



STATE OF COLORADO

DEPARTMENT OF
STATE

CERTIFICATE

I, DONETTA DAVIDSON, SECRETARY OF STATE OF THE STATE OF
COLORADO HEREBY CERTIFY THAT

ACCORDING TO THE RECORDS OF THIS OFFICE

BACHELOR GULCH VILLAGE ASSOCIATION
(COLORADO NONPROFIT CORPORATION)

FILE # 19951095713 WAS FILED IN THIS OFFICE ON July 28, 1995
AND HAS COMPLIED WITH THE APPLICABLE PROVISIONS OF THE
LAWS OF THE STATE OF COLORADO AND ON THIS DATE IS IN GOOD
STANDING AND AUTHORIZED AND COMPETENT TO TRANSACT BUSINESS
OR TO CONDUCT ITS AFFAIRS WITHIN THIS STATE.

Dated: September 22, 1999

Donetta Davidson

SECRETARY OF STATE

NONPROFIT

ARTICLES OF INCORPORATION
OF
BACHELOR GULCH VILLAGE ASSOCIATION

The undersigned, desiring to establish a nonprofit corporation pursuant to the Colorado Nonprofit Corporation Act, hereby certifies:

ARTICLE I

951095713 C \$50.00
SECRETARY OF STATE
07-28-95 14:54

Name

The name of the corporation is: Bachelor Gulch Village Association (hereinafter called the "Association").

ARTICLE II

Term of Existence

The Association shall have perpetual existence.

ARTICLE III

Definitions

The words and terms used herein shall be deemed to have the same definitions and meanings as in the Declaration of Covenants, Conditions and Restrictions for Bachelor Gulch Village, and all presently existing amendments and supplements thereto, as recorded or to be recorded in the real property records of Eagle County, Colorado (the "Declaration").

ARTICLE IV

Purposes and Powers

4.1 Purposes. The Association is organized and shall be operated exclusively for the promotion of social welfare within the meaning of section 501(c)(4) of the Internal Revenue Code of 1986 (the "Code"). Subject to the foregoing, the specific purposes and objectives of the Association shall include promoting the health, safety and welfare of all Members of the Association and of the community known as Bachelor Gulch Village and providing and maintaining a desirable community and environment for all Owners, Lessees, Guests and members of the public.

4.2 **Power.** In furtherance of the foregoing purposes, but not otherwise, the Association shall have and may exercise all of the following powers:

(a) **Real and Personal Property.** To acquire, by gift, purchase, lease, trade or any other method, own, operate, build, manage, maintain, rent, sell, convey, develop, encumber, and otherwise deal in and with real and personal property of every kind and character, tangible and intangible, wherever located, and interests of every sort therein.

(b) **Supplementary Services.** To provide all services and perform all actions contemplated or permitted by the Association Documents or by law.

(c) **Taxes.** To pay taxes and assessments, if any, on the Common Elements.

(d) **Covenant Enforcement.** To enforce any and all covenants, restrictions, agreements, or rules and regulations applicable to Bachelor Gulch Village in any manner provided by the laws of the state of Colorado or the Association Documents.

(e) **Borrowing.** To borrow funds or raise moneys for any of the purposes of the Association and from time to time to execute, accept, endorse and deliver as evidences of such borrowing, all kinds of instruments and securities, including, but without limiting the generality of the foregoing, promissory notes, drafts, bills of exchange, warrants, bonds, debentures, property certificates, trust certificates and other negotiable or nonnegotiable instruments and evidences of indebtedness, and to secure the payment and performance of such securities by mortgage on, or pledge, conveyance, deed or assignment in trust of, the whole or any part of the assets and revenue streams of the Association, real, personal or mixed, including contract rights, whether at the time owned or hereafter acquired; provided that the power of the Association to mortgage its properties shall be limited as set forth in the Declaration as from time to time in force and effect. Without limiting the generality of the foregoing, the Association may from time to time borrow funds from Declarant or any affiliate thereof.

