

NOV 23 1973

ARTICLES OF INCORPORATION

OF

DER BERGHOF ASSOCIATION

ARTICLE I

Name

The name of this corporation shall be Der Berghof Association.

ARTICLE II

Duration

The term of existence of this corporation is perpetual.

ARTICLE III

Purposes

The business, objects and purposes for which the corporation is formed are as follows:

1. To be and constitute the Association to which reference is made in the Condominium Declaration for Der Berghof and any supplements thereto (for brevity, hereinafter referred to as Declaration), to be recorded in the records of the Clerk and Recorder, Fitkin County, Colorado, pursuant to C.R.S. (1963) 118-15-5 and Amendment thereto, relating to a condominium ownership project, and to perform all obligations and duties of the Association and to exercise all rights and powers of the Association.
2. To provide an entity for the furtherance of the interests of all of the owners, including the Declarant named in the Declaration, of condominium units in the Der Berghof project, with the objectives of establishing and maintaining it as a prime condominium ownership project of the highest possible quality and value and enhancing and protecting its value, desirability and attractiveness.

ARTICLE IV

Powers

In furtherance of its purposes, the corporation shall have all of the powers conferred upon corporations not for profit by the statute and common law of the State of Colorado in effect from time to time, including all of the powers necessary or desirable to perform the obligations and duties and exercise the rights and powers of the Association under the Declaration which will include, but shall not be limited to, the following:

1. To make and collect assessments against members of the Association for the purposes of payment of the common expenses (including the expenses incurred in exercising its powers of or performing its functions);

- 2. To manage, control, operate, maintain, repair, improve and enlarge the general common elements;
- 3. To enforce the terms, covenants, restrictions, conditions, uses, limitations and obligations set forth under the Declaration and By-Laws and to make and enforce rules and regulations as provided therein;
- 4. To engage in activities which will actively foster, promote and advance the interests of all of the owners of condominium units, including the interests of the Declarant during its development of the project and its ownership of condominium units.

ARTICLE V

Memberships

- 1. This corporation shall be a membership corporation without certificates or shares of stock. There shall be one class of membership, and there shall be one membership in the corporation for each condominium unit, as defined in the Declaration and any Supplements thereto. The owner or owners of a condominium unit shall hold and share the membership related to that condominium unit in the same proportionate interest and by the same type of tenancy in which the title to the condominium unit is held, provided always that there shall be only one membership per condominium unit. No person or entity other than an owner of a condominium unit may be a member of the corporation.
- 2. Each membership shall have voting rights as is set forth in the Declaration on all matters in which members are entitled to vote.
- 3. A membership in the corporation and the share of a member in the assets of the corporation shall not be assigned, encumbered or transferred in any manner except as appurtenant to the transfer of title to the condominium unit to which the membership pertains; provided, however, that the rights of membership may be assigned to the holder of a mortgage, deed of trust or other security instrument on a condominium unit as further security for a loan secured by a lien on such condominium unit.
- 4. A transfer of membership shall occur automatically upon the transfer of title to the condominium unit to which the membership pertains; provided, however, that the By-Laws of the corporation may contain reasonable provisions and requirements with respect to recording such transfers on the books and records of the corporation.
- 5. Members shall have the right to purchase other condominium units and the memberships appurtenant thereto as provided in the Declaration.
- 6. The corporation may suspend the voting rights of a member for failure to comply with the rules or regulations of the corporation or with any other obligations of the owners of any condominium unit under the Declaration and By-Laws.
- 7. The By-Laws may contain provisions setting forth the rights, privileges, duties and responsibilities of the members.

ARTICLE VI

Board of Directors

- 1. The business and affairs of the corporation shall be conducted, managed and controlled by a Board of Directors. The Board

of Directors shall consist of not less than three nor more than five members, the specific number to be set forth from time to time in the By-Laws of the corporation. Members of the Board of Directors need not be members of the corporation.

2. Members of the Board of Directors shall be elected at the annual meeting of the members in the manner determined by the By-Laws.

3. Directors may be removed and vacancies of the Board of Directors shall be filled in the manner to be provided by the By-Laws.

