

1573 Mar 20 PM 4 12

DECLARATION  
OF  
SIR JOHN'S HILL  
AS  
CONDOMINIUMS

THIS DECLARATION, made on the date hereinafter set forth by FUTREN DEVELOPMENT CORPORATION, doing business in the State of North Carolina, a North Carolina Corporation with its principal office in Charlotte, North Carolina, hereinafter called "Sponsor";

W I T N E S S E T H :

WHEREAS, Sponsor is the owner in fee simple of the land hereinafter described and the buildings and other improvements erected thereon, said land, buildings and other improvements being hereinafter referred to as the "Condominium Property"; and

WHEREAS, Sponsor desires to submit said Condominium Property to the North Carolina Unit Ownership Act (Chapter 47A of the North Carolina General Statutes), hereinafter called the "Unit Ownership Act," thereby creating a condominium known as SIR JOHN'S HILL;

NOW, THEREFORE, pursuant to the matters set forth in the premises, the Sponsor, on behalf of itself, its successors and assigns and all persons having or acquiring any interest of any kind in the Condominium Property hereby submits such property to the provisions of the Unit Ownership Act and pursuant thereto does declare:

1. DEFINITIONS. The terms used herein shall have the meanings stated in the Unit Ownership Act and as more fully defined herein.
2. NAME - ADDRESS. The name of the Condominium Property is SIR JOHN'S HILL.

The present street addresses of the buildings located on the Condominium Property are as follows:

3701 Winding Creek Lane	3721 Winding Creek Lane
3703 Winding Creek Lane	3722 Winding Creek Lane
3705 Winding Creek Lane	3723 Winding Creek Lane
3707 Winding Creek Lane	3724 Winding Creek Lane
3709 Winding Creek Lane	3725 Winding Creek Lane
3711 Winding Creek Lane	3726 Winding Creek Lane
3713 Winding Creek Lane	3727 Winding Creek Lane
3715 Winding Creek Lane	3728 Winding Creek Lane
3729 Winding Creek Lane	3740 Winding Creek Lane
3730 Winding Creek Lane	3742 Winding Creek Lane
3731 Winding Creek Lane	3743 Winding Creek Lane
3732 Winding Creek Lane	3744 Winding Creek Lane
3733 Winding Creek Lane	3745 Winding Creek Lane
3735 Winding Creek Lane	3746 Winding Creek Lane
3737 Winding Creek Lane	3747 Winding Creek Lane
3738 Winding Creek Lane	3748 Winding Creek Lane
3749 Winding Creek Lane	3760 Winding Creek Lane

3751 Winding Creek Lane	3762 Winding Creek Lane
3754 Winding Creek Lane	3764 Winding Creek Lane
3756 Winding Creek Lane	3766 Winding Creek Lane
3758 Winding Creek Lane	3768 Winding Creek Lane
3601 Maple Glen Lane	3629 Maple Glen Lane
3603 Maple Glen Lane	3630 Maple Glen Lane
3605 Maple Glen Lane	3631 Maple Glen Lane
3607 Maple Glen Lane	3632 Maple Glen Lane
3609 Maple Glen Lane	3633 Maple Glen Lane
3611 Maple Glen Lane	3634 Maple Glen Lane
3613 Maple Glen Lane	3635 Maple Glen Lane
3615 Maple Glen Lane	3636 Maple Glen Lane
3617 Maple Glen Lane	3637 Maple Glen Lane
3619 Maple Glen Lane	3638 Maple Glen Lane
3620 Maple Glen Lane	3641 Maple Glen Lane
3622 Maple Glen Lane	3643 Maple Glen Lane
3623 Maple Glen Lane	3645 Maple Glen Lane
3624 Maple Glen Lane	3647 Maple Glen Lane
3625 Maple Glen Lane	3649 Maple Glen Lane
3626 Maple Glen Lane	3651 Maple Glen Lane
3627 Maple Glen Lane	3653 Maple Glen Lane
3628 Maple Glen Lane	3655 Maple Glen Lane

3. LAND. The land on which said buildings and other improvements are located is situated in Sharon Township, County of Mecklenburg, State of North Carolina, and is more particularly described as follows:

BEGINNING at a point in the northerly margin of of the right of way of Sharon View Road, said point marking the southwesterly corner of that certain tract of land conveyed to Futren Development Corporation by Fairfax Enterprises, Inc. et al, dated September 8, 1971 and recorded in Book 3340 at page 399 in the Mecklenburg County Registry, and runs thence from said beginning point with four (4) lines of the City of Charlotte (reference being made to deed recorded in Deed Book 2009 at page 232) as follows: (1) N. 16-20-01 W. 160.03 feet, (2) N. 29-52-56 W. 194.99 feet, (3) N. 06-57-01 W. 87.77 feet, and (4) N. 40-31-01 W. 28.18 feet; thence N. 06-26-13 E. 139.0 feet to a point at or near the center line of McMullen Creek; thence eleven (11) lines of Futren Development Corporation as follows: (1) N. 81-20-53 E. 95.14 feet, (2) N. 64-10-50 E. 45.0 feet, (3) N. 52-25-50 E. 150.0 feet, (4) N. 57-55-50 E. 43.0 feet, (5) N. 85-10-50 E. 152.0 feet, (6) N. 74-55-50 E. 69.56 feet, (7) N. 84-10-50 E. 45.0 feet, (8) S. 81-34-10 E. 102.0 feet, (9) N. 89-55-50 E. 41.5 feet, (10) N. 83-25-50 E. 102.5 feet, and (11) S. 85-04-10 E. 103.46 feet to a point in the line of Ervin Industries, Inc. (now or formerly); thence S. 19-47-20 W. 70.0 feet to a point; thence with the rear lines of Lots 4 through 9, inclusive, of Block 1 of Sharonwood Acres as shown on a map recorded in Map Book 7 at page 667 in the Mecklenburg Registry, S. 09-08-56 E. 634.55 feet to a point; thence N. 80-51-04 E. 5.0 feet; thence S. 09-08-56 E. 200.0 feet to a point; thence S. 80-51-04 W. 5.0 feet; thence S. 09-08-56 E. 65.70 feet; thence S. 52-00-52 E. 7.35 feet; thence S. 09-08-56 E. 48.99 feet to a point in the northerly margin of the right of way of Sharon View Road; thence said margin of said right of way in two calls as follows: (1) with the arc of a circular curve to the right (said curve having a radius of 960.15 feet) an arc distance of 32.03 feet, (2) N. 73-15-41 W. 892.60 feet to the point or place of BEGINNING, containing 17.0825 acres, more or less.

Being a portion of the property conveyed to Futren Development Corporation by deed from Fairfax Enterprises, Inc. and Howard T. Nance and wife, dated September 8, 1971 and recorded in Book 3340 at page 399 in the Mecklenburg County Registry.

EXCEPTING from the operation of this DECLARATION the following parcel or tract of land, described as follows:

BEGINNING at a point, said point being located as follows: Starting at a point which marks the southeasterly corner of that certain tract conveyed to Futren Development Corporation by Fairfax Enterprises, Inc. et al by deed dated September 8, 1971 and recorded in Book 3340 at page 399 in the Mecklenburg Registry; thence from point in three calls as follows to the beginning point: (1) with the arc of a circular curve to the right, said curve having a radius of 960.15 feet, an arc distance of 112.14, (2) N. 73-15-41 W. 111.66 feet, and (3) N. 9-08-56 W. 231.50 feet to the point of BEGINNING; thence from said beginning point with eleven lines of Futren Development Corporation as follows: (1) N. 73-15-41 W. 127.80 feet, (2) N. 23-08-56 W. 64.0 feet, (3) N. 11-08-56 W. 33.0 feet, (4) N. 16-44-19 E. 21.0 feet, (5) S. 73-15-41 E. 22.0 feet, (6) N. 16-44-19 E. 20.0 feet, (7) S. 73-15-41 E. 52.0 feet, (8) S. 16-44-19 W. 96.22 feet, (9) S. 73-15-41 E. 90.32 feet, (10) S. 22-08-56 E. 60.46 feet, and (11) N. 73-15-41 W. 17.99 feet to the point of BEGINNING, and containing 0.2649 acres, more or less, all as shown on map of John J. Harte Associates, Inc. prepared October 7, 1971 and revised October 12, 1971, denominated "Tract 2" on said map.

There is also RESERVED from the operation of this DECLARATION a right of way for ingress and egress for pedestrian and vehicular traffic over and across the lands of Futren Development Corporation between the aforementioned Tract 2 and Sharon View Road.

4. SURVEYS AND PLANS. There are attached to this DECLARATION surveys of the Condominium Property by John H. Harte Associates, Architects and Engineers, dated October 7, 1971, entitled "A Development in Charlotte, N. C. For Futren Development Corp." which consists of nine (9) sheets designated as "Sheet 1 of 9" through and including "Sheet 9 of 9." These surveys are incorporated herein by reference and are referred to herein as "Surveys."

There are also attached to this DECLARATION an exact copy of the original plans of the buildings on the Condominium Property by John J. Harte Assoc., Registered Architect, designated Job #7172 and entitled "A Development in Charlotte, N. C. for Futren Development Corporation" which consists of 21 drawings designated as "TH-1" through "TH-21" and "AP1" and "AP2" inclusive. These plans are incorporated herein by reference and are referred to herein as "Plans."

The Surveys and Plans will be filed for record in the office of the Register of Deeds of Mecklenburg County, North Carolina, simultaneously with the filing for record in said office of this DECLARATION.

5. BUILDINGS. There are ten, noncontiguous, residential, buildings located on the above described land. The name of each Unit is its present street number as designated on Sheet 2 of 9 of the Surveys. The exact locations of these buildings are as shown on the Surveys.

Each building contains several units connected to one another by common walls. No unit extends over or under any other unit. Each building is at least two stories in height. There are a total of seventy-eight separate condominium units within these ten buildings as follows:

<u>Name of Building</u>	<u>Total Units</u>
Building #10	8 - 2148 square foot Units 8
Building #11	7 - 1540 square foot Units
	2 - 1287 square foot Units 9

Building #12	4 - 1540 square foot Units	
	1 - 1287 square foot Units	5
Building #13	4 - 1540 square foot Units	
	4 - 2148 square foot Units	8
Building #14	4 - 1287 square foot Units	
	2 - 1540 square foot Units	6
Building #15	4 - 1287 square foot Units	
	2 - 1540 square foot Units	6
Building #16	5 - 1287 square foot Units	
	5 - 1540 square foot Units	10
Building #17	4 - 1287 square foot Units	
	6 - 1540 square foot Units	10
Building #18	2 - 1287 square foot Units	
	6 - 1540 square foot Units	8
Building #19	2 - 1287 square foot Units	
	6 - 2148 square foot Units	8

These buildings are constructed on 4-inch concrete slabs, have wood siding exterior, and asphalt shingle roof. Partitions within each unit are Gyp. Board on 2" x 4" studs. Walls separating each unit from another (unless firewalls) are double sheetrock and wood studs with insulation between. Fire walls are F. R. Block seventy-five (75) per cent concrete blocks with sheetrock on each side.

