

SECTION IV  
ARTICLES OF INCORPORATION  
OF  
HATHAWAY ASSOCIATION  
DATED SEPTEMBER 22, 1971  
AND  
AS AMENDED ON  
JANUARY 30, 1978

ARTICLES OF INCORPORATION  
OF  
HATHAWAY ASSOCIATION, INC.

THIS IS TO CERTIFY that we do hereby associate ourselves to form a corporation under and by virtue of the provisions of the Statute Laws of the State of Virginia for the purpose and under the corporate name as hereinafter set forth, and to that end we do execute, file and record these Articles, setting forth as follows:

**ARTICLE I**

The name of the Corporation shall be Hathaway Association, Inc.

**ARTICLE II**

The objects and purposes for which said corporation is formed are:

To provide an entity to own and operate the common elements of the condominium known as Hathaway Tower, located at 2916 Hathaway Road, Richmond, Virginia, and conduct all business related thereto not prohibited by law or required by law to be herein set forth.

**ARTICLE III**

The members of the Association shall consist of all of the record owners of apartments in the condominium; and after termination of the condominium shall consist of those who are members at the time of such termination and their successors and assigns.

**EXHIBIT "D"**

After receiving approval of the Association required by the Declaration of Condominium, change of membership in the Association shall be established by recording in the Clerk's Office of the Court wherein the property then lies, a deed or other instrument establishing a record title to an apartment in the condominium and the delivery to the Association of a certified copy of such instrument. The owner designated by such instrument thus becomes a member of the Association and the membership of the prior owner is terminated.

The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his apartment.

The number of votes each apartment owner shall be entitled to and the manner of exercising voting rights shall be determined by the By-laws of the Association.

**ARTICLE IV**

The powers of the Association shall include and be governed by the following provisions:

The Association shall have all of the common law and statutory powers of Virginia non-stock corporation not in conflict with the terms of these Articles.

The Association shall have all of the powers and duties set forth in the Condominium Act except as limited by these Articles and the Declaration of Condominium, and all of the powers and duties reasonably necessary to operate the condominium pursuant to the Declaration and as it may be amended from time to time, including but not limited to the following:

- a. To make and collect assessments against members as apartment owners to defray the costs, expenses and losses of the condominium.
- b. To use the proceeds of assessments in the exercise of its powers and duties.
- c. The maintenance, repair, replacement and operation of the condominium property.
- d. The purchase of insurance upon the condominium property and insurance for the protection of the Association and its members as apartment owners.
- e. The reconstruction of improvements after casualty and the further improvement of the property.
- f. To make and amend reasonable regulations respecting the use of the property in the condominium.
- g. To approve or disapprove the transfer, mortgage and ownership of apartments as may be provided by the Declaration of Condominium and the By-laws.
- h. To enforce by legal means the provisions of the Condominium Act, the Declaration of Condominium, these Articles, the By-laws of the Association and the Regulations for the use of the property in the condominium.
- i. To contract for the management of the condominium and to delegate to such contractor all powers and duties of the Association except such as are specifically required by the Declaration of Condominium to have approval of the Board of Directors or the membership of the Association.
- j. To contract for the management or operation of portions of the common elements susceptible to separate management or operation, and to lease such portions.
- k. To employ personnel to perform the services required for proper operation of the condominium.

The Association shall not have the power to purchase an apartment of the condominium except at sales in foreclosure of liens for assessments for common expenses, at which sales the Association shall bid no more than the amount secured by its lien. This provision shall not be changed without unanimous approval of the members and the joinder of all record owners of mortgages upon the condominium.

All funds and the titles of all properties acquired by the Association and their proceeds shall be held in trust for the members in accordance with the provisions of the Declaration of Condominium, these Articles of Incorporation and the By-laws.

The powers of the Association shall be subject to and shall be exercised in accordance with the provisions of the Declaration of Condominium and the By-laws.

**ARTICLE V**

The initial registered office of the corporation shall be 2922 Hathaway Road, Richmond, Virginia, which is in the City of Richmond, Virginia. The initial registered agent of the corporation shall be J. W. Keith, Jr., a resident of Virginia and an initial Director of the corporation, whose principal business office is the same as that of the corporation's registered office.

**ARTICLE VI**

Three Directors shall constitute the initial Board of Directors and the names and residences of the Directors who, unless sooner replaced by the members, shall constitute the Board for the first year are:

E. H. Wicker — James River Golf Course, Richmond, Virginia

J. W. Keith, Jr. — 2131 Keith Lane, Midlothian, Virginia

Vernon E. Inge — 7117 Riverside Road, Richmond, Virginia

IN WITNESS WHEREOF, we have hereunto set our hands and seals this 22nd day of September, 1971.

s/ J. W. Keith, Jr. (SEAL)

s/ Vernon E. Inge (SEAL)

s/ Betty Scott (SEAL)

STATE OF VIRGINIA  
CITY OF RICHMOND, to-wit:

I, the undersigned, a Notary Public in and for the City and State aforesaid, do certify that J. W. Keith, Jr., Vernon E. Inge and Betty Scott, whose names are signed to the foregoing writing bearing date September 22, 1971, have this day personally appeared before me and severally acknowledged the same in my City aforesaid.

