

BY-LAWS

OF

BEECH HILL II OWNERS, INC.

ARTICLE I

Name and Purposes of the Corporation

Section 1. Name: This corporation shall be known as Beech Hill II Owners, Inc.

Section 2. Purposes: The corporation has been organized for the following purposes:

A. To be operated solely as a "homeowners association" as defined in the Internal Revenue Code §528 and the corresponding provisions of any future federal tax law, and no activity shall be permitted which shall violate the provisions of said Code section.

B. To promote the health, safety and welfare of the future owners and residents of the townhouses being constructed by Allenton Realty and Insurance Company on a parcel of land approximately 39 acres in size located to the east of Highway 15-501 on the north side of Colony Road.

C. To provide for the preservation of the values and amenities in the properties.

D. To own, acquire, build, operate and maintain on the properties playgrounds, paths, streets, open spaces and other common facilities for the benefit of the residents of the properties.

E. To promote fellowship and friendship among its members and to provide an area to hold meetings and social gatherings for the better realization of such purposes.

F. To provide a forum for the expression of ideas and plans with regard to the improvement of social, recreational and general living conditions in the properties and to take steps toward the fulfillment of said ideas and plans.

G. To purchase, lease or otherwise acquire and hold, own, use, operate and sell or otherwise dispose of real and personal property necessary for the implementation and full enjoyment of the purposes herein enumerated.

H. To acquire and receive revenue for its operation, primarily from but not limited to membership fees, dues, charges and assessments from the members of the corporation.

I. In general, to have, exercise and carry on any activity which may seem to the corporation capable of being conveniently carried on or exercised in connection with the above or which may seem to be calculated directly or indirectly to further the purposes of the corporation and not forbidden by the laws of the State of North Carolina.

## ARTICLE II

### Definitions

Section 1. "Beech Hill II" shall mean and refer to Beech Hill II Owners, Inc., a non-profit corporation organized and existing under the laws of the State of North Carolina.

Section 2. "The Properties" shall mean and refer to the approximately 39 acres being developed by Allenton Realty and Insurance Company, as a subdivision of townhouses, located to the east of Highway 15-501 and on the north side of Colony Road.

Section 3. "Common Properties" shall mean and refer to those areas of land deeded to Beech Hill II and intended to be devoted to the common use and enjoyment of the Owners of The Properties, and more particularly shall mean and refer to streets, paths and shall include buildings, structures and fixtures, equipment and personal properties incident thereto, and any other properties owned and maintained by Beech Hill II for the common benefit and enjoyment of the Owners and residents of The Properties.

Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision map of The Properties with the exception of Common Properties as heretofore defined, and upon which is constructed a townhouse.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot situated upon The Properties but, notwithstanding any applicable theory of the deed of trust, shall not mean or refer to the Trustee or cestui qui trust unless and until there has been a transfer of title pursuant to foreclosure or any proceeding in lieu of foreclosure.

Section 6. "Member" shall mean and refer to all those Owners who are members of Beech Hill II as provided in Article IV, Section 1, of these By-laws.

## ARTICLE III

### Location

Section 1. The principal office of Beech Hill II shall be located at 119 Orange Street, Durham, Durham County, North Carolina, and the name of the initial registered agent at such address is Allen D. Aldridge.

## ARTICLE IV

### Membership

Section 1. Every person who is a record owner of a fee interest in any Lot which is subject by covenants of record to assessment by Beech Hill II shall be a Member of Beech Hill II, provided that any such person or entity who holds such interest merely as a security for the performance of an obligation shall not be a Member.

Section 2. The rights of membership are subject to the payment of annual and special assessments levied by the corporation, the obligation of which assessments is imposed against each Owner of and becomes a lien upon the property against which such assessments are made as provided by Article V of the Declaration of Covenants and Restrictions or Supplemental Declaration of Covenants and Restrictions to which The Properties are subject.

Section 3. The membership rights of any person whose interest in The Properties is subject to assessments under Article IV, Section 1, whether or not he be personally obligated to pay such assessments, may be suspended by action of the directors during the period when the assessments remain unpaid; but, upon payment of such assessments, his rights and privileges shall be automatically restored. If the directors have adopted and published rules and regulations governing the use of the Common Properties and facilities and the personal conduct of any person thereon, as provided in Article X, Section 1, they may, in their discretion, assess a fine against and/or suspend the rights of any such person for violation of such rules and regulations for a period not to exceed thirty (30) days.