Reference is hereby made to the Surveys and Plans for more particular descriptions of said buildings.

6. UNITS. Each unit is designated by the present street address. Unit or condominium unit means an enclosed space consisting of one or more rooms occupying all or part of a floor in a building of one or more floors or stories.

Each 2148 square foot Unit will contain either 2, 3 or 4 bedrooms. Each 1287 square foot Unit will contain 2 bedrooms. The square footages do not include the square footages of the limited Common Areas composed of the patios, atriums, storage areas and carports.

In the 2148 square foot Units identified above, there are either 2, 3 or 4 bedrooms, living room, dining room, kitchen, den and 3 1/2 bathrooms, as well as closets, or a total of either 6, 7 or eight rooms, plus bathrooms and closets.

In the 1540 square foot Units identified above, there are 2 or 3 bedrooms, living room, dining room, kitchen and 2 1/2 bathrooms, or a total of 5 or 6 rooms plus bathrooms and closets.

In the 1287 square foot Units identified above, there are two bedrooms, living room, dining room, 2 1/2 bathrooms, kitchen, or a total of 5 rooms plus bathrooms and closets.

Each unit is at least two stories in height (the 2148 sq. ft. units are three stories in height and all provisions herein shall apply where applicable to such three story units) and is bounded vertically by the interior surfaces of the second (and third where applicable) story ceilings and the interior surfaces of the floors on the first floor. The same is bounded horizontally by the interior surfaces of its perimeter walls. Provided the "weight-supporting" or "load-bearing" interior walls within each unit, as identified in drawings "TH-13, TH-15 and TH-18" of the Plans, and the area between the interior surface of the first floor ceiling and the interior surface of the floor of the second story and the area between the interior surface of the second floor ceiling and the interior surface of the floor of the third floor (where applicable), and the area between the interior third floor ceiling and the roof (where applicable)

are excluded as such constitutes part of the Common Area. Further, all light fixtures within a unit and the coverings of the walls, ceilings and floors within a unit such as paint, wallpaper, matting, carpeting and rugs together with appliances, cabinets, toilets, sinks and bathtubs are considered a part of the Unit and are not a part of the Common Area.

Each unit has immediate access through its front door to the front porch thereof, a Limited Common Area, and from there down the walk to the parking lot. Further, each unit has access through its living room doors to the patio adjacent thereto, a Limited Common Area.

The exact designation, layout, location, ceiling and floor elevations, square footages, and dimensions of each unit are set forth on the Surveys and identified thereon as to each unit by the subject number of the unit. However, as indicated above, the interior, "load-bearing" walls within each unit as identified on drawings "TH-13, TH-15 and TH-18" of the Plans are not part of the subject unit.

7. GENERAL COMMON AREAS AND FACILITIES. The general Common Areas and facilities consist of the entire Condominium Property and every part thereof, other than the units and limited Common Areas and facilities, including, without limiting thereto, the following:

(a) The land, yards, gardens, landscaping, parking and driveway areas;

(b) The foundations, load-bearing walls and columns (including any windows, doors and chimneys therein, roofs, perimeter walls, party walls, ceilings and floors); and all thoroughfares including walks, stairways, entrances, exits or communication ways of the buildings located on the land described above

(c) The compartments or installations of central services such as power, light, electricity, telephone, gas, water, plumbing, water tanks and pumps, incinerators and the like, and all similar devices and installations existing for common use (including distribution systems within all walls whether load-bearing or non load-bearing);

(d) The premises and facilities, if any, used for the maintenance or repair of the Condominium Property;

(e) All common recreational facilities such as the swimming pool, children's play area, tennis courts, etc.;

(f) Easements for access, maintenance, repair, reconstruction or replacement of the Common Areas and facilities and for all other services necessary or convenient to the upkeep and safety of the Condominium Property;

(g) The space between the ceiling of a unit's uppermost floor and the roof;

Reference is made to the Surveys for a more particular description of all Common Areas, except for the interior "load-bearing" walls which are shown on the Plans.

8. LIMITED COMMON AREAS AND FACILITIES. The limited Common Areas and facilities are shown on the Surveys and shall be those areas and facilities reserved for the use of specific unit owners to the exclusion of others, as follows:

(a) The atriums lying adjacent to the kitchens of all units as shown on the Surveys, said atriums being enclosed by fences, and the storage areas on said atriums which are also shown on the Surveys.

- (b) There is a separate heating and air-conditioning system for each unit.
- (c) There are carports attached to some units.
- (d) There is a front walk and porch and back patios attached to each unit.
- (e) There is a balcony attached to each upstairs back bedroom, and a balcony attached to the living room on all 2148 sq. ft. Units.

Those persons lawfully occupying the unit to which the subject atrium is adjacent shall have the exclusive right to the use of said atrium, porches and carport (including the storage space and portions of air-conditioning system thereon, if any).

9. PERCENTAGE INTERESTS IN COMMON AREAS AND FACILITIES. The percentage of undivided interest appurtenant to each unit in the Common Areas and facilities (both general and limited Common Areas and facilities) has been determined by the ratio of the fair market value of the subject unit as of the date of this DECLARATION as the same bears to the aggregate fair market value of all units on said day. A 1.550 percentage interest is appurtenant to each of the four bedroom units. A 1.26 percentage interest is appurtenant to each of the three bedroom units. A 1.102 percentage interest is appurtenant to each and every remaining unit.

10. PURPOSES AND RESTRICTIONS. The 10 buildings and each of the 78 units above referred to are intended for and restricted to residential use. No unit shall be used for any purpose other than a single-family, residential dwelling in conformity with this DECLARATION and the Bylaws, including but not limited to Article XIII of said Bylaws. Provided, persons not of the same immediate family may occupy a unit after first obtaining the written permission of the Association, which consent shall not be unreasonably withheld. The Common Areas and facilities shall be used only for purposes consistent with the use of single-family residences.

11. SERVICE OF PROCESS. The name of the person designated to receive process in any action which may be instituted in relation to this Condominium, or to any part thereof, is Henry N. Pharr, II of Ervin, Horack & McCartha, Attorneys at Law, whose address is 1300 Johnston Building, Charlotte, North Carolina 28202.

12. ASSOCIATION. The management, operation and administration of SIR JOHN'S HILL shall be performed by the Homeowners Association, Inc., a non-profit, nonstock, membership corporation organized under Chapter 55A of the North Carolina General Statutes. The members of The Homeowners Association, Inc. referred to in this DECLARATION or in the Bylaws as the "Association" or the "Association of Unit Owners," shall be limited to and consist of all of the unit owners. All of the Association's activities shall be limited to said management, operation and administration of SIR JOHN'S HILL in conformity with the Unit Ownership Act, this Declaration and the Bylaws hereinafter referred to.

13. BYLAWS. The Bylaws of the Association, entitled "BYLAWS OF SIR JOHN'S HILL HOMEOWNERS ASSOCIATION, INC." attached hereto and recorded in the office of the Register of Deeds for Mecklenburg County simultaneously with the recording of this DECLARATION, shall govern the administration of SIR JOHN'S HILL. Said Bylaws contain certain covenants, conditions, and restrictions which run with the Condominium Property and are binding upon all parties having or acquiring any interest therein.

14. AMENDMENTS. This DECLARATION may be amended at any time by an instrument in writing signed and acknowledged by unit owners holding at least seventy-five (75%) per cent of the vote in The Sir John's Hill Homeowners Asso-

lation, Inc., which is recorded in the Mecklenburg Public Registry; provided, however, the percentage of undivided interest of each unit owner in the Common Areas and facilities as set forth in Paragraph 9 of this DECLARATION shall not be altered except with the unanimous consent of all unit owners expressed in an amended Declaration duly recorded.

15. SUCCESSORS BOUND. The provisions contained in this DECLARATION and the Bylaws, as each or both are properly amended from time to time, shall be binding upon all persons, fiduciaries or entities having or acquiring any right, title or interest in the Condominium Property or in any part thereof.

IN WITNESS WHEREOF, the Sponsor has caused this DECLARATION to be executed this 20<sup>th</sup> day of March, 1973.

FUTREN DEVELOPMENT CORPORATION

By C. Wayne Prater  
C. Wayne Prater, President

ATTEST:

Ronald J. Withrow  
Ronald J. Withrow, Secretary

[CORPORATE SEAL]

STATE OF NORTH CAROLINA

COUNTY OF MECKLENBURG

This 20<sup>th</sup> day of March, 1973, personally came before me C. Wayne Prater, who being by me duly sworn, says that he is President of FUTREN DEVELOPMENT CORPORATION and that the seal affixed to the foregoing instrument in writing is the corporate seal of the Company, and that said writing was signed and sealed by him, in behalf of said corporation by its authority duly given. And the said President acknowledged the said writing to be the act and deed of said Corporation.

Lorraine M. Steele  
Notary Public

My commission expires: 4.5.76

[NOTARY SEAL]

STATE OF NORTH CAROLINA      The foregoing  
COUNTY OF MECKLENBURG      certificate(s)

of Lorraine M. Steele,

a Notary Public of said County and State  
is ~~xxx~~ certified to be correct.  
This 20th day of March 19 73

Recorded in Book 3546 Page 169 and Verified,  
CHARLES E. CROPPER, Register of Deeds

By Maryjane King  
Deputy  
175

Cratton

MAR 11 4 10

176

TABLE OF CONTENTS

<u>ARTICLE</u>		<u>PAGE</u>
I	Name and Location	1
II	Definitions	1
III	Administration of Sir John's Hill Condominium Homeowners Association, Inc.	2
IV	Membership	2
V	Board of Directors	5
VI	Committees	8
VII	Officers	9
VIII	Maintenance - Ordinary Repair - Alterations to the Common Area	11
IX	Insurance - Repair of Casualty Damages	12
X	Assessments for Common Expenses - Surplus	15
XI	Property Rights	16
XII	Sale or Lease or Unit	18
XIII	Restrictive Covenants - Regulations	19
XIV	Compliance and Defaults	20
XV	Condemnation	21
XVI	Amendments	22
XVII	Termination	22
XVIII	Miscellaneous	23
XIX	Architectural Control	23



BYLAWS  
OF  
SIR JOHN'S HILL HOMEOWNERS ASSOCIATION, INC.