(f) **Contracts.** To enter into, make, amend, perform and carry out, or cancel and rescind, contracts, leases, permits, management agreements, and concession agreements for any lawful purposes pertaining to its business.

(g) **Guaranties/Collateral.** To make any guaranty or put up any collateral respecting securities, indebtedness, notes, bonds, interest, contracts or other obligations created by any individual, partnership, association, special district, corporation or other entity, and to secure such guaranties and third party obligations (including, without limitation, any obligations related to a gondola system) by encumbrance upon any and all assets of the Association, including without limitation, collected or uncollected assessments,

to the extent that such guaranty or third party obligation is made in pursuance of the purposes herein set forth.

(h) **Loans/Investments.** To lend money for any of the purposes above set forth; to invest its funds from time to time in a prudent manner; and take and hold real and personal property as security for payment of funds so loaned or invested.

(i) **Assessments.** To levy Civic, Common, Real Estate Transfer, Default and Special Assessments against the Members of the Association as specifically set forth in the Association Documents, to charge interest on unpaid assessments and to collect, and enforce collection of, charges, fees, fines, penalties and interest in accordance with the Association Documents, and to collect, sue, foreclose or otherwise enforce, compromise, release, satisfy and discharge such assessments, charges, fees, fines, penalties and interest in accordance with the Association Documents.

(j) **Rule-Making.** To make and enforce rules and regulations applicable within Bachelor Gulch Village for the accomplishment of any of the purposes or to further any of the powers set forth above, and to amend such rules and regulations.

(k) **Membership.** To be a member in any governmental, quasi-governmental or private agency, organization, district or association.

(l) **Roadways.** To construct, maintain, operate and otherwise manage the interior roadway system within Bachelor Gulch Village and related facilities.

(m) **Gondola.** To construct, maintain, operate and otherwise manage any gondola stations, towers, lifts, and related facilities, which may be constructed within or outside of Bachelor Gulch Village as long as a portion of the gondola system lies within Bachelor Gulch Village.

(n) **General Powers.** To do everything necessary, suitable or proper for the accomplishment of any of the purposes, the attainment of any of the objects, or the furtherance of any of the powers above set forth, either alone or in connection with other corporations, firms or individuals, and either as principal or agent, and to do every act or thing incidental or appurtenant to, or growing out of, or connected with any of the aforesaid objects, purposes or powers.

(o) **Powers Conferred by Law.** The foregoing enumeration of specific powers shall not limit or restrict in any manner the general powers of the Association and the enjoyment and exercise thereof as now or hereafter conferred by the laws of the state of Colorado.

4.3 **Restrictions upon Purposes and Powers.** The foregoing purposes and powers of the Association are subject to the following limitations:

(a) **Earnings.** No part of the net earnings of the Association shall inure to the benefit of or be distributable to or for the benefit of any director, officer or Member of the Association, or any other individual (except that reasonable compensation may be paid for services rendered to or for the benefit of the Association affecting one or more of its purposes) and no director, officer or Member, or any other individual, shall be entitled to share in any distribution of any of the corporate assets on dissolution of the Association or otherwise;

(b) **Campaigns.** The Association shall not participate or intervene in (including the publishing or distribution of statements) any political campaign on behalf of or in opposition to any candidate for public office;

(c) **Other Activities.** Notwithstanding any other provision of these Articles, the Association shall not carry on any activities not permitted to be carried on by a corporation exempt from federal income tax as an organization described in section 501(c)(4) of the Code; and

(d) **Tax Laws.** All references in these Articles to provisions of the Internal Revenue Code are to the provisions of the Internal Revenue Code of 1986, as amended, and to the corresponding provisions of any subsequent federal tax laws.

4.4 **Dividends, Distribution, etc.** The Association shall not pay any dividends. No distribution of the corporate assets to Members (as such) shall be made. Upon dissolution of the Association, the assets shall be distributed as provided in Article XII below.

