

WAIKOLOA VILLAGE ASSOCIATION

CHARTER

OF

INCORPORATION

Reprinted March 2002

**RESTATED
CHARTER OF INCORPORATION**

I.

The name of the corporation shall be "WAIKOLOA VILLAGE ASSOCIATION".

II.

The location of the corporation shall be in Waikoloa, South Kohala and North Kona, Island, County and State of Hawaii, and the specific address of its initial office shall be Suite 1801, Financial Plaza of the Pacific, Honolulu, Hawaii.

III.

The purpose for which the corporation is organized is to provide for the management, maintenance, protection, preservation, architectural control and development of property in South Kohala and North Kona, Island, County and State of Hawaii, within the area known as "Waikoloa Village" and to promote the health, safety and welfare of its members.

IV.

In furtherance of the foregoing objects and purposes and in accordance with the laws of the State of Hawaii applicable to chartered nonprofit corporations, the corporation shall have succession and existence in perpetuity and shall have and exercise any and all powers, rights, privileges and immunities which are now or may hereafter be secured by law to chartered nonprofit corporations organized under the laws of the State of Hawaii. Without limitation as to other powers stated or referred to in this Charter, the corporation shall have the following powers:

(a) It may exercise all of the powers and privileges and perform all of the duties and obligations of the Association as set forth in that certain

Declaration of Protective Covenants applicable to the property and recorded in the Bureau of Conveyances of Hawaii in Liber 7577 at page 66, and as the same may be amended from time to time as therein provided, hereinafter called the "Declaration."

(b) It may fix, levy, collect and enforce payment by any lawful means, all charges or assessments pursuant to the terms of the Declaration, and 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. The term "Association" as used herein shall have the meaning given it in the Declaration and shall be synonymous with the term "corporation" as used herein.

(c) It may 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) It may borrow money, and mortgage, pledge, or hypothecate any or all of its real or personal property as security for money borrowed or debts incurred, subject to the provisions of Article XI herein.

V.

The corporation is not organized for profit, it shall not issue any stock, and no part of its assets, income or earnings shall be distributed to its members, directors or officers, except for services actually rendered to the corporation.

VI.

There shall be a Board of Directors of the corporation to consist of not less than three nor more than seven directors, and the initial Board of Directors shall consist of three directors. The members of the Board of Directors shall be elected or appointed at such times, in such manner and for such terms, subject to the provisions set forth in this Article VI, as may be

prescribed by the Bylaws, which also may provide for the removal of directors and the filling of vacancies and may provide that the remaining members of the Board of Directors, although less than a majority thereof, may by the affirmation vote of the majority of such remaining members, fill vacancies in the Board of Directors, including temporary vacancies caused by the illness of directors or the temporary absence of directors from the State of Hawaii. A member of the Board of Directors must be a member of the corporation. The Board of Directors shall have full power to control and direct the business and affairs of the corporation and to manage its properties, subject, however, to instructions by the members of the corporation and to any limitations which may be set forth in statutory provisions, in this Charter, in the Bylaws, or in the Declaration.

The names, residence addresses and initial tenure of office of the persons who are to act as the initial directors of the corporation are as follows:

To hold office until the first annual meeting of the members of the corporation,

<u>Name</u>	<u>Residence Address</u>
Shiro Takata	P. O. Box 17 Hawi, Hawaii 96719
Edward D. Staniec, Jr.	P. O. Box 794 Kamuela, Hawaii 96743

To hold office until the second annual meeting of the members of the corporation.

<u>Name</u>	<u>Residence Address</u>
Glenn Y. Fukuda	98-878 Olena Place Aiea, Hawaii 96701

To hold office until the third annual meeting of the members of the corporation,

<u>Name</u>	<u>Residence Address</u>
Walter Southward	1987 Uhaloa Street Hilo, Hawaii 96720
Gary E. Irwin	1341 Onioni Street Kailua, Hawaii 96734

VII.

The officers of the corporation shall consist of a President, one or more Vice Presidents as may be prescribed by the Bylaws, a Secretary, a Treasurer, and such other officers and assistant officers and agents as may be prescribed by the Bylaws. The officers shall be elected or appointed, hold office and may be removed as may be prescribed by the Bylaws. The President, Vice President and Secretary shall be elected from the Board of Directors, all other officers shall be members of the corporation. Any two or more offices may be held by the same person, except for the offices of President and Secretary which must be held individually.

All officers and agents of the corporation, as between themselves and the corporation, shall have such authority and perform such duties in the management of the corporation as may be provided in the Bylaws, or as may be determined by resolution of the Board of Directors not inconsistent with the Bylaws.

The names and residence addresses of the four who are to act as the initial officers of the corporation are as follows:

<u>Name</u>		<u>Residence Address</u>
President	Walter Southward	1987 Uhaloa Street Hilo, Hawaii 96720
Vice President	Norman Dubbs	110 Puako Beach Drive Puako, Hawaii 96743
Secretary	Gary E. Irwin	1341 Onioni Street Kailua, Hawaii 96734

Treasurer

Glenn Y. Fukuda

98-878 Olena Place
Aiea, Hawaii 96701

VIII.