ARTICLE I

NAME AND LOCATION

(1) Name - Location. The name of the Corporation is SIR JOHN'S HILL HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as "The Association." The principal office of The Association shall be located at 3801 Sharon View Road, Charlotte, North Carolina 28211, or at such place as the Board of Directors may deem convenient or the affairs of The Association may require, provided that the meetings of the members of the Board of Directors may be held at such place and location in the State of North Carolina as may be agreed by a majority of the Board of Directors.

ARTICLE II

DEFINITIONS.

The following words and phrases as used in these Bylaws shall have the following meanings unless otherwise specifically required by the context:

- (1) Association. An Association of and limited to the owners of the condominium units of SIR JOHN'S HILL in the form of a nonprofit, nonstock membership corporation organized under the laws of the State of North Carolina as SIR JOHN'S HILL HOMEOWNERS ASSOCIATION, INC.
- (2) Buildings. The buildings described in Paragraph 5 of the Declaration and as shown on the Surveys and Plans hereinafter referred to.
- (3) Common Area. All of the Condominium Property after excluding the units. Common Area includes both the "limited" and "general" common areas and facilities as said latter terms are defined in Paragraphs 7 and 8 of the Declaration.
- (4) Common Expenses. (a) All expenses incident to the administration, maintenance, repairs and replacements of the Common Area after excluding such expenses relating to the limited common area which are the responsibility of a particular Unit Owner as set forth in Article VIII(2) hereof, (b) expenses determined by The Association to be Common Expenses and which are lawfully assessed against the Unit Owners, and (c) expenses declared to be Common Expenses by the provisions of the Unit Ownership Act or the Condominium Documents.
- (5) Condominium Documents. The "Declaration of Sir John's Hill as Condominiums," "Articles of Incorporation of Sir John's Hill Homeowners Association, Inc." and these Bylaws and Regulations governing the use of the Condominium Property, as amended from time to time.
- (6) Condominium Property of Sir John's Hill. All of the property submitted to the Unit Ownership Act by the Declaration, including the land described in Paragraph 3 of the Declaration, the Buildings and all other improvements thereon, whether the same be Common Area or Units or any part thereof, and all easements and the rights appurtenant thereto.
- (7) Declarant. Futren Development Corporation, a North Carolina corporation, doing business in the State of North Carolina.

- (8) Declaration. The "Declaration of Sir John's Hill as Condominiums" by which the Condominium Property is submitted to the provisions of the Uniform Ownership Act, as the same may be amended from time to time.
- (9) Percentage Interest. The percentage of undivided interest each Unit Owner owns as tenant in common in the Common Area (both "limited" and "general") as set forth in Paragraph 9 of the Declaration.
- (10) Person. Individual, corporation, partnership, association, trustee, fiduciary or any other legal entity and shall mean the plural or combination of same where applicable.
- (11) Plans. Those original plans of the buildings on the Condominium Property by John J. Harte Associates, Inc., Registered Architects, entitled "A Development in Charlotte, N. C. for Futren Development Corp.," which are referred to in Paragraph 4 of the Declaration and which will be filed for record in the office of the Register of Deeds of Mecklenburg County, North Carolina, simultaneously with the filing for record of the Declaration.
- (12) Surveys. Surveys of the Condominium Property by John J. Harte Associates, Inc., dated October 7, 1971, entitled "A Development in Charlotte, North Carolina for Futren Development Corp.," which are attached to the Plans and will be filed for record in the office of the Register of Deeds of Mecklenburg County, North Carolina, simultaneously with the filing for record of said Plans.
- (13) Unit. One of the seventy-eight residential units in the buildings, as more particularly defined in Paragraph 6 of the Declaration.
- (14) Unit Owner. The record owner or owners of a Unit, excluding any lender, trustee, or creditor whose interest is merely as security for the performance of an obligation.
- (15) Unit Ownership Act. Chapter 47A of the North Carolina General Statutes.

### ARTICLE III

#### ADMINISTRATION OF SIR JOHN'S HILL CONDOMINIUM HOMEOWNERS ASSOCIATION, INC.

- (1) Corporation. Sir John's Hill Homeowners Association, Inc., a North Carolina corporation, was formed solely for the purpose of administering, managing and being in charge of the operation of the Condominium Property. The Association shall not engage in any other activities and shall confine itself to the management of the Condominium Property.
- (2) Authority. The Association, its Board of Directors, its officers and its members, shall at all times act in conformity with the Unit Ownership Act of North Carolina, the Nonprofit Corporation Act of North Carolina and the Condominium Documents.

### ARTICLE IV

#### MEMBERSHIP

- (1) Qualification. Membership in The Association shall be confined to and consist of the Unit Owners. Membership shall be appurtenant to and inseparable from unit ownership. No Unit Owner shall be required to pay any consideration whatsoever for his membership.

Membership in The Association shall inure automatically to Unit Owners upon acquisition of the fee simple title--whether encumbered or not--to any one or more Units. The date of recordation of the conveyance in the Mecklenburg Public Registry of the Unit in question shall govern the date of ownership of each particular Unit. However, in the case of death, the transfer of ownership shall occur on date of death in the case of intestacy or date of probate of Will in the case of testacy. Until a decedent's Will is probated, The Association may rely on the presumption that a deceased owner died intestate.

(2) Place of Meetings. All meetings of the membership shall be held in the City of Charlotte or County of Mecklenburg, State of North Carolina, at such place or places therein as the Board of Directors determines, from time to time. Provided, by action duly taken by the membership, any one or more meetings may be held at any other location, whether within or without the State of North Carolina.

(3) Annual Meetings. The first annual meeting of the members shall be held at a date and hour designated by the Declarant which is three years after the completion of the construction of all Units in the project or after the last Unit is sold to a third party, whichever occurs sooner. Thereafter, annual meetings of the members shall be held on the third Tuesday of March of each year, at seven o'clock, p.m., Eastern Standard Time. If the third Tuesday in March should be a legal holiday, the annual meeting shall be held at the same hour on the first day following which is not a legal holiday. At each such meeting the Board of Directors shall be elected in accordance with Article V(4) of these Bylaws, and the members shall transact such other business as may properly come before them, including but not limited to being informed concerning the present financial structure of The Association and further being informed of the annual assessment.

(4) Substitute Annual Meetings. If the annual meeting shall not be held on the day designated by these Bylaws, a substitute annual meeting may be called in accordance with the provisions of Article IV(5) and Article IV(6). A meeting so called shall be designated and treated for all purposes as the annual meeting.

(5) Special Meetings. Special meetings of the members may be called at any time by the President, Board of Directors, or by any member pursuant to the written request of the owners of not less than ten (10%) per cent of the votes of the membership. Business to be acted upon at all special meetings shall be confined to the objects stated in the notice of such meetings. The aforementioned request shall be made to the Board of Directors.

(6) Notice of Meetings - Waiver. Written or printed notice stating the time and place of the meeting shall be delivered not less than ten nor more than fifty days before the date of any membership meeting, either personally or by mail, by or at the direction of the President, the Secretary, or any other person calling the meeting, to each member entitled to vote at such meeting. Notice shall be deemed given upon deposit in the mail depository of each Unit located in the Buildings.

Notice given to any one tenant in common or tenant by the entirety of a Unit shall be deemed notice to all co-owners of the subject Unit.

In the case of a special meeting, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called; but, in the case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted thereat unless such a statement is required by the provisions of the North Carolina Nonprofit Corporation Act.

In the case of a special meeting, the notice of meeting shall specifically state the purpose or purposes for which the meeting is called; but, in the case of an annual or substitute annual meeting, the notice of meeting need not specifically state the business to be transacted thereat unless such a statement is required by the provisions of the North Carolina Nonprofit Corporation Act.

Any member may waive the necessity of formal notice to him by signing a written waiver either before or after the meeting and upon execution of said waiver, said member shall not be entitled thereafter to object to the meeting being held or matters being passed upon at said meeting because of lack of notice thereof.

(7) Quorum. Except as otherwise provided in these Bylaws, the presence in person or by proxy of members holding fifty (50%) percent of the total vote of the membership shall constitute a quorum at all meetings of the members. If a quorum is not present or represented at any meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time, without notice other than the announcement at the meeting, until a quorum is present or is represented. At the subsequent meeting, announced as aforementioned, the quorum necessary shall be thirty-five (35%) per cent. If a quorum is still not present or represented at said meeting, the members entitled to vote thereat shall have the power to adjourn the meeting from time to time without notice other than the announcement at the meeting, until a quorum is present or is represented. At the subsequent meeting, announced as aforementioned, the quorum shall be twenty-five (25%) per cent.

(8) Voting Rights. The total number of votes of all Unit Owners shall be one hundred (100) and the owner or owners of each Unit shall be entitled to cast the number of votes equal to the Percentage Interest appurtenant to the Unit or Units owned by such owners.

In the case where a Unit is owned by two or more persons (whether individually or in a fiduciary capacity), the votes allocated to that Unit may be cast by any one of the co-owners, in person or by proxy. If more than one of the co-owners vote, the unanimous action of all co-owners voting shall be necessary to effectively cast the votes allocated to the subject Unit.

The owners of life estates in the Units shall be entitled to cast the votes appurtenant to such Units as are so owned. The above provisions concerning co-ownership shall also apply to those owning joint or multiple life estates in any particular Unit.

No member, other than Declarant, shall be entitled to vote at any meeting until such member has presented reasonable evidence of ownership, or a partial ownership of a Unit or life estate therein to the Board of Directors or a voting inspector appointed by them.

(9) Proxies. Members may vote either in person or by agents duly authorized by a written proxy executed by the subject member or by his duly authorized attorney-in-fact. A proxy is not valid after the expiration of eleven (11) months from the date of its execution, unless the person executing it specifies therein the length of time for which it is to continue in force, or limits its use to a particular meeting, but no proxy shall be valid after ten (10) years from the date of its execution. Unless a proxy otherwise provides, any proxy holder may appoint in writing a substitute to act in his place. In order to be effective, all proxies must be filed with the Secretary or duly acting Secretary either during or prior to the meeting in question.

All of the above provisions concerning the voting by co-owners shall apply to the votes cast for any one Unit by two or more proxy holders.

(10) Majority Vote. The casting of a majority of the votes represented at a meeting at which a quorum is present, in person or by proxy, shall be binding for all purposes except where a higher percentage vote is required by these Bylaws or by law.