ARTICLE V

Registered Office and Agent

The operations of the Association shall be conducted at such places within or outside of the United States as may from time to time be determined by the Board of Directors. The address of the initial registered and principal office of the Association is 137 Benchmark Road, Avon, Colorado 81620. The name of its initial registered agent at such address is Vail/Arrowhead, Inc.

ARTICLE VI

Membership and Voting

- 6.1 **Membership.** The Members of the Association shall be as set forth in the Declaration.
- 6.2 **Voting.** The voting rights of the Members shall be as set forth in the Declaration.

ARTICLE VII

Board of Directors

- 7.1 (a) **General.** The control and management of the affairs of the Association and the disposition of its funds and property shall be vested in a Board of Directors consisting of directors who need not be Members. The initial Board of Directors shall consist of seven directors who shall be elected for terms as set forth below:
- (i) Class A Members shall elect one director to be known as the Class A director. The Class A director elected at the 1995 annual meeting shall hold office for a term of one year until the election and qualification of his or her successor at the 1996 annual meeting. Thereafter, the Class A director shall hold office for a term of three years and the Class A Members shall elect the Class A director at the annual meetings held at three-year intervals thereafter.
 - (ii) Class B Members shall elect one director to be known as the Class B director. The Class B director elected at the 1995 annual meeting shall hold office for a term of two years until the election and qualification of his or her successor at the 1997 annual meeting. Thereafter, the Class B director shall hold office for a term of three years and the Class B Members shall elect the Class B director at the annual meetings held at three-year intervals thereafter.
 - (iii) Class C Members shall elect one director to be known as the Class C director. The Class C director shall hold office for a term of three years. Class C Members shall elect the Class C director at the annual meetings held at three-year intervals thereafter.
 - (iv) The Class D Member shall elect two directors to be known as the Class D Directors. The Class D directors elected at the 1995 annual meeting shall hold office for a term of two years until the election and qualification of their successors at the 1997 annual meeting. Thereafter, the Class D directors shall hold office for

a term of three years and the Class D Members shall elect the Class D directors at the annual meetings held at three-year intervals thereafter.

(v) The Declarant shall appoint two directors to be known as the Declarant directors. The Declarant directors appointed at the 1995 annual meeting shall hold office for a term of one year until the appointment and qualification of their successors at the 1996 annual meeting. Thereafter, the Declarant directors shall hold office for a term of three years and the Declarant shall appoint Declarant directors at the annual meetings held at three-year intervals thereafter. The Declarant may at any time give the Association written notice that it wishes to relinquish its right to appoint both or either of the Declarant directors, which notice shall be accompanied by the written resignations of said Declarant director(s), in which case the Board of Directors shall be reduced by the number of such director(s) who resigned. In such event, the Declarant shall continue to have all other rights or obligations to which it is entitled pursuant to the Association Documents.

(vi) Anything contained herein to the contrary notwithstanding, upon the formation of the Association and continuing until the first annual meeting after the creation of a Class B Membership and/or a Class C Membership, Declarant shall appoint four directors. At the first annual meeting after a Class B and/or a Class C Membership has(ve) been created, Declarant's right to appoint directors shall be reduced accordingly. Declarant shall then continue to have the right to appoint two directors until the Change in Control Date.

(b) **After Change in Control Date.** After the Change in Control Date, the number of directors shall be decreased to five, by the removal of both of the Declarant directors.

7.2 **Election.** In the election of the directors, each member of a particular class shall have the right to vote the number of votes to which it is entitled as a member of such class for one person for the position of director of such class. A person or entity who is a member of two or more of the above classes may vote in the election of the director for each class of which it is a member, but for a particular class election it may vote only the number of votes to which it is entitled pursuant to being a member of such class.

