

AZ. CORP. COMMISSION  
FILED

JUN 03 2004

APPR. Diana Johnson  
TERM 6-25-04  
DATE

AMENDED AND RESTATED  
ARTICLES OF INCORPORATION

OF

ARIZONA BILTMORE ESTATES  
VILLAGE ASSOCIATION

AZ. CORP. COMMISSION  
FILED

AUG 10 2004

APPR. Mary Barnes  
TERM 8/10/04  
DATE 0123810-0

WHEREAS, the Articles of Incorporation of ARIZONA BILTMORE ESTATES VILLAGE ASSOCIATION were filed with the Arizona Corporation Commission on June 29, 1979 (the "Original Articles"); and

WHEREAS, the Original Articles may be amended by a majority vote of the Board of Directors pursuant to Arizona Revised Statutes Section 10-11001 through 10-11004; and

WHEREAS, ARIZONA BILTMORE ESTATES VILLAGE ASSOCIATION wishes to amend and restate the Original Articles through the execution of this Amended and Restated Articles of ARIZONA BILTMORE ESTATES VILLAGE ASSOCIATION (the "Amended and Restated Articles"); and

WHEREAS, this Amended and Restated Articles have been approved, at a regular meeting of the Board of Directors held on April 19, 2004, by a vote of a majority of the Board of Directors Pursuant to A.R.S. Section 10-11001 through 10-11004; and

NOW THEREFORE, pursuant to Title 10, Chapters 24 through 40 of the Arizona Revised Statutes (the "Nonprofit Corporation Act"), as the same may be amended or revised, the undersigned hereby adopt the following Amended and Restated Articles of Incorporation (the "Articles").

ARTICLE I  
NAME

The name of this corporation shall be ARIZONA BILTMORE ESTATES VILLAGE ASSOCIATION.

ARTICLE II  
BUSINESS AND PURPOSE

Section 1. This Association is formed to serve as the governing body for the Benefited Property Owner and for every Owner of a Lot or Apartment Area, as these terms are defined in that certain Declaration of Covenants, Conditions and Restrictions recorded in Docket 11531, pages 1080 through 1130, records of Maricopa County, Arizona (herein after referred to as the "Declaration"), in Arizona Biltmore Estates.

As provided in and pursuant to the Declaration, this Association shall, to the extent permitted by applicable law, serve as the governing body for the Benefited Property Owner

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and for all of the Owners of Lots and Apartment Areas for the maintenance, repair, replacement, administration and operation of the common Area, as defined in the Declaration, and the performance of such duties and functions, and the exercise of such rights, as are given and assigned to it by said Declaration as the same may hereafter be amended.

Section 2. In the conduct of its business, this Association, to the extent authorized by its Board of Directors and in accordance with the provisions of the Declaration, shall be empowered to do all things that a private person or individual might do under the laws of the State of Arizona including those powers listed in the Bylaws of the Association.

Section 3. The character of business which the Association initially intends actually to conduct in the State of Arizona is the operation of a management association to provide for the acquisition, construction, management, maintenance and care of the Property of the Association for the benefit of its members.

### ARTICLE III PLACE OF BUSINESS

The principal and initial known place of business and office for the transaction of business of this Association shall be located at 2525 East Arizona Biltmore Circle, Building Suite 145, Phoenix, AZ 85016, but other offices may be established and maintained in such places as the Board of Directors may designate and where, except as otherwise provided in these Articles of Incorporation or the Bylaws, meetings of members of the Association and the Board of Directors may be held.

### ARTICLE IV MEMBERSHIP

Section 1. The Association shall be a non-stock corporation and shall be owned by its members, and no dividends or pecuniary profits shall be paid to its members.

Membership in the Association shall be limited to the Benefited Property Owner and Owners of Lots or Apartment Areas as to which Regular Assessments, as defined in the Declaration, have commenced. The foregoing owners shall not include persons or entities that hold an interest merely as security for the performance of an obligation. An owner of a Lot or Apartment Area shall automatically, upon commencement of Regular Assessments, be a Member of the Association and shall remain a member of the Association until such time as his ownership ceases for any reason, at which time his membership in said Association shall automatically cease. The membership of an Owner shall be appurtenant to and may not be separated from the fee ownership of any Lot or Parcel within the Covered Property which is subject to assessment by the Association. The membership of a Benefited Property Owner shall be appurtenant to and may not be separated from the fee ownership of the Benefited Property. Not more than one (1) membership: shall exist based upon ownership of a single Lot.

Section 2. No certificates of membership shall be issued and membership shall be evidenced by an official list of said Members, which list shall be kept by the Secretary of the Association. The membership held by any Owner or Benefited Property Owner shall not be transferred, pledged or alienated in any way, except upon the conveyance of any Lot or Parcel

within the Covered Property or the Benefited Property, as these terms are defined in the Declaration, and then only to the purchaser of such Lot, Parcel or Benefited Property. Any attempt to make a prohibited transfer is void and will not be reflected upon the books and records of the Association.