4. The names and addresses of the members of the first Board of Directors who shall serve until the first election of Directors and until their successors are duly elected and qualified, are as follows:

James W. Manning  
4193 S. Dahlia Street  
Englewood, Colorado 80110

Hugh J. McGee, Jr.  
3928 S. Jasmine Street  
Denver, Colorado 80237

James Carder  
2225 S. Columbine Street  
Denver, Colorado 80210

Robert H. Durham  
3100 S. Cherry Creek Drive  
Denver, Colorado 80209

Any vacancies in the Board of Directors occurring before the first election of Directors shall be filled by the remaining Directors.

## ARTICLE VII

### Officers

The Board of Directors may appoint a President, one or more Vice Presidents, a Secretary, a Treasurer and such other officers as the Board believes will be in the best interest of the corporation. The officers shall have such duties as may be prescribed in the By-Laws of the corporation and shall serve at the pleasure of the Board of Directors.

## ARTICLE VIII

### Conveyances and Encumbrances

Corporate property may be conveyed or encumbered by authority of the Board of Directors or by such person or persons to whom such authority may be delegated by resolution of the Board. Conveyances or encumbrances shall be by an instrument executed by the President or a Vice President and by the Secretary or an Assistant Secretary, or executed by such other person or persons to whom such authority may be delegated by the Board.

## ARTICLE IX

### Initial Registered Office and Agent

The initial registered office of the corporation shall be 624 Seventeenth Street, Denver, Colorado 80202. The initial registered agent at such office shall be James W. Manning.

ARTICLE X

Amendments

Amendments to these Articles of Incorporation shall be adopted in the manner set forth in the By-Laws; provided, however, that no amendment to these Articles of Incorporation shall be contrary to or inconsistent with the provisions of the Declaration.

ARTICLE XI

Managing Agent Functions

The Association, by its first Board of Directors, may obtain and pay for the services of a managing agent to be responsible for the operation, maintenance, repair and the improving of the common elements, including all of the exterior portions of the improvements and to keep the same in good, attractive and sanitary condition, order and repair. The cost of such services shall be borne by the members according to their interest in the common elements. Maintenance of the general common elements of this condominium, billing and collection of the common expenses, preparation of an operating budget, maintenance of files, books and records, the employment of personnel to perform such duties and other services and functions shall be performed by the managing agent and other employees and personnel.

ARTICLE XII

Prohibition

The Association shall have no right or authority to, and is prohibited from engaging in, the sale, lease or rental of a condominium unit or any part thereof; provided, however, that this prohibition shall not affect the right and duty of the Association to enforce its right to a lien for the non-payment of an Association assessment against a condominium unit and the right to sell, lease or dispose of such condominium unit as provided in the Declaration.

ARTICLE XIII

General

This corporation is one which does not contemplate pecuniary gain or profit to the members thereof and is organized for non-profit purposes. This corporation does not afford pecuniary gain to its members incidentally or otherwise, but members may be paid for services actually rendered to the corporation. This corporation has no power to carry on propaganda, attempt to influence legislation or take part in a political campaign.

ARTICLE XIV

Incorporation

The undersigned, acting as incorporator under the Colorado Nonprofit Corporation Act, signs and acknowledges these Articles of Incorporation for such corporation this 21 day of November, 1973.

INCORPORATOR:

  
James W. Manning

STATE OF COLORADO

City and County of DENVER ) ss

The foregoing instrument was acknowledged before me this 21<sup>st</sup> day of NOVEMBER, 1973, by James W. Manning.

Witness my hand and official seal.

My Commission expires: June 15, 1977

Cora M. Wusthmann  
Notary Public

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ARTICLES OF AMENDMENT  
TO THE  
ARTICLES OF INCORPORATION

Pursuant to the provisions of the Colorado Nonprofit Corporation Act, the undersigned corporation adopts the following Articles of Amendment to its Articles of Incorporation:

**FIRST:** The name of the corporation is DER BERGHOF ASSOCIATION.

**SECOND:** The following amendment has been adopted by the members of the corporation in the manner prescribed by the Colorado Nonprofit Corporation Act:

The following Articles 1 through 14 are substituted for existing Articles I through XIV:

1. Name. The name of this corporation shall be:  
Der Berghof Association.
2. Duration. The period of duration of this corporation shall be perpetual.
3. Purposes. The purposes for which this corporation is organized are:
  - (a) To be and constitute the Association to which reference is made in the Condominium Declaration for Der Berghof (herein called the "Condominium Declaration") recorded in Book 287, beginning at page 529, in the office of the Clerk and Recorder of Pitkin County, Colorado, relating to a condominium ownership project in the City of Aspen, Pitkin County, Colorado created pursuant to the Colorado Condominium Ownership Act (herein called the "Project").
  - (b) To perform the obligations and duties and exercise the rights and powers of the Association under the Condominium Declaration.
  - (c) To foster, promote and advance the common interests of owners of condominium units in the Project.