## ARTICLE V

### Voting Rights

Section 1. Beech Hill II shall have two classes of voting membership:

Class A. Class A members shall be those as defined in Article IV above and shall be entitled to one vote for each Lot in which they hold the interest required for membership as set forth in Article IV above. When more than one person holds such interest or interests in any Lot all such persons shall be members, and the vote for such Lot shall be exercised as they, among themselves, determine, but in no event shall more than one vote be cast with respect to any such Lot.

Class B. Class B member shall be Allenton Realty and Insurance Company, its successors or assigns. The Class B member shall be entitled to one vote more than the aggregate number of votes of all Class A members, provided that the Class B membership shall cease and become Class A membership (for each Lot owned by Allenton Realty and Insurance Company) on January 1, 1990, or when Allenton Realty and Insurance Company has sold 125 Lots, whichever event shall first occur. From and after the happening of this event, the Class B member shall be deemed to be a Class A member entitled to one vote for each Lot in which it holds the interest required for membership.

Section 2. Designation of Voting Representative: If a Lot is owned by one person his right to vote shall be established by the record title to his property. If a Lot is owned by more than one person, or is under lease, the person entitled to cast the vote for said property shall be designated by a certificate signed by all of the record owners of said property and filed with the secretary of Beech Hill II. If a Lot is owned by a corporation, the person entitled to cast the vote for said property shall be designated by a certificate of appointment signed by the president, vice president or secretary of the corporation and filed with the secretary of Beech Hill. Such certificates shall be valid until revoked or until superseded by a subsequent certificate or until there is a change in the ownership of the Lot.

## ARTICLE VI

### Property Rights and Rights of Enjoyment of Common Property

Section 1. Each Member shall be entitled to the use and enjoyment of the Common Properties and facilities as provided in the Declaration of Covenants and Restrictions and any supplement thereto.

Section 2. Any Member may delegate his rights of enjoyment in the Common Properties and facilities to the members of his family who reside upon The Properties or to any of his tenants who reside thereon under a leasehold interest for a term of three months or more. Such Member shall notify the secretary in writing of the name of any such person and of the relationship of the Member to such person. The rights and privileges of such person are subject to suspension as herein provided to the same extent as those of the Member.

## ARTICLE VII

### Powers of Beech Hill II

Section 1. Additions to Properties and Membership: Additions to The Properties may be made only in accordance with the provisions of the recorded Covenants and Restrictions applicable to The Properties. Such additions, when properly made under the applicable Covenants, shall extend the jurisdiction, functions, duties and membership of this corporation to such Properties.

Section 2. Mergers and Consolidations: Subject to the provisions of the recorded Covenants and Restrictions applicable to The Properties, Beech Hill II may participate in mergers and consolidations with other non-profit corporations organized for the same purposes, provided that any such merger or consolidation shall have the assent of two-thirds (2/3) of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be mailed to all Members at least thirty (30) days in advance and shall set forth the purpose of the meeting.

## ARTICLE VIII

### Board of Directors

Section 1. The affairs of Beech Hill II shall be managed by a board of at least three (3) but no more than seven (7) directors, none of whom shall need be a Member of Beech Hill II. The term of each director shall be for one (1) year, or until their successor is duly elected and qualified. The initial board of directors shall consist of three (3) directors who shall hold office until the first meeting of the membership or until their successors are elected and qualified. The Class B Member shall be entitled to elect one more member of the board of directors than Class A Members. That is to say, for example, if there be seven (7) members of the board, four (4) shall be elected by the Class B Member and three (3) shall be elected by the Class A Members.

Section 2. A vacancy on the board of directors shall be filled by the remaining directors so as to maintain the same balance between Class A Member directors and Class B Member directors as provided in Section 1 above.

## ARTICLE IX

### Election of Directors; Nomination Committee; Election Committee

Section 1. Election to the board of directors for those directors elected by Class A Members shall be by written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the recorded Covenants applicable to The Properties. If any vote is to be cast cumulatively, this shall be announced before the voting begins. The names receiving the largest number of votes shall be elected. Class B Member shall designate in writing the directors it

wishes to select and upon such designation those individuals shall be elected.

Section 2. Nominations for election as Class A members of the board of directors shall be made by a Nominating Committee which shall be one of the Standing Committees of the corporation.

Section 3. The Nominating Committee shall consist of a Chairman, who shall be a Class A member of the board of directors, and two or more Members of Beech Hill. The Nominating Committee shall be appointed by the board of directors prior to each annual meeting of the Members to serve from the close of such annual meeting until the close of the next annual meeting and appointment shall be announced at each such annual meeting.