7.3 **Initial Board of Directors.** The names and addresses of those comprising the first Board of Directors, to serve until their successors shall be duly elected, are as follows:

<u>Name</u>	<u>Address</u>
David R. Hansen	137 Benchmark Road Avon, CO 81620

Richard D. MacCutcheon	137 Benchmark Road Avon, CO 81620
J. Patrick Maher	137 Benchmark Road Avon, CO 81620
Edward D. O'Brien	137 Benchmark Road Avon, CO 81620
Kent R. Rose	137 Benchmark Road Avon, CO 81620
James P. Thompson	137 Benchmark Road Avon, CO 81620
Tamra Underwood	137 Benchmark Road Avon, CO 81620

7.4 Procedures. The manner of selection or election of the Board of Directors at the annual meeting, the procedure for removal of directors, and the manner in which the positions for directors shall be filled, shall be determined according to the Association Documents. Cumulative voting shall not be allowed in the election of directors or for any other purpose.

7.5 Delivery to the Association. Within sixty days after the Members other than Declarant elect a majority of the directors, Declarant shall deliver to the Association the items described in Section 38-33.3-303(9) of the Act.

7.6 Amendment. This Article VII may be amended only in accordance with the Act, and shall not be amended in any manner that would modify any Special Declarant Rights as defined in Section 38-33.3-103(29) of the Act or in the Association Documents without Declarant's prior written consent.

ARTICLE VIII

Additions to and Deletions from the Property

Additions to and deletions from the property of Bachelor Gulch Village described in Section 2.7 of the Declaration may be made only in accordance with the Act and the Association Documents.

ARTICLE IX

Officers

The Association shall have such officers as may from time to time be prescribed by the Bylaws. Their terms of office and the manner of their designation or selection shall also be determined by the Bylaws from time to time in effect.

ARTICLE X

Execution of Instruments

Subject to the provisions of the Act and the Association Documents, authority to convey or encumber the property of the Association and to execute any deed, contract or other instrument on behalf of the Association for itself or as attorney-in-fact for one or more of the Members is vested in the president or any vice president. All instruments conveying or encumbering such property (whether or not executed as such attorney-in-fact) shall be executed by the president or a vice president and attested by the secretary or an assistant secretary of the Association.

ARTICLE XI

Management of Business

The following provisions are inserted for the management of the business and for the conduct of the affairs of the Association, and are in furtherance of and not in limitation or exclusion of the powers granted by law:

11.1 Contracts with Directors, Officers or Members. (a) Contracts Valid. No contract or other transaction of the Association with any other person, firm or corporation shall be affected or invalidated by (i) the fact that any one or more of the directors, officers or Members is interested in, or is a director, trustee or officer of another corporation, or (ii) the fact that any director, officer or Member, individually or jointly with others, may be a party to or may be interested in any such contract or transaction. Any director, officer or Member who has such an interest in a contract or other transaction with the Association, however, shall promptly disclose such interest to the Board of Directors when he or she becomes aware of such circumstance. Each person who may become a director, officer or Member is hereby relieved from any liability that might otherwise arise by reason of his or her contracting with the Association for the benefit of himself or herself or any firm or corporation in which he or she may be in anyway interested.

(b) Contracts Terminable. Contracts and leases of the types described in Section 38-33.3-305(1) of the Act, if entered into before the Board of Directors

lected by Members pursuant to Section 6.12(c) of the Declaration takes office, may be terminated without penalty by the Association at any time after the Board of Directors elected pursuant to such section takes office, upon not less than 90 days' notice to the other party.

11.2 Board of Directors to Exercise General Power. All corporate powers except those which by law or by these Articles expressly require the consent of the Members shall be exercised by the Board of Directors or the executive committee.

11.3 Compensation of Directors and Members. The Board of Directors is hereby authorized to make provision for reasonable compensation to its directors and to Members for their services, and to reimburse such directors or Members for expenses incurred in connection with furthering the purposes of the Association. The Board of Directors shall fix the basis and conditions upon which such compensation and reimbursement shall be paid. Any director may also serve in any other capacity and receive reasonable compensation and reimbursement for such other work.