(d) To maintain the Project as a prime condominium ownership project of the highest quality and value, and to enhance and protect its value, desirability and attractiveness.

(e) To levy and collect assessments from owners of condominium units in the Project, as provided in the Condominium Declaration.

(f) To manage, control, operate, maintain, repair and improve, or to engage another party to manage, control, operate, maintain, repair and improve, the common elements of the Project, as defined in the Colorado Condominium Ownership Act and the Condominium Declaration.

(g) To enforce covenants, restrictions and conditions affecting the Project to the extent this corporation may be authorized to do under any such covenants, restrictions or conditions.

(h) To make and enforce rules and regulations with respect to the use of common elements and condominium units in the Project, as provided in the Condominium Declaration.

(i) To perform all obligations of the Association under the Condominium Declaration.

(j) To exercise all of the powers which a nonprofit corporation may exercise under the common law and the statutes of the State of Colorado in effect from time to time.

Each purpose specified herein is an independent purpose and is not to be restricted by reference to or inference from the terms of any other purpose.

4. Registered Office and Registered Agent. The corporation shall have and continuously maintain in Colorado a registered office which may be the same as its principal office and a registered agent whose business office is identical with such registered office.



The initial registered office of the corporation shall be 624 17th Street, Denver, Colorado 80202. The initial registered agent of the corporation, whose business office is identical with such registered office, is James W. Manning.

5. Board of Directors. The affairs of the corporation shall be managed by a Board of Directors. Directors need not be residents of Colorado but must be members of the corporation. The Bylaws of the corporation may prescribe other qualifications for directors.

The number of directors of the corporation shall not be less than three. Subject to such limitation, the number of directors shall be fixed by the Bylaws and may be increased or decreased from time to time by amendment of the Bylaws. No decrease in the number of directors shall have the effect of shortening the term of any incumbent director.

The initial Board of Directors shall consist of four members who shall hold office until their successors have been elected by members as provided for in the Bylaws. The names and addresses of the persons who are to serve as the initial directors are as follows:

<u>Name</u>	<u>Address</u>
James W. Manning	4193 South Dahlia Street Englewood, Colorado 80110
Hugh J. McGee, Jr.	3928 South Jasmine Street Denver, Colorado 80237
James Carder	2225 South Columbine Street Denver, Colorado 80210
Robert H. Durham	3100 South Cherry Creek Drive Denver, Colorado 80209

6. Incorporator. The name and address of the incorporator is as follows:

<u>Name</u>	<u>Address</u>
James W. Manning	624 17th Street Denver, Colorado 80202

7. Members. Each owner of a condominium unit in the Project, by virtue of being such an owner and for so long as he is such an owner, shall be a member of the corporation; provided, however, that there shall be only one membership in the corporation for each condominium unit. No person or entity other than an owner of a condominium unit in the Project may be a member of the Association.

8. Voting Rights. Where the vote of the members is required or permitted by the statutes of the State of Colorado, the Condominium Declaration, these Articles of Incorporation, or the Bylaws of the corporation, the owner or, in the case of multiple owners of the same condominium unit, the multiple owners together of each condominium unit shall have one vote.

In the event of multiple owners of the same condominium unit in the Project, the multiple owners shall share the vote of the condominium unit so owned in the same proportionate interest as fee simple title to the condominium unit is held; by purchasing a condominium unit in the Project, each such multiple owner appoints each other multiple owner of the same condominium unit as the agent and attorney-in-fact for the multiple owners who are not present or represented by proxy, for the purpose of casting the vote of that condominium unit.