(11) Actions Without Meeting. Any action which may be taken at a meeting of the membership may be taken without a meeting if a consent or ratification, in writing, setting forth the action so taken or to be taken shall be signed by persons who would be entitled to vote the seventy-five (75%) per cent votes upon such action at a meeting and such consent is filed with the Secretary of The Association and inserted in the Minute Book of The Association.

## ARTICLE V

### BOARD OF DIRECTORS

(1) General Powers. The business and affairs of The Association shall be managed by the Board of Directors or by such committees as the Board may establish pursuant to Article VII of these Bylaws.

(2) Number, Term and Qualification. The initial Board of Directors shall consist of three (3) individuals whose names are set forth in the Articles of Incorporation. From and after the date of the first annual membership meeting, there shall be five (5) directors. Except for the initial directors, at least three of the five directors shall at all times while in office be members of The Association, each maintaining their permanent residences in one of the Units. Each director shall be at least twenty-one (21) years of age. Any qualified director may be re-elected in office. Each director shall hold office until his death, resignation, retirement, removal, disqualification, or his successor is elected and qualified.

(3) Nominations. Nominations for election to the Board of Directors shall be made by a Nominating Committee consisting of a Chairman, who shall be a member of the Board, and at least two (2) members of The Association. The Nominating Committee shall be appointed by the Board 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 such appointment shall be announced at each annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Nominations may also be made from the floor at the annual meeting.

(4) Election of Directors. At the first annual membership meeting, the members shall elect five (5) directors. Directors shall serve staggered terms. At the first annual membership meeting, the members shall elect directors as follows: (i) Two directors for three year terms; (ii) Two directors for two year terms, and (iii) One director for a one year term. After the first annual membership meeting all directors shall serve three year terms. If any director so demands or if the presiding officer so directs, the election of directors shall be by ballot. Otherwise, the election of directors shall be by voice vote. The Secretary of the Corporation shall have the direct responsibility for securing the correct count of those votes cast, whether the voting be by ballot or by voice. Persons receiving the highest number of votes [see Article IV(8)] shall be elected. Cumulative voting is not permitted.

(5) Removal. Any director may be removed from the Board, with or without cause, by a majority vote [Article IV(10)] of the members of The Association at any annual or special meeting of the membership. Provided, the notice of the meeting must state that the question of such removal will be acted upon

at the subject meeting. If any directors are so removed, their successors as directors may be elected by the membership at the same meeting to fill the unexpired terms of the directors so removed.

(6) Vacancies. A vacancy occurring in the Board of Directors may be filled by a majority of the remaining directors, though less than a quorum, or by the sole remaining director; but a vacancy created by an increase in the authorized number of directors shall be filled only by election at an annual or substitute annual meeting or at a special meeting of the members called for that purpose or by unanimous consent of the members without meeting. The members may elect a director at any time to fill any vacancy not filled by the directors. As indicated in Article V(5), the membership shall have the first right to fill any vacancy created by the membership's removal of a director.

(7) Chairman. The President of the corporation shall be the Chairman of the Board of Directors. The Chairman shall preside at all meetings of the Board of Directors and perform such other duties as may be directed by the Board. In the absence of the Chairman, the Board of Directors may appoint an Acting Chairman.

(8) Compensation. No member of the Board of Directors shall receive any compensation from The Association for acting as such. Provided, however, each director shall be reimbursed for reasonable out-of-pocket expenses (provided those expenses are reasonably verified) incurred and paid by him on behalf of The Association. Further provided, each director--by assuming office--waives his right to institute suit against or make claim upon The Association for compensation based upon quantum meruit.

(9) Loans. No loans shall be made by The Association to its directors or officers.

(10) Liability of Directors. To the extent permitted by the provisions of the North Carolina Nonprofit Corporation Act in effect at the applicable time, each director is hereby indemnified by The Association with respect to any liability and expense of litigation arising out of his activities as a director. Such indemnity shall be subject to approval by the members only when such approval is required by said Act.

(11) Meetings of Directors.

A. Regular Meetings. Regular quarterly meetings shall be held, without notice, at such hour and address as may be fixed from time to time by resolution of the Board. Should any such meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

B. Special Meetings. Special meetings shall be held when called by the President of The Association, or by any two (2) directors, after not less than three (3) nor more than thirty (30) days written notice to each director.

C. Notices of Special Meetings. The notice provided for herein may be waived by written instrument signed by those directors who do not receive said notice. Except to the extent otherwise required by law, the purpose of the director's special meeting need not be stated in the notice. Notices shall be deemed received upon the happening of any one of the following events: (i) One day following deposit of same in the United States mails with proper postage paid and addressed to the director at his last known address on file with The Association, (ii) Deposit of same in his Unit mail box, or (iii) Delivery to the director. Attendance by a director at a meeting shall constitute a waiver of notice of

such meeting unless the subject director gives written statement at the meeting to the person presiding objecting to the transaction of any business because the meeting is not lawfully called.

D. Approved Meeting Place. All directors meetings shall be held in the City of Charlotte or County of Mecklenburg, State of North Carolina.

E. Quorum. A majority of the directors then holding office shall constitute a quorum for the transaction of business and every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act or decision of the Board.

(12) Action Without Meeting. The directors shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors. Said written approval shall be filed with the Minutes of the proceedings of the Board, whether done before or after the action so taken.

(13) Presumption of Assent. A director of The Association who is present at a meeting of the Board of Directors at which action on any corporate matter is taken shall be presumed to have assented to the action taken unless his contrary vote is recorded or his dissent is otherwise entered in the Minutes of the meeting or unless he shall file his written dissent to such action with the person acting as the secretary of the meeting before the adjournment thereof or shall forward such dissent by registered mail to the Secretary of The Association immediately after the adjournment of the meeting. Such right to dissent shall not apply to a director who voted in favor of such action.

(14) Powers and Duties. The Board of Directors shall have all powers and duties necessary for the administration of the affairs of Sir John's Hill except such powers and duties as by law or by the Condominium Documents may not be delegated by the Unit Owners to the Board. The powers and duties to be exercised by the Board shall include, but shall not be limited to the following:

A. Operation, care, upkeep and maintenance of the general and limited Common Area;

B. Determination of the funds required for operation, administration, maintenance and other affairs of Sir John's Hill and collection of the Common Expenses from the Unit Owners, as provided in Article X of these Bylaws;

C. Employment and dismissal of personnel necessary for the efficient operation and maintenance of Sir John's Hill;

D. Adoption of rules and regulations covering the details of the operation and use of the Condominium Property;

E. Opening of bank accounts on behalf of The Association and designating the signatories required therefor;

F. Purchasing Units at foreclosure or other judicial sales in the name of The Association, or its designee (provided such purchase is approved by a majority of the Unit Owners);

G. Selling, leasing, mortgaging, voting the votes appurtenant to (other than for the election of directors), or otherwise dealing with Units acquired by The Association or its designee;

- H. Granting licenses for vending machines and/or purchasing the same.
- I. Obtaining insurance for Sir John's Hill pursuant to Article IX hereof;
- J. Making repairs, additions and improvements to, or alterations of, the Common Area (general and limited), and repairs and restoration of said property;
- K. Keeping detailed, accurate records in chronological order of the receipts and expenditures affecting the Common Area, specifying and identifying the maintenance and repair expenses of the Common Area and any other expenses incurred. Both said records and the vouchers accrediting the entries thereupon shall be available for examination by all the Unit Owners, their duly authorized agents or attorneys, at convenient hours on working days that shall be set and announced for general knowledge. All books and records shall be kept in accordance with good and accepted accounting practices and an outside audit shall be made at least once a year;
- L. Keeping a complete record of the minutes of all meetings of the directors and membership in which Minute Book shall be inserted actions taken by the directors and/or members by consent without meeting;
- M. Supervising all officers, agents and employees of The Association and insuring that their duties are properly performed; and
- N. Fixing assessments in the manner prescribed in Article X of these Bylaws.

(15) Independent Manager. The Board of Directors may employ or enter into a management contract with any individual or firm it deems appropriate and in the best interest of The Association concerning the routine management of the Condominium Property. The Board of Directors may delegate to such person or firm (herein referred to in these Bylaws as "Independent Manager") such duties and responsibilities in the management of the Condominium Property as the Board of Directors deems appropriate. Provided, the Board of Directors may not delegate to the Independent Manager the complete and total responsibilities of The Association in violation of the Nonprofit Corporation Act of North Carolina.

The Board of Directors shall have the authority to fix the reasonable compensation for the Independent Manager. The Independent Manager shall at all times be answerable to the Board of Directors and subject to the direction of the Board of Directors.

## ARTICLE VI

### COMMITTEES

- (1) Creation. The Board of Directors, by resolutions adopted by a majority of the number of directors then holding office, may create such committees as they deem necessary and appropriate in aiding the Board of Directors to carry out its duties and responsibilities with respect to the management of Sir John's Hill. Each committee so created shall have such authorities and responsibilities as the directors deem appropriate and as set forth in the resolutions creating said committees. The directors shall elect the members of each committee, and at least one director shall serve on all committees.
- (2) Vacancy. Any vacancy occurring on a committee shall be filled by a majority of the number of directors then holding office at a regular or special meeting



of the Board of Directors.

- (3) Removal. Any member of a committee may be removed at any time with or without cause by a majority of the number of directors then holding office.
- (4) Minutes. Each committee shall keep regular minutes of its proceedings and report the same to the Board when required.
- (5) Responsibility of Directors. The designation of committees and the delegation thereto of authority shall not operate to relieve the Board of Directors, or any member thereof, of any responsibility or liability imposed upon it or him by law, or by these Bylaws.

