

**Form 202**

Secretary of State  
P.O. Box 13697  
Austin, TX 78711-3697  
FAX: 512/463-5709

Filing Fee: \$25



**Certificate of Formation  
Nonprofit Corporation**

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Secretary of State of Texas  
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**Article 1 - Corporate Name**

The filing entity formed is a nonprofit corporation. The name of the entity is :

**BOULDER CANYON HOME OWNERS ASSOCIATION, INC.**

**Article 2 – Registered Agent and Registered Office**

A. The initial registered agent is an organization (cannot be corporation named above) by the name of:

**OR**

B. The initial registered agent is an individual resident of the state whose name is set forth below:

**Name:**

**DOUGLAS A. LITTLE**

C. The business address of the registered agent and the registered office address is:

**Street Address:**

**7910 Gateway East Blvd., Suite 102 El Paso TX 79915**

**Consent of Registered Agent**

A. A copy of the consent of registered agent is attached.

**OR**

B. The consent of the registered agent is maintained by the entity.

**Article 3 - Management**

A. Management of the affairs of the corporation is to be vested solely in the members of the corporation.

**OR**

B. Management of the affairs of the corporation is to be vested in its board of directors. The number of directors, which must be a minimum of three, that constitutes the initial board of directors and the names and addresses of the persons who are to serve as directors until the first annual meeting or until their successors are elected and qualified are set forth below.

Director 1: **PATRICK WOODS**

Title: **Director**

Address: **7910 Gateway East, Suite 102 El Paso TX, USA 79915**

Director 2: **KELLY O'LEARY**

Title: **Director**

Address: **7910 Gateway East, Suite 102 El Paso TX, USA 79915**

Director 3: **RANDAL S. O'LEARY**

Title: **Director**

Address: **7910 Gateway East, Suite 102 El Paso TX, USA 79915**

**Article 4 - Organization Structure**

A. The corporation will have members.

or

B. The corporation will not have members.

**Article 5 - Purpose**

The corporation is organized for the following purpose or purposes:

**See attached Addendum**

**Supplemental Provisions / Information**

**Additional language on attached Addendum**

[The attached addendum, if any, is incorporated herein by reference.]

**Addendum.CertForm.pdf**

**Effectiveness of Filing**

A. This document becomes effective when the document is filed by the secretary of state.

**OR**

B. This document becomes effective at a later date, which is not more than ninety (90) days from the date of its signing. The delayed effective date is:

**Organizer**

The name and address of the organizer are set forth below.

**PATRICK WOODS            7910 Gateway East, Suite 102, El Paso, Texas 79915**

**Execution**

The undersigned affirms that the person designated as registered agent has consented to the appointment. The undersigned signs this document subject to the penalties imposed by law for the submission of a materially false or fraudulent instrument and certifies under penalty of perjury that the undersigned is authorized under the provisions of law governing the entity to execute the filing instrument.

**PATRICK WOODS**

Signature of organizer.

**FILING OFFICE COPY**

**Addendum to Certificate of Formation  
Boulder Canyon Home Owners Association, Inc.**

**ARTICLE 5 – PURPOSE**

The purposes for which the Association is organized are to perform charitable activities within the meaning of Internal Revenue Code, Section 501(c)(3) and Texas Tax Code Section 11.18 (c)(1). Specifically, the purpose for which the Association is organized is to be and constitute the Association referred to in the “Declaration of Covenants, Conditions and Restrictions of Boulder Canyon Replat A” (the “Declaration”) as the Boulder Canyon Home Owners Association, Inc. for the residential project within the City of El Paso, El Paso County, Texas, as recorded (and amended from time to time) in the Real Estate Records of El Paso County, Texas. The purposes of the Association include the operation, repair, replacement, renovation and maintenance of improvements in the Subdivision, to levy assessments against the Association’s members for expenses relating to Subdivision improvements, to provide for the health, welfare and safety of the Members, to provide for an Architectural Review Committee, and to engage in such other charitable activities as may be authorized in the Declaration, or as may be authorized in the by-laws of the Association. The Association shall not engage in any purpose, action or activity which is prohibited by the Texas Non-Profit Corporation Act and by other applicable law. The Association does not contemplate pecuniary gain or profit, direct or indirect, to its Members.

