

WHEREAS, the Developers are the owners of real property described in Schedule A of this Declaration, and desire to develop thereon a recreational community together with common lands and facilities for the sole use and benefit of the residents of such community and their guests; and

WHEREAS, the Developers desire to provide for the preservation of the values and amenities in such community and for the maintenance of such common lands and facilities and to this end desire to subject the real property described in Schedule A to the covenants, restrictions, easements, charges and liens hereinafter set forth, each and all of which is and are for the benefit of said property and' each owner thereof; and

WHEREAS, the Developers have deemed it advisable for the efficient preservation of the values and amenities in such community, to create an agency to which will be delegated and assigned the powers of maintaining and administering the community facilities, administering and enforcing the covenants and restrictions, and levying, collecting and disbursing the assessments and charges hereinafter created; and

WHEREAS, the Developers have caused to be incorporated under the laws of the State of New York, as a Not-For-Profit Corporation, the Bacon Hill Homeowners Association, Ltd., for the purpose of exercising the aforesaid functions.

NOW, THEREFORE, the Developers declare that the real property described in Schedule A, annexed hereto, and forming a part thereof, is and shall be held, transferred, sold, conveyed and occupied subject to the covenants, restrictions, easements, charges and liens (sometimes referred to as covenants and restrictions) hereinafter set forth.

## ARTICLE I

### Definitions

Section 1. The following words when used "in this Declaration or any Supplemental Declaration (unless the context shall prohibit) shall have the following meanings:

- (a) "Association" shall mean and refer to BACON HILL HOMEOWNERS ASSOCIATION, LTD., its successors and assigns.
- (b) "The Properties" shall mean and refer to all property including parcels and common areas, as are subject to this Declaration, and which are described in Schedule A.
- (c) "Common Areas" shall mean and refer to those areas of land, including the facilities that are set aside for common use, such, as common roadways and the common area set aside as a lake site. Such areas are intended to be devoted to the common use and enjoyment of the members of the Association as herein defined and are not dedicated for use by the general public.
- (d) "Lots" shall mean and refer to any plot of land that is hereinafter deeded to a purchaser. In no case shall lots be smaller than 5.1 acres, except for lots 49, 50, 51 and 52 (as described in Amendment 20 to the Offering Plan).

- (e) "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot or parcel, but shall not mean or refer to any mortgagee or subsequent holder of the mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.
- (f) "Developer" shall mean and refer to the Sponsors, their successors and assigns in the development of The Properties.
- (g) "Member" shall mean and refer to all those Owners who are Members of the Association, as provided in Article II, Section I, hereof.
- (h) "Development," "Project," and "Community" shall all mean and refer to the Bacon Hill recreational community to be constructed by the Developers.
- (i) "One-Family" shall mean a single housekeeping unit with a more or less permanent living arrangement that is stable, rather than a transient living arrangement. More specifically, a group which "in every but a biological sense is a single family" or a household "which poses no threat to the goal of preserving the character of the traditional single-family neighborhood" shall be considered "one-family".
- (j) "Business" uses, as described in Article VI, Section 1, shall include rental of property or any portion thereof for a period of less than thirty consecutive days.

## ARTICLE II

### Membership and Voting Rights in the Association

Section 1. Unit and Membership. Every person or entity who is an Owner of any lot that is subjected by this Declaration to assessment by the Association shall be a member of the Association. Membership shall be appurtenant to and may not be separated from ownership of any lot that is subject to the assessment.

Section 2. Voting Rights. The Association shall have two classes of voting membership.

CLASS A.: Class A Members shall be all Owners excepting the Developers. Class A Members shall be entitled to one vote for each lot in which they hold the interest required for membership by Section 1 above. When more than one person holds such interest or interests in any lot, the vote attributable to such lot shall be exercised as such persons mutually determine, but in no event shall more than one vote be cast with respect to any such lot or living unit.

CLASS B.: The sole Class B members shall be the Developers (Sponsors). Class B members shall be entitled to four votes for each lot in which they hold title. Class B membership shall cease and become converted to Class A membership when the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B. or on May 1, 1983, whichever event occurs first.

When a purchaser of an individual lot takes title thereto from the Developers, he becomes a class A member.