## ARTICLE VII

### OFFICERS

- (1) Enumeration of Officers. The officers of The Association shall consist of a President, a Secretary, a Treasurer, and such Vice Presidents, Assistant Secretaries, Assistant Treasurers and other officers as the Board of Directors may from time to time elect. Except for the President, no officer need be a member of the Board of Directors.
- (2) Election and Term. The officers of The Association shall be elected annually by the Board of Directors. Such elections shall be held at the first meeting of the Board next following the annual or substitute annual meeting of the members. Each officer shall hold office until his death, resignation, removal, or until his successor is elected.
- (3) Removal. Any officer elected or appointed by the Board of Directors may be removed by the Board whenever in its judgment the best interest of The Association will be served thereby.
- (4) Vacancy. A vacancy in any office may be filled by the election by the Board of Directors of a successor to such office. Such election may be held at any meeting of the Board. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces.
- (5) Multiple Offices. The person holding the office of President shall not also hold the office of Secretary or Treasurer at the same time. Any other offices may be simultaneously held by one person.
- (6) President. The President shall be the chief executive officer of The Association and shall preside at all meetings of the members. He shall serve as Chairman of the Board of Directors and shall see that the orders and resolutions of the Board of Directors are carried out; shall sign all written instruments regarding the Common Area. He shall have all of the general powers and duties which are incident to the office of President of a corporation organized under Chapter 55A of the North Carolina General Statutes in the supervision and control of the management of The Association in accordance with these Bylaws.
- (7) Vice Presidents. The Vice Presidents in the order of their election, unless otherwise determined by the Board of Directors, shall, in the absence or disability of the President, perform the duties and exercise the powers of that office. In addition, they shall perform such other duties and have such other powers as the Board of Directors shall prescribe.
- (8) Secretary. The Secretary shall keep the minutes of all meetings of members and of the Board of Directors; he shall have charge of such books and

papers as the Board of Directors may direct; he shall, in general, perform all duties incident to the office of Secretary of a corporation organized under Chapter 55A of the North Carolina General Statutes.

(9) Treasurer. The Treasurer shall have the responsibility for The Association funds and securities and shall be responsible for keeping full and accurate financial records in books of account showing all receipts and disbursements, and for the preparation of all required financial statements. He shall have prepared an annual audit of The Association books to be made by a public accountant at the completion of each fiscal year; shall have prepared an annual budget and a statement of income and expenditures to be presented to the membership at its annual meeting; and shall deliver a copy of each to the members. He shall perform all duties incident to the office of Treasurer of a corporation organized under Chapter 55A of the North Carolina General Statutes.

(10) Assistant Secretaries and Treasurers. The Assistant Secretaries and Treasurers shall, in the absence or disability of the Secretary or the Treasurer, respectively, perform the duties and exercise the powers of those offices, and they shall, in general, perform such other duties as shall be assigned to them by the Secretary or the Treasurer, respectively, or by the President or the Board of Directors.

(11) Loans to Officers. The Association shall not make any loans, either directly or indirectly, to any officer of The Association.

(12) Compensation. Officers shall not be compensated on a regular basis for the usual and ordinary services rendered to The Association incident to the offices held by such officers. The officers and directors may be reimbursed for reasonable out-of-pocket expenses (provided those expenses are reasonably verified) incurred and paid by him on behalf of The Association. Each officer--by assuming office--waives his right to institute suit against or make claim upon The Association for compensation based upon quantum meruit.

(13) Indemnification. To the extent permitted by the provisions of the North Carolina Nonprofit Corporation Act in effect at the applicable times, each officer is hereby indemnified by The Association with respect to any liability and expense of litigation arising out of his activities as an officer. Such indemnity shall be subject to approval by the members only when such approval is required by said Act.

(14) Corporation Notes and Corporation Checks.

(i) Notes of the Corporation shall be executed in the manner prescribed by the Statutes of North Carolina with the signatures of the President or Vice President and an attestation by the Corporation's Secretary or Assistant Secretary, together with the corporate seal. No note of the Corporation shall be executed by the Corporation's officers as set out above, except as preceded by a properly adopted and executed corporate resolution of the Board of Directors of the Corporation.

(ii) Checks of the Corporation shall require two signatures of the Corporation's officers and others as follows: (a) the signature of the President or any Vice President, and (b) the signature of the Treasurer, Assistant Treasurer, or the Independent Manager (if any). The formation of any corporate checking account must be preceded by a properly adopted and executed resolution of the Board of Directors of the Corporation.

ARTICLE VIII

MAINTENANCE - ORDINARY REPAIR - ALTERATIONS TO THE COMMON AREA

(1) By The Association. Except as specifically provided elsewhere in these By-laws, The Association shall maintain, repair and replace at its expense all parts of the Common Area (both general and limited) whether located inside or outside of a Unit, the cost of which shall be charged to the Unit Owners as a Common Expense subject to the provisions of Paragraph 2 herein. The Association shall have the irrevocable right, to be exercised by the Board of Directors, or its agent, to have access to each Unit from time to time during reasonable hours as may be necessary for the inspection, maintenance, repair or replacement of any of the Common Area therein or accessible therefrom, or for making emergency repairs therein necessary to prevent damage to the Common Area or to other Unit or Units.

(2) By the Unit Owners. Each Unit Owner shall maintain, repair and replace at his own expense all portions of his Unit which may become in need thereof, including the heating and air-conditioning system for each Unit, all bathroom and kitchen fixtures and appliances, light fixtures, interior non load-bearing walls, carpeting, drapes and other items within the Unit. Further, each Unit Owner shall, at his own expense, maintain, repair and replace, when necessary, that portion of the air-conditioning system servicing his Unit which is located adjacent to his Unit and each Unit Owner shall, at his own expense, keep the limited Common Areas to which his Unit has exclusive access clean and neat. All damages to the Common Area intentionally or negligently caused by the Unit Owner, his family, guests, agents, servants, lessees, employees or contractors shall be promptly repaired by the subject Unit Owner. Provided, there is excluded from the provisions contained in this section such repairs necessitated by casualties insured against by The Association to the extent The Association receives insurance proceeds for such repairs. If the Unit Owner does not make those repairs to be made by him within thirty days from written demand by The Association, the same may be repaired by The Association and the cost thereof shall be assessed against the Unit owned by the subject Unit Owner.

(3) Restrictions on Unit Owners. No Unit Owner shall perform or cause to be performed any maintenance, repair or replacement work which disturbs the rights of the other Unit Owners, jeopardizes the soundness or the safety of the Condominium Property or reduces the value thereof. The Unit Owner shall cause any work so performed or being performed on the Unit, which in the sole opinion of the Board of Directors, violates the terms of this paragraph, to be immediately corrected and he shall refrain from recommencing or continuing any work so in violation without written consent of the Board. He shall not repair, alter, replace or remove any of the Common Area located within his Unit without the prior written consent of the Board. See Article XIII(2) hereof relating to structural alterations of a Unit by a Unit Owner.

(4) Duty to Report. Each Unit Owner shall promptly report to the Board of Directors or its agent any defect or need for repairs or replacement the responsibility for which is that of The Association.

(5) Alterations to Common Area. The Association is authorized as a Common Expense to make minor improvements to and alterations of the Common Area. Provided, however, no major or structural improvements to or alterations of the Common Area shall be made by The Association beyond that required in Article VIII(1) and Article IX(9) without first obtaining the approval of the membership by at least a 75% vote of the total one hundred (100) votes of The Association.

(6) Approval of Payment Vouchers. All vouchers for payment of expenses incurred by The Association in the maintenance, repair, alteration and replacement of the

Common Area shall be approved in writing jointly by the President and Treasurer. In the absence or disability of the President, the Vice President may perform the duties herein of the President as set forth in Article VII(7) and in like manner, the Assistant Treasurer may perform the duties of the Treasurer herein in the absence or disability of the Treasurer.

Notwithstanding the foregoing, the Board of Directors may authorize any officer or member or committee or Independent Manager to approve or disapprove all vouchers for payment of routine expenses incident to the maintenance, repair, alteration and/or replacement of the Common Area so long as the resolution granting such authority specifically limits the maximum amount which may be authorized by such officer, member, etc. on each occasion and so long as the subject resolution describes the items of expense payment of which may be so authorized. Further, the members shall be notified of the adoption of such resolution by the Board of Directors as and when the same is adopted.

#### ARTICLE IX

##### INSURANCE - REPAIR OF CASUALTY DAMAGES

(1) Authority to Purchase. The Board of Directors shall have the authority to and shall obtain a master insurance policy or policies with coverage as indicated in Paragraph (2) A and B below upon the Condominium Property for the benefit of The Association, the Unit Owners and their mortgagees as their interests may appear, and provisions shall be made for the issue of certificates of mortgagee endorsements to the mortgagees of the Unit Owners. The original of such policy or policies and endorsements thereto shall be deposited with The Association, as Insurance Trustee, and Unit Owners may inspect said policy or policies at any time during reasonable working hours and after reasonable notice to the Secretary. Unit Owners must obtain insurance coverage at their own expense upon their own personal property including those items of personal property set out in Paragraph 6 of the Declaration, and for their own personal liability and living expense (said policy shall contain the standard "Betterments and Improvements" or "Condominium" clause).

(2) Coverage.

A. Association Physical Loss. The Buildings and all other improvements upon the land and all personal property of the Sir John's Hill Homeowners Association, Inc. included in the Common Area shall be insured in an amount equal to the maximum insurable replacement value (excluding foundation and excavation costs) as determined annually by the Board of Directors. Such coverage shall afford protection against (1) Loss or damage by fire and other hazards covered by a standard extended coverage endorsement; and (2) such other risks as from time to time shall customarily be covered with respect to buildings similar in construction, location and use as the Buildings, including, but not limited to, vandalism and malicious mischief.

B. Association Liability. The public and property damage liability of The Association shall be insured against in the amount of at least \$1,000,000.00 per occurrence and in such further amounts as the Board of Directors from time to time determine appropriate.

C. Unit Owners Policies. Unit Owners must obtain insurance coverage at their own expense upon their own personal property including those items of personal property set out in Paragraph 6 of the Declaration, their living expense and comprehensive personal liability covering liability for damage to person or property of others.

(3) Premiums. Premiums on the insurance policies described above shall be payable as follows:

A. Association's Physical Damage. This policy shall be purchased by The Homeowners Association and its percentage of the premium shall

be paid by said Homeowners Association or its agent. The percentage of the premiums which are payable by the Unit Owners shall be paid as follows: (a) the Unit Owner shall pay the premium directly to the insurance company, (b) if required by Unit Owner's lender, the premium may be escrowed with the Unit Owner's monthly mortgage payment and thereafter be forwarded to the insurance company, and (c) if deemed necessary by the Board of Directors of The Association said premium shall be paid by The Association or its agents as a common expense which said common expense shall be assessed against said Unit Owner pursuant to Article X herein.

B. Association's Liability. This policy shall be purchased by The Association and the premiums shall be paid by The Association or its agents as a common expense which said common expense shall be assessed against said Unit Owners pursuant to Article X herein.