11.4 Indemnity. Each director or officer, whether or not then in office, and each person who may have served at the request of the Association as a director or officer of another corporation in which it owns capital stock or of which it is a creditor, and such person's personal representatives and assigns, shall be indemnified by the Association against all costs and expenses reasonably incurred by or imposed upon such person in connection with or arising out of any action, suit or proceeding in which such person may be involved, or to which such person may be made a party by reason of being or having been such a director or officer (such expenses to include the cost of a reasonable settlement made with a view to curtailment of the costs of litigation), except in relation to matters as to which such person shall be finally adjudged in such action, suit or proceeding to have been liable for (i) a breach of a duty of loyalty owed to the Association or its Members; (ii) acts or omissions not in good faith or which involve intentional misconduct or a knowing violation of law; (iii) acts specified in Colorado Revised Statutes Section 7-24-111 from time to time in force and effect; or (iv) any transaction from which such person derived an improper personal benefit. The foregoing right of indemnification shall not be exclusive of other rights to which such person may be entitled as a matter of law.

11.5 Liability Insurance. The Association may insure its officers and directors against certain losses which such persons may incur because of their acts or omissions as officers or directors, including, but not limited to, losses resulting from judgments, settlements and costs of litigation. Such insurance shall be limited to reasonable amounts of coverage for such officers and directors.

11.6 Limitation of Liability. No Member shall be personally liable for any debt or other obligation of the Association, and no property within Bachelor Gulch Village shall be subject to any lien to enforce the collection of any debt or other obligation of the

Association, except liens for unpaid assessments made in accordance with the Association Documents.

ARTICLE XII

Dissolution

Except in the case of a taking of all of the Units by eminent domain, the Association may be dissolved only by the agreement of Owners to which at least sixty-seven percent of the votes in the Association are allocated. Written notice of a proposal to dissolve, setting forth the reasons therefor, the draft of the termination agreement to be executed by the Owners in accordance with Section 38-33.3-218 of the Act and the disposition to be made of the assets, as set forth below, shall be mailed to every Member at least ninety days in advance of any action taken. Upon dissolution of the Association, all of the Association's assets remaining after payment of or provision for all of its liabilities shall be paid over or transferred to one or more governmental entities or agencies or to one or more exempt organizations described in sections 501(c)(4) or 501(c)(3) of the Code. The entities, agencies or organizations to receive such property shall be as designated by the Board of Directors. No such disposition of Association properties shall be effective to divest or diminish any right or title of any Member vested in him or her under the recorded covenants and deeds applicable to Bachelor Gulch Village unless made in accordance with the provisions of such covenants and deeds.

ARTICLE XIII

Merger and Consolidation

Owners may cause the Association to be merged with one or more common interest communities of the same form of ownership, by agreement of the Owners as provided in Section 38-33.3-221 of the Act, into a single large planned community, by entering into an agreement to merge or consolidate that has been approved, prepared, executed, recorded and certified in accordance with Section 38-33.3-221 of the Act.

ARTICLE XIV

Bylaws

The initial Bylaws shall be as adopted by the Board of Directors. The Board of Directors shall have power to alter, amend or repeal the Bylaws. The Bylaws may contain any provisions for the regulation or management of the affairs of the Association which are not inconsistent with law or the other Association Documents.

ARTICLE XV

Amendment

The Association reserves the right to amend, alter, change or repeal any provision contained in these Articles by, unless a higher or different voting requirement is set forth herein with respect to any particular provision, the affirmative vote of at least sixty-seven percent of the votes which Members present or represented by proxy at any regular or special meeting called for that purpose are entitled to cast; provided that any such amendment shall not be inconsistent with the Declaration.

ARTICLE XVI

Incorporator

The name and address of the incorporator is:

Jill K. Rood
1401 Pearl Street, Suite 400
Boulder, Colorado 80302

Jill K Rood

Dated: July 27, 1995

STATE OF COLORADO)
)ss.
COUNTY OF BOULDER)

The foregoing instrument was acknowledged before me this 27th day of July, 1995, by Jill K. Rood.

Witness my hand and official seal.

My commission expires: 3-25-98.

Karen Linda Glaser
Notary Public

[SEAL]