ARTICLE III  
Property Rights in the Common Areas

Section 1. **Members' Easements of Enjoyment.** Subject to the provisions of Section 3 of this Article III, every Member shall have a right and easement of enjoyment in and to the Common Areas, and such easement shall be appurtenant to and shall 'pass with title' to every lot.

Section 2. **Title to Common Areas.** The Developers hereby covenant for themselves, their successors and assigns, that on or before conveyance of the first lot, they will convey to the Association, by warranty deed, title to said rights of way, subject to use of other lot owners on Skaneateles Lake, together with an interest in the roadways, the use of which is to be shared by the common owners of Bacon Hill and those owners and lots on Booth Road which face on Skaneateles Lake and which hold an easement to ingress and egress over Bacon Hill HOA roads. The Developers will convey the lake area, consisting of approximately 280' frontage to a depth of 130' south side & 125' north side, in fee, free and clear of all encumbrances and liens, except those created by or pursuant to this Declaration, subject, however, to the following covenant, which shall be deemed to run with the land and shall be binding upon the Association, its successors and assigns:

In order to preserve and enhance the property values and amenities of the community, the Common Areas and all facilities now or hereafter built or installed thereon shall at all times be maintained in good repair and condition and shall be operated in accordance with high standards. The maintenance and repair of the Common Areas shall include repair to the roads, lake site area, possible inclusion of a dock or docks and a possible ramp for the loading and unloading of boats.

This Section shall not be amended, as provided for in Article IX, Section 1, to eliminate or substantially impair the obligation for the maintenance and repair of the Common Areas.

Section 3. **Extent of Members' Easements.** The rights and easements created hereby shall be subject to the following:

- (a) The right of the Developers, and the Association, to dedicate, transfer or convey all or any part of the Common Areas, with or without consideration, to any governmental body, district, agency or authority, or to any utility company, provided that no such dedication, transfer or conveyance shall adversely affect the use of the Common Areas by the Members of the Association;

- (b) The right of the Developers, and of the Association, to grant and reserve easements and rights-of-way through, under, over and across the Common Areas, for the installation, maintenance and inspection of lines and appurtenances for public or private water, sewer, drainage, fuel oil and other utilities and services, including a cable (CATV) or community antenna television system and irrigation or lawn sprinkler systems, and the right of the Developers to grant and reserve easements and rights-of-way through, over, upon and across the Common Areas for the completion of the Project, and for the operation and maintenance of the Common Areas;
- (c) The rights of visitors, invitees, etc. to ingress and egress in and over those portions of the Common Areas that lie within the private roadways, and the lake area, to the nearest public highway.
- (d) Reserving to Sponsors, at any time, by majority vote of Sponsors, the right to convey to the municipality a roadway 60' in width or less for public purposes, same to be along existing or proposed easements for egress and ingress.

Section 4. Delegation of Use. Any Owner may delegate, in accordance with the By ... Laws of the Association, his right of enjoyment to the Common Areas and facilities to the members of his family, his tenants, or contract purchasers who reside on the property, except the number of guests using any recreational facility may be limited by the Association. Reasonable rules may be adopted by the Association limiting such guest use.

Section 5. Lake Area. No Member may appropriate for his own use, to the exclusion of other owners, the rights to the recreational lake site and shall not install docks or other appurtenances without the express written approval of the Association.

Section 6. Adverse Possession. No Member or Member's family or Member's guests may make a claim of adverse possession on another Member's property or properties, notwithstanding that one member may affirmatively grant rights to occasional and casual use of his property to another member for recreational purposes.

#### ARTICLE IV

##### Completion, Maintenance and Operation of Common Areas and Facilities and Covenant for Assessment Therefor

###### Section 1. Completion of Common Areas by Developer

(a) Prior to the conveyance of title to each lot, or parcel, the Developers shall complete the construction of roadways to the parcel, serving such parcel. Such facilities shall be completed in advance of conveyance. The Sponsors shall furnish gravel or stone covering the rights-of-way.

(b) The only obligation of sponsors is to construct easement of roadways leading to the individual parcels.

Section 2. Operation and Maintenance of Common Areas by Developer and Association.