C. Unit Owner's Policy. These policies shall be purchased by the individual Unit Owners and shall insure against those items described in subparagraph (2) C herein. The premiums for these policies shall be paid as follows: (a) directly to the insurance company by the individual Unit Owner, (b) if required by Unit Owner's lender, said premiums may be escrowed with the monthly mortgage payments and thereafter be forwarded to the insurance company, and (c) if deemed necessary by the Board of Directors of The Association or its agents as a common expense which said common expense shall be assessed against said Unit Owner pursuant to Article X herein. (4) Receipt of Proceeds - Insurance Trustee. All insurance policies purchased by the Board of Directors shall be for the benefit of The Association, the Unit

Owners and their mortgagees as their interests may appear, and shall provide that all proceeds covering property losses shall be paid to The Association as Insurance Trustee. The duty of the Insurance Trustee shall be to receive such proceeds as are paid and hold the same in trust for the purposes hereinafter stated and for the benefit of the Unit Owners and their mortgagees in the following shares:

A. Common Area. An undivided share of the proceeds received by The Association on account of damage to the Common Area shall be held for each Unit Owner and said share shall be determined by the subject Unit Owner's Percentage Interest in the Common Area. Proceeds received by The Association on account of damage to Units shall be held in the following shares:

[1] When the Buildings are to be restored, the proceeds shall be held for the Unit Owners of the damaged Units in proportion to the cost of repairing the damage suffered by each Unit Owner, which cost shall be determined by The Association.

[2] When the Buildings are not to be restored, an undivided share in the proceeds shall be held for each Unit Owner, such share being the same as his Percentage Interest in the Common Area.

B. Mortgagees. In the event a mortgagee endorsement has been issued as to a Unit, the share of the Unit Owner shall be held in trust for the mortgagee and the Unit Owner as their interests may appear; provided, that no mortgagee shall have the right to determine or participate in the determination as to whether or not any damaged property shall be reconstructed or repaired.

(5) Distribution of Proceeds. Proceeds of insurance policies received by the Insurance Trustee shall be distributed to or for the benefit of the beneficial owners in the following manner:

A. Reconstruction or Repair. If the damage for which the proceeds are paid is to be repaired or reconstructed, the proceeds shall be paid to defray the cost thereof as provided in Article IX(8). All proceeds remaining after defraying such costs shall be distributed to the beneficial owners, remittances to Unit Owners and their mortgagees being payable jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

B. Failure to Reconstruct or Repair. If it is determined as provided in Article IX(9) that the damage for which the proceeds are paid shall not be reconstructed or repaired, the proceeds shall be distributed to the beneficial owners as set forth in Article IX(9). Any remittances to Unit Owners and their mortgagees shall be paid jointly to them. This is a covenant for the benefit of any mortgagee of a Unit and may be enforced by such mortgagee.

(6) Association as Agent. The Association is hereby irrevocably appointed Agent for each Unit Owner and for each owner of a mortgage or other lien upon a Unit and for each owner of any other interest in the Condominium Property to adjust all claims arising under insurance policies purchased by The Association and to execute and deliver releases upon the payment of claims.

(7) Waivers. All policies of physical damage insurance obtained by the Board of Directors pursuant to this Section shall contain waivers of subrogation against Unit Owners, The Association and others having an interest in the Condominium Property. Such policies shall provide that the same may not be canceled or substantially modified without at least ten (10) days prior written notice to The Association.

(8) Duty to Repair. In the event of damage to or destruction of the Buildings as a result of fire or other casualty and the Condominium Property is not partitioned as provided in Article IX(9), the Board of Directors shall arrange for the prompt repair and restoration of the Buildings (including any damaged Unit, but not including any wall, ceiling or floor decoration or coverings or other furniture, furnishings, fixtures or equipment to the Unit, unless the subject insurance policy covers a portion or all of such loss to the Unit, in which event The Association shall repair or replace such damage), and the Board of Directors shall disburse the proceeds of all insurance policies to the contractors engaged in such repair and restoration in appropriate progress payments. Any cost of such repair and restoration in excess of the insurance proceeds shall constitute a Common Expense.

(9) Partition. If the total cost of repairing the damages to all of the Buildings exceeds two-thirds ( $2/3$ ) of the total value of all of the Buildings (excluding land value) immediately preceding the damage AND there is a vote of at least seventy-five (75%) per cent of the votes in The Association not to proceed with repair or restoration, then and in that event:

A. The entire Condominium Property shall be deemed owned as tenants in common by the Unit Owners; and

B. The undivided interest in the Condominium Property owned by each Unit Owner shall be his Percentage Interest in the Common Area previously appurtenant to his Unit or Units; and

C. Any liens or encumbrances affecting any Unit shall be deemed transferred in accordance with the existing priority to the percentage of undivided interest of the subject Unit Owner in the Condominium Property as hereinabove provided; and

D. The Condominium Property shall be subject to an action for sale in lieu of partition at the suit of any Unit Owner, in which event the net proceeds of insurance policies, if any, shall be considered as one fund and shall be divided among the Unit Owners in the proportion to their Percentage Interests in the Common Area previously appurtenant to their Units, after first paying off, out of the respective shares of the Unit Owners, to the extent sufficient for that purpose, all liens on the Unit of each Unit Owner.

The determination of whether the repair costs "exceeds two-thirds ( $2/3$ ) the value of the Buildings for the purposes herein stated shall be determined by an appraisal of the value of the buildings (excluding the land) as of the day immediately preceding the damage obtained by the Board of Directors from the Charlotte Board of Realtors or any M.A.I. appraiser when compared to the cost of repairs and restoration as determined by the Board of Directors.

(10) Insufficient Proceeds. If the proceeds of insurance are insufficient to defray the estimated cost of reconstruction and repair by The Association, or if at any time during the reconstruction and repair and upon completion of the reconstruction and repair the funds for the payment of the cost thereof are insufficient, assessments shall be made against all the Unit Owners. Such assessments on account of damage to Common Areas shall be in proportion to the Unit Owners Percentage Interests in the Common Areas.

## ARTICLE X

ASSESSMENTS FOR COMMON EXPENSES - SURPLUS

- (1) Annual Assessments. Not later than December 1 of each year the Board of Directors shall give written notice to the Unit Owners of the annual assessment fixed against each Unit for the immediately succeeding calendar year. In fixing the annual assessment for each calendar year, the Board shall first estimate the Common Expenses for such year and shall then estimate the cash required to meet such Common Expenses. In determining the cash requirement, the Board shall include a reasonable reserve for contingencies and replacements and shall deduct any expected income and any surplus from the prior year's fund. The portion of such estimated cash requirement assessed against each Unit shall be determined by the Percentage Interest of such Unit. The failure of the Board to comply with the written notice requirement hereinabove provided shall not alter or invalidate any obligation of a Unit Owner, any right of The Association against such Unit Owner or any lien against a Unit provided for in this Section. The first annual assessments shall commence for each Unit sold on the date Declarant delivers the deed to said Unit.
- (2) Monthly Assessments. The annual assessment shall be paid to The Association in equal monthly installments on or before the first day of each month during any assessment period.
- (3) Special Assessments. Special assessments for the expansion of recreational facilities, replacement of existing recreational facilities, maintenance, repair and replacement of Units or Limited Common Areas or Common Areas to the extent not covered by annual assessments, and if for any other reason the annual assessments prove inadequate to pay the Common Expenses, the Board may levy special assessments at any time. The special assessments shall be fixed against the Units according to their Percentage Interests and the period of the assessment and manner of payment shall be determined by the Board.
- (4) Purpose of Assessments - Common Expenses. The annual and special assessments fixed and collected pursuant to this Section shall be used to pay the Common Expenses including but not limited to all expenses, costs and charges incurred by The Association in connection with the administration, operation and management of the Condominium Property; the costs of maintenance, repair, replacement and restoration of the Common Area, or any part thereof; the cost of all insurance obtained <sup>or required</sup> by the Board of Directors pursuant to Article IX of these Bylaws; the charges for utility services rendered to The Association; the Common Area property taxes (if any); charges for garbage collection; legal and audit expenses of The Association; supplies for the operation and administration of The Association; salaries and payroll taxes, and charges for cable television, when and only when the required membership vote is obtained as set forth herein; and any and all other expenses, costs or charges agreed upon as Common Expenses by The Association or declared Common Expenses by the provisions of the Unit Ownership Act, the Declaration or these Bylaws.
- (5) Lien and Personal Obligation. Each assessment provided for in this Article together with interest at the rate of ten per cent (10%) per annum from delinquent date (as established by the Board of Directors) and collection costs including attorneys fees, shall be a charge on and a continuing lien upon the Unit against which the assessment is made when a notice of such lien has been filed of record in the Office of the Clerk of Superior Court for Mecklenburg County, North Carolina, in the manner provided by Article 8, Chapter 44 of the North Carolina General Statutes, provided such notice of lien shall not be recorded until such sums assessed remain unpaid for a period of thirty (30) days after the same shall become due. Said notice of lien shall also secure all assessments against the



Unit becoming due thereafter until the lien has been satisfied. In addition, each Unit Owner shall be personally liable for any assessment against his Unit coming due and payable while he is the owner of such Unit. A grantee of a Unit shall be jointly and severally liable with the grantor for all unpaid assessments against such Unit due and owing at the time of the grant or conveyance, without prejudice to the grantee's right to recover from the grantor the amounts paid by the grantee therefor. Any grantee shall be entitled to a statement from the Board of Directors setting forth the amount of the unpaid assessments against the grantor and such grantee shall not be liable for, nor shall the Unit conveyed be subject to a lien for, any unpaid assessments in excess of the amount therein set forth.

(6) Effect of Nonpayment of Assessments - Remedies of The Association. If the assessments are not paid within thirty (30) days after the due date, the assessment shall bear interest from the delinquency date (as established by the Board of Directors) at the rate of ten (10%) per cent per annum, and The Association may bring an action at law against the Unit Owner personally obligated to pay same or foreclose its lien upon the Unit against which the delinquent assessments were charged, in which event, interest, costs and attorneys fees equal to fifteen (15%) per cent of the principal amount of the delinquent assessment shall be added to the amount of such assessments as may then be due.

The Association, with the written consent of all of the remaining Unit Owners shall have the power to bid in at any foreclosure sale of a Unit and to acquire, hold, lease, mortgage and convey the same.

(7) Priority of Assessment Lien. The lien of the assessments provided for in this Article shall be prior and superior to all other liens except (a) ad valorem taxes, (b) all sums unpaid on deeds of trust, mortgages or other encumbrances recorded against the Unit prior to the docketing of the assessment lien. The sale or transfer of any Unit shall not affect the assessment against such Unit. Provided however, the sale of a Unit pursuant to the foreclosure sale or execution sale instituted by a superior lien holder shall extinguish the inferior assessment lien against the subject Unit but no such sale or transfer shall relieve each Unit from liability for any assessments thereafter becoming due or for any future lien in connection therewith. The Association shall share in the excess, if any, realized by the sale of any Unit pursuant to a foreclosure or action instituted by a superior lien holder.