Voting by proxy shall be permitted. Proxies must be executed in writing by the owner or owners of condominium units in the Project or by his or their duly authorized attorney-in-fact and must be filed with the Secretary of the corporation before the appointed time of each meeting. No proxy shall be valid after eleven months from the date of its execution unless otherwise provided in the proxy.

for failure to comply with rules or regulations of the Association or for failure to comply with any other obligations of the owners of a condominium unit under the Condominium Declaration; provided that no such suspension of voting rights shall invalidate the rights of First Mortgagees, as defined in the Condominium Declaration.

At any election of the members of the Board of Directors of the corporation, every owner entitled to vote may cumulate his votes and give any one or more candidates a number of votes equal to the number of votes said owner may cast multiplied by the number of directors to be elected.

9. Record Date. The Board of Directors of the Association shall have the power to fix in advance a date as a record date for the purpose of determining owners entitled to notice of or to vote at any meeting, or in order to make a determination of owners for any purpose. Notwithstanding any provisions hereof to the contrary, the owners existing on any such record date shall be deemed the owners for such notice, meeting or other purpose and for any supplementary notice with respect to the same matter and for any adjournment of the same meeting. A record date shall not be more than fifty (50) days prior to the date on which the particular action requiring determination of owners is proposed or expected to be taken or to occur. If no record date is established for a meeting, the date on which notice of such meeting is first given to any owner shall be deemed the record date for the meeting.

10. Transactions Between Interested Parties. No contract or transaction between the corporation and one or more of its directors or officers, or between the corporation and any other entity in which one or more of its directors or officers are directors or officers or in which they have an interest, shall be

void or voidable solely for this reason, or solely because the directors or officers are present at or participate in the meeting of the Board of Directors or committee thereof which authorizes the contract or transaction.

11. Indemnification. In addition to and in no way limiting the powers or authority now or hereafter conferred upon the corporation by these Articles of Incorporation, the Bylaws of the corporation, or by the laws of the State of Colorado, the corporation shall possess and may exercise all powers of indemnification of directors, officers, employees, agents and other persons and all powers and authority incidental thereto (including without limitation the power and authority to advance expenses and to purchase and maintain insurance with respect thereto), without regard to whether or not such powers and authority are provided for by the Colorado Nonprofit Corporation Act. The Board of Directors of the corporation is hereby authorized and empowered on behalf of the corporation and without member action to exercise all of the corporation's authority and powers of indemnification.

12. Nonprofit Status. No dividend shall be paid and no part of the income or profit of the corporation shall be distributed to its members, directors, or officers, although the corporation may pay compensation in a reasonable amount to its members, directors or officers for services rendered, may confer benefits upon its members in conformity with its purposes and, upon dissolution or final liquidation, may make distribution to its members as permitted by the Colorado Nonprofit Corporation Act.

The corporation shall not have or issue shares of stock although the corporation may issue certificates evidencing membership therein.

13. Amendment of Articles. The corporation reserves the right to amend these Articles of Incorporation from time to time

in accordance with the Colorado Nonprofit Corporation Act and the Bylaws of the corporation and all rights and powers conferred upon directors and members hereby are granted subject to this reservation, except that no amendment to the Articles of Incorporation shall be contrary to or inconsistent with any provision of the Condominium Declaration.

14. Incorporation. The undersigned, acting as incorporator under the Colorado Nonprofit Corporation Act, signs and acknowledges these Articles of Incorporation for such corporation this 21st day of November, 1973.

\* \* \*

THIRD: At a meeting of the Members held on December 17, 1975, at which a quorum was present, such amendment received at least two-thirds of the votes which Members present at the meeting or represented by proxy were entitled to cast.

DER BERGHOF ASSOCIATION

By Robert H. Durham  
President

and James W. Manning  
Assistant Secretary

STATE OF COLORADO

CITY AND COUNTY OF DENVER ) ss.

Before me, Deane J. Duke, a Notary Public in and for said County and State, personally appeared Robert H. Durham, Jr. who acknowledged before me that he is the President of Der Berghof Association and James W. Manning who acknowledged before me that he is the Assistant Secretary of Der Berghof Association, and that each signed the foregoing Articles of Amendment as his or her free and voluntary act and deed for the uses and purposes therein set forth, and that the facts contained therein are true.

IN WITNESS WHEREOF, I have hereunto set my hand and official seal this 17<sup>th</sup> day of December, 1975.

My commission expires: April 9, 1979.