Given under my hand this 22nd day of September, 1971.  
My commission expires March 18, 1973

s/ Joyce S. Kuhl

Notary Public

I was commissioned Joyce S. Warren

# CERTIFICATE

We, the undersigned, the duly elected, qualified and acting President and Secretary respectively of Hathaway Association, Inc., a Virginia corporation (the "Corporation"), do hereby certify as follows: The Board of Directors of the Corporation, acting by unanimous consent dated December 27, 1977, found the attached Amendment to be in the best interests of the Corporation and directed that the Amendment be submitted to a vote at a meeting of the members.

On January 5, 1978, notice of the proposed Amendment and the upcoming members' meeting was mailed to each member entitled to vote. Notice was given in the manner specified in the Declaration of Condominium of Hathaway Tower and in accordance with the laws of the State of Virginia.

On January 30, 1978, the meeting of the members called for in the aforementioned notice was held. A quorum was present at the meeting. The attached Amendment was approved by more than 3/4 of all of the apartment owners.

By: *Walter S. Robertson, Jr.* (SEAL)  
 Walter S. Robertson, Jr., President of  
 Hathaway Association, Inc.

And By: *Jeanette S. Bray* (SEAL)  
 Jeanette S. Bray, Secretary of Hathaway  
 Association, Inc.

STATE OF VIRGINIA  
 CITY OF RICHMOND:

The foregoing instrument was acknowledged before me this 6th day of February, 1978, by WALTER S. ROBERTSON, JR. and JEANETTE S. BRAY, President and Secretary respectively of Hathaway Association, Inc., a Virginia corporation.  
 My commission expires May 8, 1981.

*[Signature]*  
 Notary Public

Virginia:

In the Clerk's Office of the Circuit Court of the City of Richmond, Division III, this instrument was presented

**FEB 9 1978** *4:45 PM*  
 and with Certificate annexed, admitted to record.

Teste: *Ana G. Purdy* Clerk D.B.

No.	<u>721</u>
State Tax	.....
Imp. fee	.....
City Tax	.....
Clt's. Fee	<u>11.00</u>
Grantor's Tax	.....
Total	<u>11.00</u>
D.B.	<u>PG.</u>

*By: The Yancey, Wood & Battle, Attys*

**HATHAWAY ASSOCIATION, INC.  
ARTICLES OF AMENDMENT**

Hathaway Association, Inc. (the "Corporation" or the "Association") is a Virginia non-stock corporation created pursuant to the Virginia Non-stock Corporation Act (the "Act"), Section 13.1-201, et seq., of the Code of Virginia, 1950, as amended:

The Articles of Incorporation of the Corporation are hereby amended as follows:  
1. Article II is hereby deleted in its entirety and the following substituted therefor:

**ARTICLE II**

The objects and purposes for which said Corporation is formed are:  
To provide an entity to operate the common elements of the condominium known as Hathaway

Tower, located at 2916 Hathaway Road, Richmond, Virginia, and conduct all business related thereto not prohibited by law to be herein set forth.

2. Article III is hereby deleted in its entirety and the following substituted therefor:

**ARTICLE III**

The members of the Association shall consist of all of the record fee simple owners from time to time of apartments in the condominium (excluding those holding legal title merely as security for an indebtedness or other obligations); and after termination of the condominium (if ever) shall consist of those who are members at the time of such termination and their successors as fee simple owners.

After receiving approval of the Association required by the Declaration of Condominium, change of membership in the Association shall be established by recording in the Clerk's Office of the Court wherein the property then lies, a deed or other instrument establishing a record title to an apartment in the condominium and the delivery to the Association of a certified copy of such instrument. The owner designated by such instrument thus becomes a member of the Association and the membership of the prior owner is terminated.

The share of a member in the funds and assets of the Association cannot be assigned, hypothecated or transferred in any manner except as an appurtenance to his apartment. In any meeting of members the owners of apartments shall be entitled to cast the number of votes indicated in the following schedule unless the decision to be made is elsewhere required to be determined in another manner:

(Apartments on each floor are numbered 1 through 12. To derive the Apartment number, there is added to the below number the product of the floor on which the unit is located multiplied by 100. Apartments with unit numbers ending in the digit or digits indicated in the left-hand column below shall have the number of votes indicated in the corresponding right-hand column below).

Apartment #	Number of Votes For Each Apartment
1, 2, 5, 6, 11, 12	3
3, 4, 7, 8, 9, 10	2

If an apartment is owned by one person, his right to vote shall be established by the record title to his apartment. If an apartment is owned by more than one person, or is under lease, the person entitled to cast the vote for the apartment shall be designated by a certificate signed by all of the record fee simple owners of the apartment and filed with the secretary of the Association. If an apartment is owned by a corporation, the person entitled to cast the vote for the apartment shall be designated by a certificate signed by the president or vice-president and attested by the secretary or assistant secretary of the corporation and filed with the secretary of the Association. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until a change in the ownership of the apartment concerned. A certificate designating the person entitled to cast the vote of an apartment may be revoked by any fee simple owner of an apartment. If such a certificate is not on file, the vote of such owners shall not be considered in determining the requirement for a quorum not for any other purpose.