Commencing on the date of conveyance of the first parcel, and terminating on May 1, 1983, or upon the sale of the 20th lot, whichever shall eventually occur first, the Developers shall operate and maintain the common areas at their own sole cost and expense, and shall provide, at their sole expense, the requisite service necessary to accomplish this. Thereafter, the Association, at its sole cost and expense shall operate and maintain the common areas and provide the requisite services in connection therewith.

Section 3. Assessments, Liens, Personal Obligations Therefor and Operation, and Maintenance of Common Areas Solely by the Association.

- (a) For each calendar year, Developers for each lot owned by it within the Properties, hereby covenants, and each subsequent Owner of any such lot by acceptance of a deed therefor, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree, to pay to the Association; (1) annual assessments or charges; (2) special assessments for capital improvements, such assessments, together with such interest thereon and costs of collection thereof as are hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the lot against which each such assessment is made. Each such assessment, together with such interest thereon, and cost of collection thereof as are hereinafter provided shall also be the personal obligation of the owners of such lot at the time when the assessment fell due. The Association may increase the common charges to provide for inflationary increases, however, it may not unreasonably increase the annual or special assessments without consent of the sponsors.
- (b) The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents of the community, and in particular for the improvement and maintenance of the Common Areas, including but not limited to the payment of taxes and insurance thereon, and repair, replacement and additions and supervision thereof, all of which obligations the Association hereby assumes as of the date set forth in (a) above.

Section 4. Amount and Payment of Annual Assessment. The Board of Directors of the Association shall at all times fix the amount of the annual assessment at an amount sufficient to pay the costs of maintaining and operating the Common Areas and performing the other exterior maintenance required to be performed by the Association under this Declaration. The amount of the annual assessment shall be uniform for each Lot. The Board shall also fix the date of commencement and the amount of the assessment against each Lot for each assessment period at least thirty days in advance of such date or period and shall, at that time, prepare a roster of the Lots and assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Owner. Written notice of the assessment shall thereupon be sent to every Owner subject thereto. Each Annual assessment shall be fully payable in advance on July 1st of each year, but the Board of Directors of the Association shall have the

option to permit monthly or quarterly payments. The annual assessment shall be fixed by the Board of Directors of the Association.

The Association shall, upon demand at any time, furnish to any Owner liable for any assessment, a certificate in writing, signed by an officer of the Association, setting forth whether said assessment has been paid. Such certificate shall be in recordable form and shall be conclusive evidence of payment if any assessment therein stated to have been paid.

This section shall not be amended as provided in Article IX, Section 1, to eliminate or substantially impair the obligation to fix the assessment at an amount sufficient to properly maintain and operate the Common Areas and perform the exterior maintenance required to be performed by the Association under this Declaration.

Section 5. Special Assessments for Capital Improvements. In addition to the annual assessments, the Association may levy, in any assessment year, a special assessment (which must be fixed at a uniform rate for all Lots) applicable to that year only, in an amount no higher than the maximum annual assessment then permitted to be levied hereunder, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction; unexpected repair or replacement of a described capital improvement upon the Common Areas, including the necessary fixtures and personal property related thereto, provided that any such assessment shall have the consent of two-thirds of the votes of each class of Members who are voting in person or by proxy at a meeting duly called for this purpose, written notice of which shall be sent to all Members not less than thirty days nor more than sixty days in advance of the meeting, setting forth the purpose of the meeting. The due date of any specified assessment shall be fixed in the Resolution authorizing such assessment.

Section 6. Paid Professional Manager. The Board of Directors of the Association may employ on such terms, including compensation, as the Board of Directors deems fair and reasonable, the services of a professional manager or managerial firm, to supervise all of the work, labor, services and materials required in the operation and maintenance of the Common Areas and in the discharge of the Association's duties throughout the community.

Section 7. Reserve Fund Separate Assessment of Owners Therefor. At the time of acquiring title to a lot from the Developers, each Owner acquiring such title shall deposit with the Association a reserve fund payment in the sum of \$50.00, to provide for a reserve fund for the obligations of the Association. Such reserve fund payment shall in no way be considered a prepayment of the annual assessment fee. Such reserve fund payments shall be used solely for the purposes specified in Section 3(b) above, as determined from time to time, by resolution of the Board of Directors of the Association, after the cessation of the Class B membership of the Developers, as, specified in Article II, Section 2 of the Declaration.

