trust, personal representative, or other organization or entity) who is present at a meeting of the Corporation shall be deemed to have the proxy of the other owners of such Lot and may cast the vote for such Lot; provided, however, that if more than one owner of a Lot is present at a meeting of the Corporation the several owners of such Lot must agree between themselves as to how they will vote or no vote may be cast.

5.4 The Active Members of the Corporation shall be of one voting class consisting of the owners of Lots in the Community that do not have a balance of unpaid and accrued dues. An Active Member may give their proxy to another Active Member of the Corporation or other designated person to vote on any matter or matters as defined in such proxy. The Active Members of the Corporation shall elect the Board of Directors.

5.5 As membership in the Corporation runs with the ownership of a Lot in the Community, members do not have the right to cancel their membership. If a member fails to pay dues, the membership is considered to be inactive, but the member will continue to receive an annual statement of the balance of the unpaid and accrued dues associated with the Lot.

5.6 The Board of Directors, at its sole discretion, may offer annual passes to people outside the Community. Holders of these passes are not Members of the Corporation and have no voting rights.

## **ARTICLE 6 – BOARD OF DIRECTORS**

6.1 The affairs of the Corporation shall be managed by a Board of Directors. The Board of Directors shall generally consist of five Directors, all of whom must be individual persons over the age of 18 who are Active Members in the Corporation, who shall serve until their successors are elected and qualified. If a Lot owner is a corporation, partnership, limited liability company, trust, personal representative, or other organization, or entity, such organization or entity may designate a representative who is an individual, and such representative may be elected to the Board of Directors. The number of Directors may be changed from time to time by a duly adopted amendment to the Bylaws, except that in no event may the number of Directors be less than three. Directors may be removed upon the affirmative vote of 67% of a quorum of Active Members voting at any annual meeting of the Corporation or at a special meeting duly called for that purpose.

6.2 A Director of the Corporation shall not be personally liable to the Corporation or the Members of the Corporation for monetary damages for breach of fiduciary duty as a Director, except for liability arising from (i) acts or omissions not in good faith, or which involve intentional misconduct or a knowing or willful violation of law, (ii) any transaction from which the Director derived any improper personal benefit or (iii) any other act expressly proscribed or for which directors are otherwise liable under the Act. Any repeal or modification of this paragraph by the Members of the Corporation hereafter shall not adversely affect any right or protection of a Director existing at the time of such repeal or modification.

6.3 The Corporation shall indemnify any Director or officer who was, is, or may be made a party to any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including an action by or in the right of the Corporation, by reason of the fact that he or

she is or was a Director or officer of the Corporation, against expenses, including attorney's fees, actually and reasonably incurred by him or her in connection with the action, suit, proceeding or investigation, and any judgments, fines and amounts paid in settlement, so long as he or she acted in good faith and in a manner he or she reasonably believed to be in, or not opposed to, the best interests of the Corporation, and so long as, with respect to any criminal action or proceeding, he or she had no reasonable cause to believe his or her conduct was unlawful.

#### **ARTICLE 7 – PRINCIPAL OFFICE AND REGISTERED AGENT FOR SERVICE AND ADDRESS**

The principal office of the Corporation shall be P.O. Box 136, Niwot, Colorado 80544. The current registered agent of the Corporation is Stephen Lehan, at the registered address of 6495 Strawberry Court, Niwot, CO 80503.

#### **ARTICLE 8 – AMENDMENT**

Except for the offices of the Corporation and Registered Agent set forth in Article 7 hereinabove, these Amended and Restated Articles of Incorporation may be amended, altered, changed, added to, or repealed only upon the affirmative vote of 67% of a quorum of Active Members voting at any annual meeting of the Corporation or at a special meeting duly called for that purpose.

#### **ARTICLE 9 – MERGER AND DISSOLUTION**

9.1 Any Articles of Merger with the Somerset Estates Homeowners Association, a Colorado Nonprofit Corporation in the County of Boulder, Colorado, must be approved by the affirmative vote of 67% of the total number of votes that may be cast by Active Members of the Corporation. Such Articles of Merger must include a provision similar to Article 5.2.

9.2 The Corporation may be dissolved upon the affirmative vote of 67% of the total number of votes that may be cast by Active Members of the Corporation, or as ordered by a court, or as provided by law. Upon Dissolution of the Corporation, the assets and liabilities of the Corporation shall be transferred to and assumed by the Somerset Estates Homeowners Association.

IN WITNESS THEREOF, the Corporation has caused these Amended and Restated Articles of Incorporation to be duly executed by its authorized representatives on this 31<sup>st</sup> day of June, 2023.

SOMERSET SWIM & TENNIS CLUB

By: [Signature]  
Title: PRESIDENT

By: [Signature]  
Title: Treasurer