(8) Owner's Non-Use. No Unit Owner may exempt himself from liability for his contributions toward Common Expenses and his other obligations to The Association by waiver of the use or enjoyment of any portion of the Common Area or by the abandonment or sale of his Unit.

## ARTICLE XI

### PROPERTY RIGHTS

(1) Units. Each Unit, together with its Percentage Interest in the Common Area, shall for all purposes constitute a separate parcel of real property. A Unit Owner shall be vested with exclusive fee simple ownership and possession of his Unit which may be conveyed, transferred, leased, encumbered or devised in the same manner as any other real property, subject only to the provisions of the Condominium Documents and the Unit Ownership Act.

(2) Deeding a Unit. A Unit shall be described in a deed or other instrument of conveyance by its Unit designation. Such instrument shall recite the book and page numbers and date of recording of the Declaration and these Bylaws; shall contain the description of the land described in Paragraph 3 of the Declaration; shall state the use for which the Unit is intended and the restrictions on its use; and shall recite the Percentage Interest in the Common Area appurtenant to

said Unit. It shall further recite that the conveyance is made together with the benefits, rights and privileges stated in the Condominium Documents and subject to all the duties and obligations set forth therein.

(3) Common Area - Percentage Interest. The Unit Owners shall own the Common Area as tenants in common with each Unit having appurtenant thereto the Percentage Interest in said Common Area as follows: Four bedroom Units shall have 1.550 Percentage Interest appurtenant thereto, three bedroom Units shall have 1.268 Percentage Interest appurtenant thereto, and two bedroom Units shall have 1.102 Percentage Interest appurtenant thereto. The Percentage Interest appurtenant to each Unit has been determined by dividing the fair market value of such Unit as of the effective date of the Declaration by the aggregate fair market value of all of the Units as of said date. The stated Percentage Interest is permanent in character and cannot be altered without the consent of all (100%) of the Unit Owners expressed in an amendment to the Declaration duly recorded.

(4) Inseparability of Percentage Interests. The Percentage Interest in the Common Area cannot be separated from the Unit to which it appertains and shall be automatically conveyed or encumbered with the Unit even though such interest is not expressly mentioned or described in the deed or other instrument.

(5) No Partition. The Common Area shall remain undivided and no right to partition the same or any part thereof shall exist except as provided in the Unit Ownership Act and these Bylaws.

(6) Use of Common Area. The Unit Owners may use the Common Area in accordance with the purposes for which they are intended without hindering the exercise of or encroaching upon the rights of other Unit Owners. The Board of Directors shall, if any question arises, determine the purpose for which a part of the Common Area is intended to be used. The Board shall have the right to promulgate rules and regulations limiting the use of the Common Area to Unit Owners and their guests as well as to provide for the exclusive use of a part of the Common Area by a Unit Owner and his guests for special occasions which exclusive use may be conditioned, among other things, upon the payment of a fee.

(7) Encroachments. If any portion of the Common Area or facilities encroaches upon any Unit or any Unit encroaches upon any other Unit or upon any portion of the Common Area as a result of settling or shifting of a building, an easement for the encroachment and for the maintenance of the same so long as the Building stands, shall exist. If any Building, the Unit, any adjoining Unit, or any adjoining part of the Common Area, shall be partially or totally destroyed as a result of fire or other casualty or as a result of eminent domain proceedings, and then rebuilt, encroachments of parts of the Common Area upon any Unit or of any Unit upon any other Unit or upon any portion of the Common Area, due to such rebuilding, shall be permitted, and valid easements for such encroachments and the maintenance thereof shall exist so long as the subject building shall stand.

(8) Utilities, etc. There is hereby granted a blanket easement upon, across, over and under all of the Condominium Property for ingress, egress, installation, replacing, repairing and maintaining the cable television system, and all utilities including, but not limited to, water, sewer, telephone, gas, and electricity. It is understood and agreed that installation, replacement, or repair of the aforementioned facilities shall be the responsibility of the Unit Owner if those facilities are located within the unit (pursuant to the terms of Paragraph 6 of the Declaration); and shall be the responsibility of The Association if said facilities are located in the Common Area (pursuant to the terms of Paragraph 7 of the Declaration, and provided the requirements of Article VIII, Section 2 of these Bylaws are not violated). By virtue of this easement it shall be expressly permissible for the providing utility to erect and maintain the necessary poles and other equipment necessary to furnish the utility to the Condominium Property.

ARTICLE XII

SALE OR LEASE OF UNIT

- (1) Notice to Board. Any Unit Owner intending to make a bona fide sale or lease of his Unit shall first give written notice to the Board of Directors of such intention, which notice will include the name and address of the intended purchaser or lessee. No such proposal shall be deemed bona fide unless there is a written contract of sale or lease executed by all parties thereto. All leases of Units shall be written on standard forms furnished by The Association which may not be modified without the written consent of The Association.
- (2) Excluded Transfers. The following conveyances or leases are specifically excluded from the provisions of Article XII: (1) Conveyances or leases of gift or such that are made without consideration; (2) Conveyances or leases by Declarant; (3) transfers upon death; and (4) conveyances or leases wherein The Association has been notified in writing as provided under Article XII.
- (3) Non-Waiver. Notice to the Board of the sale or lease of one Unit shall not constitute the waiver of any subsequent sale, subletting or assignment by the purchaser or lessee.
- (4) Sale by Mortgagee. Should the residence of any Unit Owner becomes subject to a first mortgage, first deed of trust, or other first security, the holder thereof upon becoming the owner of such interest through whatever means, or the seller at any sale under a power of sale therein contained, shall have the unqualified right to sell, lease or otherwise dispose of said interest in the fee ownership of said Unit, without offer to The Association, notwithstanding the above provisions.
- (5) Mortgaging. No Unit Owner may mortgage his Unit nor any interest therein without the prior written approval of the Board of Directors, except to a bank, insurance company, a federal savings and loan association, or a corporation or partnership acting as a mortgage broker whose primary interest in making any such mortgage is the placement and servicing of the same with and on behalf of one of such other lending institutions. The existence of a "permanent commitment" from a lending institution to purchase any such mortgage from such mortgage broker shall be conclusive evidence of such mortgage broker's intent to place any such mortgage with one of such other lending institutions whether or not such commitment is ultimately fulfilled. The approval of any mortgage as provided for above shall be made by the Board of Directors upon principles consistently applied in accordance with the terms hereof and said approval shall not be unreasonably withheld.
- (6) Void Transactions. Any sale, lease or mortgage notice of which has not been made to the Board and which is not authorized pursuant to the terms of this Article shall be void.

## ARTICLE XIII

RESTRICTIVE COVENANTS - REGULATIONS

- (1) Residential. Each of the Units shall be occupied only by a single family, its servants and guests, as a residence and for no other purpose. However, persons not of the same immediate family may reside in the same Unit with the written consent of the Board of Directors which consent shall not be unreasonably withheld.
- (2) Alterations and Attachments by Unit Owner. No Owner shall make structural alterations or modifications to his Unit or to any of the general or limited Common Area, including the erection of antennas, aerials, awnings and placement of any reflective or other material in the windows of the Unit (other than draperies) or other exterior attachments without the written approval of the Board of Directors or the architectural committee of The Association. The Association shall not approve of any alterations, decorations or modifications which would jeopardize or impair the soundness, safety or appearance of the Condominium Property.
- (3) Signs. No signs or other advertising devices shall be displayed which are visible from the exterior of any Unit or on the Common or Limited Areas and facilities, including "For Sale" signs without written permission from The Association.
- (4) Animals. No animal shall be kept except household pets. Such pets may not be kept or bred for any commercial purpose and shall have such care and restraint so as not to be obnoxious or offensive on account of noise, odor, or unsanitary conditions. No savage or dangerous animal shall be kept. No more than one household pet may be kept without written permission of the Board of Directors of The Association. No pets may be permitted to run loose upon the Common Area, and any Owner who causes any animal to be brought or kept upon the premises of the Condominium Property shall indemnify and hold harmless The Association for any loss, damage or liability which The Association may sustain as a result of the presence of such animal on the premises, whether or not The Association has given its permission therefor.
- (5) Prohibitions in Use of Common Area. The Common Area shall not be used for storage of supplies, personal property or trash or refuse of any kind except common trash receptacles placed at the discretion of the Board of Directors of The Association, nor shall they be used in any way for the drying, shaking or airing of clothing or other fabrics. Stairs, entrances, sidewalks, yards, driveways and parking areas shall not be obstructed in any way nor shall unauthorized persons or pets play therein or thereon or use them for other than their intended purposes. In general, no activities shall be carried on nor condition maintained by any Owner either in his Unit or upon the Common Area which despoils the appearance of the Condominium Property.
- (6) Access to Units. The Association or its agent shall have access to each Unit from time to time during reasonable working hours, upon oral or written notice to its Owner, as may be necessary for the maintenance, repair or replacement of any of the Common Areas. The Association or its agent shall also have access to each Unit at all times without notice as may be necessary to make emergency repairs to prevent damage to the Common Area and facilities or to another Unit. It is understood that replacement or repair to the Common Area shall be the responsibility of The Association and replacement or repair to the Unit shall be the responsibility of the Unit Owner. If requested by The Association, each Owner shall furnish to the Board of Directors of The Association a duplicate key to the front entrance door to his Unit and shall furnish a new duplicate key upon any change of locks thereto.

(7) Subdividing. No Unit may be divided or subdivided into smaller Units, nor any portion thereof sold or otherwise transferred, without first amending the Declaration to show the changes in the Units to be effected thereby.

(8) Nuisances. No nuisances shall be allowed upon the Condominium Property and no person shall engage in any use, practice or activity upon such property which is noxious, offensive or a source of annoyance to any Unit Owner or which interferes with the peaceful possession and proper use of the property by any Unit Owner. All parts of the property shall be kept in a clean and sanitary condition; and no rubbish, refuse or garbage shall be allowed to accumulate and no fire hazard shall be allowed to exist. No Unit Owner shall permit any use of his Unit or make any use of the Common Area which will increase the rate of insurance upon the property.

(9) Lawful Use. No immoral, improper or unlawful use shall be made of the property nor any part thereof; and all valid laws, zoning ordinances and regulations of governmental bodies having jurisdiction thereof shall be observed.