3. The following is hereby added to Article VI of the Articles:

The number of directors comprising the Board of Directors shall be as set forth in the By-laws; provided however, that in the absence of a dispositive by-law, the Board of Directors shall be comprised of seven (7) directors.

Election of directors shall be conducted in the following manner:

(a) Election of directors shall be held at the annual members' meeting.

(b) A nominating committee of five members shall be appointed by the Board of Directors not less than 30 days prior to the annual members' meeting. The committee shall nominate one person for each directorship. Additional nominations may be made from the floor.

(c) The election shall be by ballot (unless dispensed by unanimous consent) and by a plurality of the votes cast, each person voting being entitled to cast his votes for each of as many nominees as there are vacancies to be filled. There shall be no cumulative voting.

Except as to vacancies provided by removal of directors by members, vacancies in the Board of Directors occurring between annual meetings of members shall be filled by the remaining directors.

Any director may be removed at a special meeting of the members called for that purpose by concurrence of a majority of the votes of the entire membership. The vacancy in the Board of Directors so created shall be filled by the members of the Association at the same meeting.

The term of each director's service shall extend until the next annual meeting of the members and thereafter until his successor is duly elected and qualified or until he is removed in the manner elsewhere provided.

4. The following is hereby added as Article VII of the Articles of Incorporation:

#### ARTICLE VII

(a) The Corporation shall indemnify any person who was or is a party or is threatened to be made a party to any threatened, pending or completed action, suit or proceeding, whether civil, criminal, administrative or investigative (including an action or suit by or in the right of the Corporation) by reason of the fact that he is or was a director or officer of the Corporation, or is or was serving at the request of the Corporation as a director, officer, partner or trustee of another corporation, partnership, joint venture, trust or other enterprise, against judgments, fines, amounts paid in settlement and expenses (including attorneys' fees) actually and reasonably incurred by him in connection with such action, suit or proceeding, except only in relation to any claim, issue or matter as to which such person shall have been finally adjudged to be liable for his gross negligence or wilful misconduct in the performance of his duties. Each such indemnity shall inure to the benefit of the heirs, executors and administrators of such person.

(b) Any indemnity under subsection (a) above shall (unless authorized by a court) be made by the Corporation only as authorized in the specific case upon a determination that the director, officer, partner or trustee was not guilty of gross negligence or wilful misconduct in the performance of his duties and, in case of a settlement, that such settlement was, or if still to be made is, consistent with the best interests of the Corporation. Such determination shall be made (i) by the Board of Directors by a majority vote of a quorum consisting of directors who were not parties to such action, suit or proceeding, or (ii) by independent legal counsel in a written opinion if such a quorum is not obtainable or, even if obtainable, a quorum of disinterested directors so directs, or (iii) by the members. If the determination is to be made by the Board of Directors, it may rely as to all questions of law on the advice of independent counsel.

(c) Expenses incurred in defending an action, suit or proceeding, whether civil, criminal, administrative or investigative, may be paid by the Corporation in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the director, officer, partner or trustee to repay such amount, unless it shall ultimately be determined that he is entitled to be indemnified by the Corporation as authorized in this article.

(d) The right of indemnification provided by this article shall not be exclusive of any other rights to which any person may be entitled, including any right under policies of insurance that may be purchased and maintained by the Corporation or others, even as to claims, issues or matters in relation to which the Corporation would not have the power to indemnify such person under the provisions of this article.

(e) The Corporation may purchase and maintain at its sole expense insurance, in such amounts and on such terms and conditions as the Board of Directors may deem reasonable, against all liabilities or losses it may sustain in consequence of the indemnification provided for in this article.

(f) The Board of Directors shall have the power, generally and in specific cases, to indemnify employees and agents of the Corporation to the same extent as provided in this section with respect to directors and officers.

Pursuant to Va. Code Ann. §13.1-216, the Board of Directors of the Corporation (the Board) acting by unanimous consent dated December 27, 1977, found the foregoing amendments to be in the best interest

of the Corporation and directed that the amendments be submitted to a vote at a meeting of the members.

On January 5, 1978, notice of the proposed amendment and the upcoming members' meeting was mailed to each member entitled to vote. Notice was given in the manner specified in the Act.

On January 30, 1978, the meeting of the members called for in the aforementioned notice was held. A quorum was present at the meeting. The foregoing amendments received more than two-thirds of the votes entitled to be cast by members present or represented by proxy at the meeting.

HATHAWAY ASSOCIATION, INC.

By \_\_\_\_\_  
President

And By \_\_\_\_\_  
Secretary