Section 4. The Nominating Committee shall make as many nominations for election as Class A members of the board of directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members or non-Members, as the Committee in its discretion shall determine. Additional nominations from the floor may be made at the time of the election.

Section 5. All elections of Class A members of the board of directors at and after the first annual meeting shall be made on written ballot which shall clearly list the names of the persons for whom the vote is being cast and the term of office, if necessary. The Chairman of the meeting shall appoint one or more persons to count the ballots and report the results.

#### ARTICLE X

##### Powers and Duties of the Board of Directors

Section 1. The board of directors shall have power:

(a) To generally govern Beech Hill II in accord with the Declaration of Covenants and Restrictions and the Charter and By-laws of this corporation including, without limitation, to appoint and remove at pleasure all officers, agents and employees of the corporation, prescribe their duties, fix their compensation, and require of them such security or fidelity bond as it may deem expedient. Nothing contained in these By-laws shall be construed to prohibit the employment of any Member, officer or director of Beech Hill in any capacity whatsoever.

(b) To establish, levy and assess, and collect the assessments or charges referred to in the applicable Declaration of Covenants and Restrictions.

(c) To adopt and publish rules and regulations governing the use of the Common Properties and facilities and the personal conduct of the Members and their guests thereon.

(d) To exercise for Beech Hill II all powers, duties and authority vested in or delegated to this organization, except those reserved to the Members in the covenants.

(e) In the event that any member of the board of directors of this corporation shall be absent from three (3) consecutive regular meetings of the board of directors, the board may by action taken at the meeting during which said third absence occurs, declare the office of said absent director to be vacant.

(f) To prepare and enforce, directly or indirectly, the rules and regulations governing activities

- within the boundaries of the recreational facilities owned by the corporation.

Section 2. It shall be the duty of the board of directors:

- (a) To cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting.
- (b) To supervise all officers, agents and employees of this organization, and to see that their duties are properly performed.
- (c) To employ and discharge such management as the directors deem necessary.
- (d) To adopt a budget and authorize expenditures.
- (e) As more fully provided in the Declaration of Covenants applicable to The Properties:
  - (1) To fix the amount of the assessment against each Lot for each assessment period at least thirty (30) days in advance of such date or period and, at the same time;
  - (2) To prepare a roster of The Properties and assessments applicable thereto which shall be kept in the office of Beech Hill II and shall be open to inspection by any Member, and, at the same time;
  - (3) To send written notice of each assessment to every owner subject thereto.
- (f) To issue, or to cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether any assessment has been paid. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

## ARTICLE XI

### Directors' Meetings

Section 1. A regular meeting of the board of directors shall be held at least every other month at a day and hour to be established by resolution.

Section 2. Notice of such regular meeting is hereby dispensed with. If the day for the regular meeting shall fall upon a holiday, the meeting shall be held at the same hour on the first day following which is not a holiday, and no notice thereof need be given.

Section 3. Special meetings of the board of directors shall be held when called by the president or by any two directors after not less than three (3) days' notice to each director.

Section 4. The transaction of any business at any meeting of the board of directors, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice of a quorum is present and, if either before or after the meeting, each of the directors not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed with the corporate records and made a part of the minutes of the meetings.

Section 5. The majority of the board of directors shall constitute a quorum thereof.

## ARTICLE XII

### Officers

Section 1. The officers shall be a president, a vice-president, a secretary and a treasurer. The president and the vice-president shall be members of the board of directors.

Section 2. The officers shall be chosen by majority vote of the directors.

Section 3. All officers shall hold office during the pleasure of the board of directors.

Section 4. The president shall preside at all meetings of the board of directors, shall see that orders and resolutions of the board of directors are carried out and sign all notes, leases, mortgages, deeds and all other written instruments.

Section 5. The vice-president shall perform all the duties of the president in his absence.

Section 6. The secretary shall be ex-officio the secretary of the board of directors, shall record the votes and keep the minutes of all proceedings in a book to be kept for the purpose. He shall sign all certificates of membership. He shall keep the records of the corporation. He shall record in a book kept for that purpose the names of all Members of Beech Hill II together with their addresses as registered by such Members.

Section 7. The treasurer shall receive and deposit in appropriate bank accounts all monies of the corporation and shall disburse such funds as directed by resolution of the board of directors, provided, however, that a resolution of the board of directors shall not be necessary for disbursement made in the ordinary course of business conducted within the limits of a budget adopted by the board. The treasurer, or anyone authorized by the board of directors, shall sign all checks of the corporation.