**ARTICLE 6 – RESTRICTIONS AND REQUIREMENTS**

The Association shall not pay dividends or other corporate income to its members, directors or officers or otherwise accrue distributable profits or permit the realization of private gain. The Association shall have no power to take any action prohibited by the Act.

The Association shall have no power to take any action that would be inconsistent with the requirements for a tax exemption under Internal Revenue Code Section 501(c)(3) and related regulations, rulings, and procedures. The Association shall have no power to take any action that would be inconsistent with the requirements for receiving tax deductible charitable contributions under Internal Revenue Code Section 170(c)(2) and related regulations, rulings, and procedures. Regardless of any other provision in these Articles of Incorporation or state law, the Association shall have no power to:

1. Engage in activities or use its assets in manners that are not in furtherance of one or more exempt purposes, as set forth above and defined by the Internal Revenue Code and related regulations, rulings, and procedures, except to an insubstantial degree.
2. Serve a private interest other than one that is clearly incidental to an overriding public interest.
3. Devote more than an insubstantial part of its activities to attempting to influence legislation by propaganda or otherwise, except as provided by the Internal Revenue Code and related regulations, rulings, and procedures.
4. Participate in or intervene in any political campaign on behalf of or in opposition to any candidate for public office. The prohibited activities include the publishing or distributing of statements and any other direct or indirect campaign activities.
5. Have objectives that characterize it as an “action organization” as defined by the Internal Revenue Code and related regulations, rulings, and procedures.
6. Distribute its assets on dissolution other than for one or more exempt purposes; on dissolution, the Association’s assets shall be distributed to the state government for a public purpose, or to an organization exempt from taxes under Internal Revenue Code Section 501(c)(3) to be used to accomplish the general purposes for which the Association was organized.
7. Permit any part of the net earnings of the Association to inure to the benefit of any private shareholder or member of the Association or any private individual.
8. Carry on an unrelated trade or business except as a secondary purpose related to the Association’s primary, exempt purposes.

To the full extent permitted by applicable law, no director of this Association shall be liable to this Association or its members for monetary damages for an act or omission in such director’s capacity as a director of this Association, except that this Article Seven does not eliminate or limit the liability of a director of this Association for:

1. a breach of such director’s duty of loyalty to this Association or its members;
2. an act or omission not in good faith or that involves intentional misconduct or a knowing violation of the law;

3. a transaction from which such director received an improper benefit, whether or not the benefit resulted from an action taken within the scope of such director's office;
4. an act or omission for which the liability of such director is expressly provided for by statute; or
5. an act related to an unlawful payment of a dividend.

Any repeal or amendment of this Article by the Members of this Association shall be prospective only, and shall not adversely affect any limitation on the personal liability of a director of this Association existing at the time of such repeal or amendment. In addition to the circumstances in which a director of this Association is not personally liable as set forth in the foregoing provisions of this Article Seven, a director shall not be liable to the full extent permitted by applicable law.

#### **ARTICLE 7 – INDEMNIFICATION**

To the full extent permitted by applicable law, the Association shall indemnify any director or officer against judgments, penalties (including excise and similar taxes) fines, settlements and reasonable expenses (including court costs and attorneys' fees) actually incurred by any such person who was, is or is threatened to be made a named defendant or respondent in a proceeding because the person is or was a director or officer and shall advance to such person such reasonable expenses as are incurred by him in connection therewith. The rights of directors and officers set forth in this Article shall not be exclusive of any other right which directors or officers may have or hereafter acquire relating to the subject matter hereof. As used in this Article, the terms "director" and officers shall mean any person who is or was a director or officer of the Association and any person who, while a director or officer of the Association, is or was serving at the request of the Association as a director, officer, partner, venturer, proprietor, trustee, employee, agent or similar functionary of another foreign or domestic Association, partnership, joint venture, sole proprietorship, trust, employee benefit plan or other enterprise. As used in this Article, the term "proceeding" means any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative, arbitral or investigative, any appeal in any such action, suit or proceeding and any inquiry or investigation that could lead to such an action, suit or proceeding.