Each person, corporation or other legal entity who is, or such persons, corporations or other legal entities who are, the "Owner" of any "Residential Lot" (within Waikoloa Village) as defined in the Declaration shall be a member of the corporation. The term "'Residential Lot" as used herein shall have the meaning given it in the Declaration. Proof of status as an "Owner" of any such Lot for purposes of establishing membership in the corporation shall be furnished in accordance with the provisions pertaining thereto set forth in the Bylaws. Membership shall be appurtenant to and may not be separated from the ownership of any such Lot, and such ownership shall be the sole qualification for membership in the corporation. Each owner, or owners in the aggregate, of any Residential Lots, whether individuals, corporations or other legal entities, shall be entitled to one vote per Residential Lot. If more than one person or entity owns one given Residential Lot, any one of said persons or entities may exercise said one vote on behalf of all the owners of said Lot, but no such vote shall be exercised if opposed by any one of such persons or entities.

IX.

Additional property may be annexed to the area specified in Article III hereof, and so add to the membership of the corporation under the provision of Article VIII hereof, pursuant to the terms and conditions of Section 6 of the Declaration, as the same now exists or as the same may from time to time be amended.

X.

The property of the corporation shall alone be liable in law for the payment of its debts and the discharge of its obligations. Neither the members of the corporation, nor the members of the Board of Directors, nor

the members of the Environmental Control Committee provided in the Declaration, nor any of the officers shall have any personal liability for the payment of such debts or the discharge of such obligations, except that the members of the corporation shall be subject to assessment for and on account of debts, expenses and obligations of the corporation as in the Declaration provided.

XI

Any exchange, sale or other disposition of any real property of the corporation in fee and any borrowing of money or mortgaging of the common areas as defined in the Declaration shall require the affirmative vote of two-thirds of the members present at a meeting of the corporation, notice of which meeting disclosed that an exchange, sale or other disposition of the subject project would be considered.

XII.

No voluntary dissolution of the corporation or liquidation of its assets shall take place without the assent of three-fourths in voting interest of the members of the corporation present at a meeting of the members of the corporation duly called and held for the purpose of authorizing such dissolution or liquidation. Written notice, setting forth the purpose of the meeting shall be given to all members not less than 30 days in advance of the meeting. Upon any such dissolution or liquidation, the assets of the corporation, whether real, personal or mixed, shall be dedicated to one or more appropriate public agencies, to be devoted to purposes as nearly as practicable the same as those to which they were required to be devoted by the corporation. 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 charitable purposes and uses that would most nearly reflect the purposes and uses to which they were required to be devoted by the corporation.

To the extent permitted by law, the corporation may participate in merges and consolidations with other nonprofit corporations organized for similar purposes, provided that any such merger or consolidation shall have

the assent of two-thirds in voting interest of the members of the corporation, obtained as herein provided in the case of dissolution.

XIII.

No contract or other transaction between the corporation and any other person, firm, corporation, association or other organization, and no act of the corporation, shall be affected or invalidated by the fact that any of the directors or officers of the corporation are directors, officers, employees, stockholders, or members of any such other firm, corporation, association or other organization, provided that the interest of such director or officer shall be disclosed or shall have been known to the Board of Directors authorizing or approving the same, or to a majority thereof. Any director of the corporation who is a director, officer, employee, stockholder or member of such other firm, corporation, association or other organization, may be counted in determining a quorum of any meeting of the Board of Directors which shall authorize or approve any such contract, transaction or act; provided, however, such director shall not vote on any issue on which he/she has a conflict of interest.

XIV.

The corporation shall indemnify each present and future officer and director of the corporation and each person who serves at the request of the corporation as an officer or director of any other corporation whether or not such person is also an officer or director of the corporation, against all costs, expenses and liabilities, including the amounts of judgments, amounts paid in compromise settlements and amounts paid for services of counsel and other related expenses, which may be incurred by or imposed on him or her in connection with any claim, action, suit, proceeding, investigation or inquiry hereafter made, instituted or threatened in which he/she may be involved as a party or other wise by reason of he/she being or having been such officer or director, or by reason of any past or future action taken or authorized or approved by him/her or any omission to act as such officer or director, whether or not he/she continues to be such officer or director at the time of the incurring or imposition of such costs, expenses or liabilities,

except such costs, expenses or liabilities as shall relate to matters as to which he/she shall in such action, suit or proceedings be finally adjudged to be, or shall be, liable by reason of his/her gross negligence or willful misconduct toward the corporation in the performance of his/her duties as such officer or director. As to whether or not a director or officer was liable by reason of gross negligence or willful misconduct toward the corporation in the performance of his/her duties as such officer or director, in the absence of such final adjudication of the existence of such liability, the Board of Directors and each officer and director may conclusively rely upon an opinion of legal counsel selected by or in the manner designated by the Board of Directors. The foregoing right of indemnification shall not be exclusive of other rights to which any such officer or director may be entitled as a matter of law or otherwise, and shall inure to the benefits of the heirs, executors, administrators and assigns of each such officer or director.

XV.

This charter may be amended by the vote of not less than two-thirds of the members of the corporation present at a meeting duly called and held for the purpose.