(10) Leasing. After approval by the Board of Directors as provided in Article XII of these Bylaws, entire Units may be rented provided the occupancy is in conformity with Article XIII(1). No rooms may be rented except as part of the entire Unit and no transient tenants may be accommodated.

(11) Regulations. Reasonable regulations governing the use of the Condominium Property may be made and amended from time to time by the Board of Directors; provided, however, that all such regulations and amendments thereto shall be approved by a majority vote of the membership before such shall become effective. Copies of such regulations and amendments thereto shall be furnished by The Association to all members upon request.

(12) Green Space Buffer Zones.

(a) There exists a 125-foot deep, 2.8790 acre buffer zone on the easterly boundary of the Condominium Property which shall remain and be kept in a natural state pursuant to the Restrictions thereon recorded in Book 3364 at page 491 in the Mecklenburg County Registry.

(b) A 200-foot deep buffer zone extending along the entire frontage of Sharon View Road, which shall remain and be kept in a natural state pursuant to the Rules and Regulations of the Zoning and Planning Commission of Charlotte and Mecklenburg County.

#### ARTICLE XIV

##### COMPLIANCE AND DEFAULTS

(1) General. Each Unit Owner shall be governed by and shall comply with the terms of the Condominium Documents, and the regulations, resolutions and decisions adopted pursuant thereto as they may be amended from time to time. Any default by a Unit Owner shall entitle The Association or the other Unit Owners to the relief hereinafter provided in this Article.

(2) Remedies. The failure to comply with any of the terms of the Condominium Documents and the regulations, resolutions and decisions adopted pursuant thereto, shall be grounds for an action to recover sums due for damages or injunctive relief, or both, maintainable by The Association on behalf of the Unit Owners, or in a proper case, by an aggrieved Unit Owner. In any case of flagrant or

repeated violation by a Unit Owner, he may be required by the Board of Directors to give sufficient sureties for his future compliance with such Condominium Documents, regulations, resolutions and decisions.

(3) Non-Waiver. The failure of the Board of Directors or of a Unit Owner to enforce any right, provision, covenant or condition which may be granted by the Condominium Documents shall not constitute a waiver of the right of the Board or a Unit Owner to enforce such right, provision, covenant or condition in the future. All rights, remedies, and privileges granted to the Board of Directors, its designated agent or a Unit Owner, pursuant to any terms, provisions, covenants or conditions of the Condominium Documents shall be deemed to be cumulative, and the exercise of any one or more shall not be deemed to constitute an election of remedies nor shall it preclude the party thus exercising the same from exercising such other and additional rights, remedies, or privileges as may be granted to such party by the Condominium Documents or at law or in equity.

#### ARTICLE XV

##### CONDEMNATION

(1) General. Whenever all or any part of the Condominium Property shall be taken over by any authority having the power of condemnation or eminent domain, each Unit owner shall be entitled to notice thereof and to participate in the proceedings incident thereto unless otherwise prohibited by law. The award made for such taking shall be payable to the Association. Unless otherwise provided by law at the time of such taking, any award made therefor shall be disbursed by the Association as hereinafter provided in this Article XV.

(2) Common Areas. If the taking is confined to the Common Areas (general or limited) on which improvements shall have been constructed, and at least ninety per cent (90%) of the total vote of the members of The Association entitled to vote shall vote within sixty (60) days after such taking to replace said improvements, or any part thereof, on the remaining land including in the Common Areas (general or limited) and according to the plans therefor first approved by The Association, then the Board of Directors shall arrange for such replacement and The Association shall disburse the proceeds of such award in the same manner as they are required to disburse insurance proceeds where damage or destruction to the Common Areas (general or limited) is to be repaired or reconstructed as provided for herein; subject, however, to the right hereby reserved to The Association by a majority vote of the members thereof entitled to vote, to provide for the disbursement by The Association of the remaining proceeds held by it (after the payment of all costs incident to such replacement) to the Unit owners or any one or more of them in amounts disproportionate to their percentages of undivided interest in the Common Areas (general or limited) established herein, which disproportionate amounts shall correspond with the disproportionate damage sustained by the Unit owners or any one or more of them as The Association may determine. If at least ninety per cent (90%) of the total vote of members of The Association entitled to vote shall not decide within sixty (60) days after such taking to replace such improvements or if the taking is confined to the Common Areas (general or limited) on which no improvements shall have been constructed, then The Association shall disburse the proceeds of the award in the manner hereinabove provided for the disbursement of the remaining proceeds of an award after payment of all costs incident to replacement of improvements taken has been made, including the right reserved to The Association to provide for the disbursement of the remaining proceeds held by it to the Unit owners in disproportionate amounts.

(3) Units. If the taking includes one or more Units, or any part or parts thereof, whether or not there is included in the taking any part of the Common

Areas (limited or general), then the award shall be disbursed and all related matters shall be handled pursuant to and in accordance with the consent of all Unit owners affected and the Board of Directors of The Association thereafter, expressed in a duly recorded amendment to the Declaration of Condominium. In the event that such an amendment shall not be recorded within ninety (90) days after such taking, then such taking shall be deemed to be and shall be treated as damage or destruction which shall not be repaired or reconstructed as provided for in Article IX hereof, whereupon the affected Unit owners shall be entitled to partition as provided for in said Article IX.

(4) Termination. The Board of Directors shall call a meeting of all Unit Owners at least forty-five (45) days prior to any final taking by the condemning authority to determine the action to be taken pursuant to Paragraphs (2) and (3) above. In the event the condemnation involves more than ten per cent (10%) of the value of the Common Areas (limited or general) and/or more than fifteen per cent (15%) of the total value of all Units, Sir John's Hill Condominium may be terminated at such meeting by written approval of not less than ninety per cent (90%) of all of the members of The Association entitled to vote.

#### ARTICLE XVI

##### AMENDMENTS

\* (1) Amendments. The Bylaws may be amended at any time by an instrument in writing signed and acknowledged by Unit Owners holding at least seventy-five (75%) per cent of the vote in the Association, which instrument shall be effective only upon recordation in the Mecklenburg Public Registry. Provided, however, where a larger vote in The Association is required for The Association to take or refrain from taking a specific action, as set forth in these Bylaws, no amendment of such Bylaws shall be made unless and until the owners holding such larger percentage of the vote in The Association execute said amending instrument. All persons or entities who own or hereafter acquire any interest in the Condominium Property shall be bound to abide by any amendment to these Bylaws upon the same being passed as provided herein and duly set forth in an amended declaration, duly recorded as provided herein.

#### ARTICLE XVII

##### TERMINATION

(1) Agreement. This condominium may be terminated and the Condominium Property removed from the provisions of the Unit Ownership Act by an instrument to that effect executed by all of the Unit Owners and duly recorded, provided that the holders of all liens affecting any of the Units consent thereto or to the percentage of undivided interest of the Unit Owners who shall own the property as tenants in common following such termination, which shall be the Percentage Interest of such Unit Owner in the Common Area.

(2) Destruction. In the event it is determined in the manner provided in Article IX hereof that the property shall not be repaired or reconstructed after fire or other casualty, the condominium will be terminated and the Condominium Documents revoked. The determination to repair or reconstruct after fire or other casualty shall be evidenced by a certificate of The Association certifying as to facts effecting the termination, which certificate shall become effective upon being duly recorded in the Mecklenburg Public Registry.

## ARTICLE XVIII

MISCELLANEOUS

- (1) Ad Valorem Taxes. Each Unit shall be deemed to be a separate parcel and shall be separately assessed and taxed. Each Unit Owner shall be liable solely for the amount of tax assessed against his Unit and shall not be affected by the consequences resulting from the tax delinquency of other Unit Owners. All tangible personal property owned by The Association in connection with the maintenance, upkeep and repair of the Common Area shall be listed for said taxes in the name of and paid by The Association. Each Unit Owner is also responsible for his pro rata share of taxes assessed on his portion of the Common Area.
- (2) Notification to Mortgagees. Any Owner who mortgages his Unit shall notify The Association of the name and address of the mortgagee, and The Association shall maintain such information in a book entitled "Mortgages of Condominiums." The Association may, at the written request of a mortgagee of any such Unit, report any unpaid assessments due from the Owner of such Unit. The Association shall notify each mortgagee appearing in said book the name of each company insuring the Condominium Property under the Master Policy and the amounts of the coverages thereunder.
- (3) Severability. Invalidation of any covenant, condition, restriction or other provision of the Declaration or these Bylaws shall not effect the validity of the remaining portions thereof which shall remain in full force and effect.
- (4) Successors Bound. The rights, privileges, duties and responsibilities set forth in the Condominium Documents, as amended from time to time, shall run with the ownership of the Condominium Property and shall be binding upon all persons who own or hereafter acquire any interest in the Condominium Property.
- (5) Gender, Singular, Plural. Whenever the context so permits, the use of the singular or plural shall be interchangeable in meaning and the use of any gender shall be deemed to include all genders.
- (6) Principal Office - Registered Office. The principal office and registered office of The Association shall be located at 3801 Sharon View Road, Charlotte, North Carolina 28211.
- (7) Other Offices. The Association may have other offices at such other places within the State of North Carolina as the Board of Directors may from time to time determine or as the affairs of the Association may require.
- (8) Seal. The seal of The Association shall contain the name of the Association, the word "Seal", year of the incorporation and such other words and figures as desired by the Board of Directors. When obtained, the seal shall be impressed in the margin of this Section of the Bylaws.
- (9) Fiscal Year. The fiscal year of the Association shall be the calendar year.

## ARTICLE XIX

ARCHITECTURAL CONTROL

- (1) No building, fence, or other structure shall be commenced or maintained upon the Condominium Property, nor shall any exterior addition, change or alteration therein be made until plans and specifications showing the nature,



kind, shape, height, materials, and location of same shall have been submitted to and approved in writing as to harmony of external design and location in relation to the surrounding structure and topography by the Board of Directors of The Association or by the Architectural Committee thereof. In the event said Board or its designated committee fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required, and this Article shall be deemed to have been fully complied with. Provided that nothing herein contained shall be construed to permit the interference with the development of the Condominium Property by the Declarant.

\* \* \* \* \*

CERTIFICATION

I, the undersigned, do hereby certify:

THAT I am the duly elected and acting secretary of the SIR JOHN'S HILL HOMEOWNERS ASSOCIATION, INC., a North Carolina Corporation, and

THAT the foregoing Bylaws constitute the original Bylaws of said Association, as duly adopted at a meeting of the Board of Directors thereof, held on the 20th day of March, 1973.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 20th day of March, 1973.

  
Secretary

201