Deane J. Duke  
Notary Public

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STATEMENT OF CHANGE OF REGISTERED OFFICE  
OR REGISTERED AGENT, OR BOTH, IN THE STATE OF COLORADO

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- Notes: 1. Exact corporate name of corporation making the statement
- 2. Signature and title of officer signing for the corporation, must be President or Vice-President except for nonprofit
- 3. Signature of Notary Public must be exactly as shown on Notarial Seal, and must agree with notarial commission
- 4. This document must be typed.

To the Secretary of State  
of the State of Colorado

Pursuant to the provisions of the Colorado Corporation Act, the undersigned corporation, organized under the laws of the State of Colorado submits the following statement for the purpose of changing its registered office, or its registered agent, or both, in the State of Colorado:

First: The name of the corporation is Der Berghof Association

Second: The address of its REGISTERED OFFICE is 1100 Colorado National Bank Building, 950 17th Street, Denver, Colorado 80202

Third: The name of its REGISTERED AGENT is James W. Manning

Fourth: The address of its registered office and the address of the business office of its registered agent, as changed, will be identical.

Fifth: The address of its place of business in Colorado is Post Office Box 4949, Aspen, Colorado 81611

Der Berghof Association (Note 1)

By Robert H. Durham (Note 2)  
its President

STATE OF COLORADO  
CITY & County of DENVER

Before me, [Signature], a Notary Public in and for the said County and State, personally appeared Robert H. Durham, who acknowledged before me that he is the President of Der Berghof Association, a Colorado corporation, that he signed the foregoing, and that the statements contained therein are true.

In witness whereof I have hereunto set my hand and seal this 15 day of April, A. D. 19 76

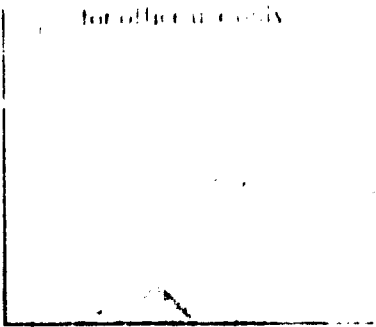
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[Notary Seal and Signature]



MAIL 10  
Colorado Secretary of State  
Corporations Office  
1575 Sherman St., 2nd Fl.  
Denver, Co. 80203  
(303) 866 2361



9:46

STATEMENT OF CHANGE OF REGISTERED OFFICE  
OR REGISTERED AGENT, OR BOTH.

SUBMIT ONE  
Filing fee \$5.00

This document must be typewritten

To the Secretary of State  
of the State of Colorado

Pursuant to the provisions of the Colorado Corporation Act and the Limited Partnership Act of 1981, the undersigned corporation or Limited Partnership organized under the laws of Colorado submits the following statement for the purpose of changing its registered office or its registered agent, or both, in the State of Colorado:

First: The name of the corporation or Limited Partnership is:  
Der Berghof Association

Second: the address of its REGISTERED OFFICE is 717-17th St., Suite 2620, Denver, CO 80202

Third: The name of its REGISTERED AGENT is Robert H. Durlan, Jr.

Fourth: The address of its registered office and the address of the business office of its registered agent, as changed, will be identical.

Fifth: The address of its place of business in Colorado is 717-17th St., Suite 2620, Denver, CO 80202  
Der Berghof Association (Note 1)

By *Robert H. Durlan, Jr.* (Note 2)  
Its \_\_\_\_\_ President  
Its \_\_\_\_\_ Registered Agent (Note 3)  
Its \_\_\_\_\_ General Partner

Subscribed and sworn to before me this 17<sup>th</sup> day of May, 19 82.  
My commission expires March 7, 1984.

*Wiane K. Johnson*  
Notary Public (Note 4)  
717-17th St. #2620, Denver CO 80202  
Address

- Notes: 1. Exact name of corporation or Limited Partnership making the statement.
- 2. Signature and title of officer signing (for the corporation, must be President or Vice-President, for a Limited Partnership, must be a General Partner)
- 3. Regarding profit corporations: This statement may be executed by the registered agent when it involves only a registered address change. A copy of this statement has been forwarded to the corporation by the registered agent.
- 4. Signature of Notary Public must be exactly as shown on Notarial Seal, and must agree with notarial commission.

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