Section 8. Effect of Non-Payment of Assessment. The Personal Obligation of the Owner: The Lien, Remedies of Association. If any assessment is not paid on the date when due, then such assessment shall be deemed delinquent and shall, together with such interest thereon and cost of collection thereof as are hereinafter provided, continue as a lien on the Lot, which shall bind such Lot in the hands of the then Owner, his heirs, devisees, personal representatives, successors and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his personal obligation and shall not pass to his successors in title, unless expressly assumed by them.

If the assessment is not paid within thirty days after the delinquency date, the assessment shall bear interest from the date of delinquency at the legal rate per annum, and the Association may bring legal action against the then Owner personally obligated to pay the same or may enforce or foreclose the lien against the lot and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided and a reasonable attorney's fee to be fixed by the Court, together with the costs of the action.

Section 9. Subordination of the Lien to Mortgages. The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages now or hereafter placed upon the Properties subject to assessment; provided, however, that such subordination shall apply only to assessments which have become due and payable prior to a Sale, or transfer of such property pursuant to a decree of foreclosure, or any proceeding in lieu of foreclosure. Such sale or transfer shall not relieve such property from liability for any assessments thereafter becoming due, nor from the lien of any such subsequent assessment. This section shall not be amended as provided in Article VII, Section 1.

Section 10. Exempt Property. The following properties, subject to this Declaration shall be exempted from the assessments, charges and liens created herein: (a) all properties dedicated, or conveyed to a governmental body, district, agency or authority; (b) all Common Areas as defined in Article I, Section 1, hereof. Notwithstanding any provisions herein, no land or improvements devoted to dwelling use shall be exempt from said assessments, charges or liens.

## ARTICLE V

### Architectural Control

No building, fence, wall or other structure, and no change in topography, landscaping or any other item constructed by the Developers, shall be commenced, erected or maintained upon The Properties, nor shall any exterior addition to or change or alteration thereto including, without limitation, painting, be made, until the plans and specifications showing the nature, kind, shape, height, materials, color and locations of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee comprised of three or more

representatives appointed by the Board. In the event the Board, or its designated committee, fails to approve or disapprove such design and location within sixty days after complete plans and specifications have been submitted to it, the same shall be deemed approved, and this Article shall be deemed to have been fully complied with, provided, however, that no such failure to act shall be deemed an approval of any matter specifically prohibited by any other provision of this Declaration.

## ARTICLE VI Use of Property

Section 1. Uses and Structures. No Lot shall be used except for residential and recreational purposes. No building shall be erected, altered, placed or permitted to remain on any lot other than single-family dwellings, patio and garages. Carports and other accessory buildings may be erected, providing the approval is obtained for said erection and use from the Architectural Control Committee. No dwelling or any part thereof shall be used for any purpose except as a private dwelling for one family, nor shall any business of any kind be conducted therein, and without limiting the generality of the foregoing, no professional office shall be maintained on any lot notwithstanding that such use may conform with the applicable zoning ordinances and codes. No motor vehicle shall be parked or stored in any manner on any lot or portion of the Common Area, but private passenger-type pleasure automobiles only, registered and operable, may be parked in the designated parking areas. No business or trade of any kind or noxious or offensive activity shall be carried on upon any Lot, nor shall anything be done thereon which may be or become an annoyance or nuisance to the neighborhood. Permanent location of trailers, tents, shacks, or other structures shall not be permitted.

### Section 2. Alterations.

The Bacon Hill Homeowners' Association area lands are defined by Schedule A of this document and further delineated by a Subdivision Map recorded in the Town of Spafford, Onondaga County, NY. Alterations to an individual member's lot boundary or to the common areas shall not be made without the permission of a 2/3 majority of the Membership, notwithstanding any action that may be taken by the local municipality. Proposed alterations, additions or modifications to the boundaries of the Bacon Hill Subdivision shall require that the requesting party assume the cost of modifying the subdivision map, filing amendments to the Declaration and any and all legal costs associated with considering and processing the application for alteration, regardless of the outcome of the membership's vote on the matter.