Section 8. The treasurer shall keep proper books of account and cause an annual audit of the corporation books to be made by a certified public accountant at the completion of each fiscal year. He shall prepare an annual budget and an annual balance sheet statement and the budget and balance sheet statement shall be presented to the membership at its regular annual meeting.

## ARTICLE XIII

### Committees

Section 1. The Standing Committee of Beech Hill II shall be:

The Nominations Committee  
The Architectural Control Committee  
The Maintenance Committee

Unless otherwise provided herein, each committee shall consist of a chairman and two or more Members and shall include a member of the board of directors for board contact. The committees shall be appointed by the board of directors prior to each annual meeting to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each such annual meeting. The board of

directors may appoint such other committees as it deems desirable.

Section 2. The Nominations Committee shall have the duties and functions described in Article IX.

Section 3. The Architectural Control Committee shall have the duties and functions described in the Declaration of Covenants and Restrictions applicable to The Properties. It shall watch for any proposals, programs or activities which may adversely affect the residential value of The Properties and shall advise the board of directors regarding organization on such matters.

Section 4. The Maintenance Committee shall advise the board of directors on all matters pertaining to the maintenance, repair or improvement of the Common Properties and facilities of Beech Hill II, and shall perform such other functions as the board, in its discretion, determines.

Section 5. It shall be the duty of each committee to receive complaints from Members on any matter involving corporate functions, duties and activities with its field of responsibility.

#### ARTICLE XIV

##### Meetings of Members

Section 1. The first annual meeting of the Members shall be held on the second Monday of the month of November, 1983, at the hour of 8:30 o'clock p.m., at the place specified in the notice of the meeting; and regular annual meetings will be held on the same day in succeeding years. If the day for the annual meeting of Members shall fall upon a holiday, the meeting will be held at the same hour on the first day following which is not a holiday.

Section 2. Special meetings of the Members for any purpose may be called at any time by the president or by any two or more members of the board of directors.

Section 3. Notice of any meetings shall be given to the Members by the secretary. Notice may be given to the Members either personally, by delivery to his mailbox or by sending a copy of the notice through the mail, postage thereon fully prepaid, to his address with the secretary and notices of meetings shall be mailed or delivered to him at such address. Notice of any meeting, regular or special, shall be sent at least six (6) days in advance of the meeting and shall set forth in general the nature of the business to be transacted.

Section 4. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one-fifth (1/5) of the votes of each class of membership shall constitute a quorum for any action governed by these By-laws. Any action governed by the Articles of Incorporation or by the Covenants applicable to The Properties shall require a quorum as therein provided.

Section 5. The president, or in his absence the vice-president, shall preside at the meetings and the secretary shall be responsible for recording minutes of the proceedings.

#### ARTICLE XV

##### Proxies

Section 1. At all corporate meetings of Members, each Member may vote in person or by proxy.



Section 2. All proxies shall be in writing and filed with the secretary. No proxy shall extend beyond a period of eleven (11) months, and every proxy shall automatically cease upon sale by the Member of his home or other interest in The Properties.

#### ARTICLE XVI

##### Books and Records

Section 1. The books, records and papers of the corporation shall at all times, during reasonable business hours, be subject to the inspection of any Members.

#### ARTICLE XVII

##### Corporate Seal

Section 1. The corporate Seal of Beech Hill II shall consist of two concentric circles between which are the words "Beech Hill Owners II, Inc." and in the center of which is inscribed SEAL; and such seal, as impressed on the margin hereof, is hereby adopted as the corporate seal of Beech Hill II.

#### ARTICLE XVIII

##### Amendments

Section 1. These By-laws shall be adopted by the board of directors at its initial meeting, and may thereafter be amended, at a regular or special meeting of the Members, by a vote of a two-thirds (2/3) of a quorum of each class of Members present in person or by proxy, provided that those provisions of these By-laws which are governed by the Articles of Incorporation of this corporation may not be amended except as provided in the Articles of Incorporation or applicable law; and provided further that any matter stated herein to be or which is in fact governed by the Covenants and Restrictions applicable to The Properties may not be amended except as provided in such Covenants and Restrictions.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-laws, the Articles shall control; and in the case of any conflict between the Covenants and Restrictions applicable to The Properties referred to in Section 1 and these By-laws, the Covenants and Restrictions shall control.