Section 3. The Association shall have three classes of voting memberships:

Class A. Class A Members shall be all Owners, including owners of any condominium, with the exception of the owners of Apartment Areas. Class A Members shall be entitled to one (1) vote for each Lot subject to Assessment in which they hold the interest required for membership. When more than one person owns the portion of the interest required for membership, the vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B. The Class B Member shall be the Benefited Property Owner and shall be entitled to the number of votes which when added to the total number of votes outstanding from time to time for both Class A and Class C membership shall equal fifty-one percent (51%) of the total votes outstanding for the Class A, class B, and Class C memberships.

Class C. The Class C Members shall be the owners of Apartment Areas. Each Class C Member shall be entitled to one (1) vote for every ten (10) apartment units constructed or contemplated to be constructed within each Apartment.

Section 4. An annual meeting of the members of this Association shall be held. A quorum at any meeting of the members shall consist of the members present in person or represented by proxy who are entitled to cast ten percent (10%) of the total number of votes which all members of the Association are entitled to cast at such meeting.

## ARTICLE V BOARD OF DIRECTORS AND OFFICERS

Section 1. The control and management of the affairs of the Association shall be vested in a Board of Directors. The Bylaws of the Association shall prescribe the terms of office and manner of election of directors, and the number of directors which shall be no less than the number of Directors required by the Declaration or Bylaws.

Section 2. The affairs of the Association shall be administered by officers elected annually by the Board of Directors at the first meeting of the Board of Directors following each annual meeting of the Members of the Association, or at other meeting called for such purpose. The officers shall consist of a President, Vice-President, Secretary, Treasurer and other officers as required, each of which shall serve at the pleasure of the Board of Directors.

ARTICLE VI  
PRIVATE PROPERTY

The members, directors, and officers of this Association shall not be liable for the debts of this Association and the private property of the members, directors and officers of this Association shall be forever exempt from corporate debts of any kind whatsoever.

ARTICLE VII  
AGENT

Scott B. Carpenter, Esq. whose address is 1400 E. Southern Ave., #640, Tempe, Arizona, 85282, is hereby appointed statutory agent of this association to accept and acknowledge the service of, and upon whom may be served, all necessary process or processes, including summons, and any action, suit or proceedings that may be brought against the Association in any of the courts of the state of Arizona, and for all purposes required by law. Such service of process or notice, or the acceptance thereof by said agent endorsed thereon, will have the same force and effect as if served upon the President, Vice President or Secretary of this Association. The Board of Directors of this Association may revoke its appointment of agent at any time and shall have the power to fill any vacancy in such position.

ARTICLE VIII  
INDEMNIFICATION

This Association may indemnify any and all of its present or former directors, officers, employees or agents to the maximum extent permitted by law. Without limiting the generality of the foregoing, this Association shall indemnify any and all of its directors and officers, or former directors and officers, against expenses incurred by them, including legal fees, or judgments or penalties rendered or levied against any such person for actions or omissions alleged to have been committed by any such person while acting within the scope of his authority as a director or officers of this Association, provided that the Board of Directors shall determine in good faith that such person did not act, fail to act, or refuse to act willfully or with gross negligence or with fraudulent or criminal intent in regard to the matter involved in the action. Anything to the foregoing notwithstanding, the Board of Directors shall have the right to refuse indemnification as to expenses in any instance in which the person to whom indemnification would otherwise have been applicable shall have incurred expenses without approval by the Board of Directors which are excessive and unreasonable in the circumstances and are so determined by the Board of Directors, and as to expenses, judgments, or penalties in any instance in which such person shall have refused unreasonably to permit this Association, at its own expense and through counsel of its own choosing, to defend him in the action or to compromise and settle the action.

IN WITNESS WHEREOF, the Association has caused This Amended and Restated Articles of Incorporation to be executed effective as of the date set forth above.

ARIZONA BILTMORE ESTATES VILLAGE ASSOCIATION,  
an Arizona non-profit corporation

By: William R. Hogan

Its: President

**SECRETARY'S CERTIFICATE**

I, Suzanne Piper, the duly appointed secretary of the Association, hereby certify that this Amended and Restated Articles of Incorporation was approved, as required by A.R.S. Section 10-11002(B), by a majority of the Board of Directors of the Association. I also hereby certify that the rest of this Amended and Restated Articles of Incorporation is an accurate restatement of the Articles of Incorporation and all previous amendments that were in effect.

Suzanne Piper  
Secretary of the Association

5-26-04  
Date

## CONSENT OF STATUTORY AGENT

The undersigned hereby certifies that consent is given to act as statutory agent for the Arizona Biltmore Estates Village Association.

Carpenter Hazlewood, PLC

By:   
Scott Carpenter, Esq.