Alterations and additions to a structure shall not be permitted unless they shall conform in architecture, material and color to the dwelling unit originally constructed by the Owner. No tree or trees may be removed or trimmed without the express written consent of the Architectural Control Committee, except as advised by the local Cooperative Extension Agency in order to manage the health of the trees.



Section 3. Signs. No sign of any kind shall be displayed to the public view on any dwelling or Lot, except a one-family name sign of not more than 144 square inches. A temporary sign of not more than two square feet, advertising the property for sale or rent, may be displayed. No such sign shall be illuminated except by non-flashing white light emanating from within or on the sign itself and shielded from direct view.

The Association, by decision of the Board of Directors, may erect signs of up to 9 square feet each to designate Bacon Hill Homeowners Association lands, control traffic or define allowable access to common areas.

Section 4. Mining. No quarrying or mining operations of any kind shall be permitted upon or in any Lot, nor shall tunnels, excavations or shafts be permitted upon or, in any Lot.

Section 5. Animals. No animals, livestock (except poultry, hens only) of any kind shall be raised, bred or kept in any dwelling or on any Lot, except that dogs, cats or other domesticated household pets may be kept provided that they are not kept, bred or maintained for any commercial purpose and provided that not more than two household pets and 5 birds in the aggregate may be kept in any such dwelling or Lot.

Section 6. Garbage and Rubbish. Garbage and rubbish shall not be dumped or allowed to remain on any Lot, but shall be deposited in sealed plastic bags or proper receptacles in specified areas and shall be removed from the property by the owner.

Section 7. Additional Structures. No additional structure of any kind, permanent or temporary, shall be erected on any Lot, without the approval required by Article V.

Section 8. Obstructions and Storage. There shall be no obstruction of the Common Areas, nor shall anything be stored in the Common Areas, without the prior written consent of the Board of Directors

Section 9. Noise and Odors. Owners shall not cause or permit any unusual or objectionable noise or odors to emanate from their dwellings.

Section 10 Easements.

- (a) Perpetual easements affecting The Properties for the installation and maintenance of sewer, water, gas, electric, telephone, cable (CATV) or community antenna television system, drainage, irrigation systems and other similar facilities, for the benefit of the owners, adjoining landowners, the Association and/or the municipality and/or municipal agency or private utility company ultimately owning or operating such facilities are reserved as may be required to accomplish these purposes. No building or structure shall be erected within the easement areas occupied by such facilities.

- (b) Perpetual easements or the construction, paving maintenance, repair and replacement of walkways for pedestrian use, if any, are hereby reserved in and over each Lot for the exclusive benefit of the Association, its Members, their invitees and licensees.
- (c) Owners shall have a right of ingress and egress to the public highway over and through all Common Areas, including, but not limited to, private roads, streets and walkways, and driveways, but only to the extent reasonably required for access.

Section 12. This entire Article VI shall not be amended as provided for in Article VII, except to clarify the restrictions herein contained or to create additional restrictions.

## Article VII General Provisions

Section 1. Duration and Amendment. The covenants and restrictions of this Declaration are real covenants and shall run with and bind the land forever, and shall inure to the benefit of and be enforceable by the Association, the Developers and the Owner of any land subject to this Declaration, their respective heirs, successors and assigns. Except as hereinbefore specifically prohibited, these covenants and restrictions may be amended but not nullified by an instrument signed by the then Owner of 75% of the Lots and duly recorded, agreeing to change said covenants and restrictions, in whole or in part, provided, however, that no such amendment shall be effective unless written notice of the proposed amendment is sent to every Owner at least ninety days in advance of any action taken. On and after July 1, 1993, amendments shall require the approval and signatures of only two-thirds of the then Owners.

Section 2. Notices. Any notice required to be sent to any Member or Owner under the provisions of this Declaration shall be deemed to have been properly sent when mailed, postpaid, to the last known address of the person who appears as Member or Owner on the records of the Association at the time of such mailing. All notices to the Association shall be via certified mail, return receipt requested.

Section 3. Enforcement. The Association, the Developers (whether or not owning any lots) and any Owner shall have the right to enforce these covenants and restrictions by any proceeding at law or in equity, against any person or persons violating or attempting to violate any covenant or restriction or failing to pay any assessment, to restrain violations to require specific performance and/or to recover damages, and against the land to enforce any lien created by these covenants. Primary right to bring suit hereunder is vested in the Association and no action or proceeding shall be commenced by any other party in interest without such party first having notified the Board of Directors of the Association of the matter in question and having allowed the Board sixty days within which to commence the requested legal proceeding. Failure to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter. All expenses of enforcement including without limitation, interest, costs and reasonable attorneys fees, shall be specifically chargeable to the Owner of the lot

violating these covenants and restrictions and shall constitute a lien thereon, collectible immediately and in the same manner as assessments hereunder.

EXHIBIT C

BY-LAWS  
OF  
BACON HILL HOMEOWNERS ASSOCIATION, LTD.

ARTICLE 1  
Definitions

Section 1. "Association" shall mean and refer to BACON HILL HOMEOWNERS ASSOCIATION, LTD.

Section 2. "The Properties" shall mean and refer to all properties, including lots and common areas, as are described in and subject to a certain Declaration of Covenants, Restrictions, Charges and Liens, (hereinafter referred to as the Declaration), made by BACON' HILL HOMEOWNERS ASSOCIATION, LTD. and recorded in the Office of the Clerk of the County of Onondaga, State of New York, on

Section 3. "Common Areas" shall mean and refer to those areas of land, including the facilities, to be constructed thereon, shown on any map of The Properties or by any other means so designated, intended to be devoted to the common use and enjoyment of the owners of The Properties.

Section 4. "Lot" shall mean and refer to any plot of land intended and subdivided for residential and/or recreational use, but shall not include the Common Areas as herein defined.

Section 5. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any lot, but shall not mean or refer to any mortgagee or subsequent holder of a mortgage, unless and until such mortgagee or holder has acquired title pursuant to foreclosure or any proceeding in lieu of foreclosure.

Section 6. "Developer" shall mean and refer to EARL L. OOT, JOHN C. SETRIGHT, EDWIN W. LUKENS, MARC G. TERZIEV and DONALD R. OOT, or heirs, executors, or assigns in right, title and interest, or as developers of The Properties.

Section 7. "Member" shall mean and refer to all those Owners who are members of the Association, as provided in Article II, Section 1 of the Declaration.

Section 8. "Development," "Project" and "Community" shall all mean and refer to BACON HILL residential/recreational community to be constructed by Developers.

ARTICLE II  
Offices

The principal office of the Association shall be located in the City of Syracuse, Onondaga County, New York. The Association may also establish and have offices at such other place or places, within or without the State of New York, as may from time to time be designated by the Board of Directors.

ARTICLE III  
Seal

The Association shall have a seal with the name of the corporation, the year of its origination, the words "Corporate Seal" and the State of its incorporation thereon.

ARTICLE IV  
Membership and Voting Rights in the Association

Section 1. Membership. Every person or entity who is a record owner of a fee or individual fee interest in any Lot which is subject to the Declaration shall be a member of the Association.

Section 2. Suspension of Membership (Member Rights?). The rights of membership are subject to the payment of annual and special assessments levied by the Association, the obligation of which assessments is imposed against each owner of land and becomes a lien upon the property against which such assessments are made as provided by Article IV, Section 3 of the Declaration. During any period in which a member shall be in default in the payment of any annual or special assessment levied by the Association, the right to use of the Association's facilities by such member may be suspended by the Board of Directors until such assessment has been paid. **Should any member be in default for longer than one calendar year, the Board may also impose such financial penalties as it deems appropriate.**

Such rights of a Member may also be suspended after notice and hearing, for a period not to exceed thirty (30) days, for violation of any rules and regulations established by the Board of Directors governing the use of the Common Areas and facilities. **Should any member repeatedly violate the rules and regulations established for the common good, the Board may also impose such financial penalties as it deems appropriate after written notice of the violation has been provided to the member, and an opportunity to correct the violation has been ignored.** The right of a Member to ingress and egress over the roads in the community may not, however, be suspended.

Section 3. Voting Rights. The Association shall have two classes of voting memberships:

CLASS A. Class A members shall be all those owners as defined in Section 1 with the exception of the Developer. Class A members shall be entitled to one vote for each Lot in which they hold the interest required for membership by Section 1. When more than

one person holds such interest or interests in any Lot, the vote attributable to such Lot shall be exercised as such persons mutually determine but in no event shall more than one vote be cast with respect to any such Lot or Living Unit.

CLASS B. The sole Class B members shall be the Developers and their heirs, successors and assigns. The Class B members shall be entitled to four votes for each Lot in which they hold the interest required for membership under Section 1 of this Article. The Class B memberships shall cease and become converted to Class A membership upon the occurrence of the first of either of the following two events:

1. When the total votes outstanding in the Class A membership equal or exceed the total votes outstanding in the Class B Membership, or
2. On May 1, 1983.

When a purchaser of a lot takes title thereto from the Developers, he becomes a Class A member and the membership of the Developers with respect to such lot shall cease. Membership shall be appurtenant to and may not be separated from ownership of any lot **that** is subject to assessment.

## ARTICLE V Meetings of Members

Section 1. All Meetings. All meetings of Members shall be held either at the principal office of the Association, or at such other place or places, within or without the State of New York, as may, from time to time, be designated by the Board of Directors and as may be permitted by law.

Section 2. Annual Meeting. The annual meeting of the Members shall be held on such date and at such time as may be fixed by the Board of Directors. The order of business at the annual meeting of Members shall be as follows:

- (a) Call to order;
- (b) Roll call to determine quorum;
- (c) Proof of proper notice of the meeting;
- (d) Reading, correction and approval of minutes of preceding meeting;
- (e) Annual financial report of the Board of Directors;
- (f) Officers' reports;
- (g) Committee reports;
- (h) Unfinished business;
- (i) Election of new directors;
- (j) New or other business.

Section 3. Special Meetings. Special meetings of the Members shall be held whenever called by the President or by a majority of the Board of Directors or whenever Members who are entitled to vote one-third of all of the votes of the entire membership or who are

entitled to vote one-third of the votes of the Class A membership shall make written application therefor to the Secretary or an Assistant Secretary of the Association, stating the time, place and purpose of the meeting called for.

**Section 4. Notice of Members' Meetings.** Notice of all meetings of the Members, stating the Place, date and hour of the and the objects for which such meetings are called, shall be given by the President or Vice-President or the Treasurer or the Secretary or an Assistant Secretary of the Association, or by any one or more members entitled to call a special meeting of the membership personally or by first class mail not less than ten, nor more than fifty days prior to the date of the meeting, to each Member of record at his address as it appears on the books of the Association, unless he shall have filed with the Secretary of the Association a written request that a notice intended for him be mailed to some other address, in which case it shall be mailed to the address designated in such request. Any meeting of which all Members shall at any time waive or have waived notice in writing shall be a legal meeting for the transaction of business, notwithstanding that notice has not been given as hereinbefore provided.

**Section 5. Waiver of Notice.** Whenever any notice whatever is required to be given by these By-Laws or the Certificate of Incorporation of this Association, or any of the applicable laws of the State of New York, a waiver thereof, in writing, signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent thereto. The attendance of any Member at a meeting, in person or by proxy, without protesting prior to the conclusion of the meeting the lack of notice of such meeting shall constitute a waiver of notice.

**Section 6. Quorum and Required Vote of Members.** Except as hereinafter provided and as otherwise provided by law, at any meeting of the Members, one-third of all votes of the membership, represented by members of record in person or by proxy, shall constitute a quorum for the transaction of any business; but a less interest may adjourn any meeting from time to time until a quorum is obtained, and the meeting may be held as adjourned, without notice other than announcement at the meeting, provided, however, that directors shall not be elected at meetings so adjourned. When a quorum is present at any meeting, a majority vote of the votes cast, namely, 51% or more of all votes cast, shall decide any question brought before such meeting, unless the question is one upon which by express provision of law or of the Declaration or of the Certificate of Incorporation or of these By-Laws a larger or different vote is required, in which case such express provision shall govern and control the decision of such question.

**Section .7. Proxy.** Members of record may vote at any meeting, either in person or by proxy, in writing, which shall be filed with the Secretary of the meeting before being voted. Such proxies shall entitle the holders thereof to vote at any adjournment of the meeting. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot.

Section 8. Record Date. For the purpose of determining the Members entitled to notice of or to vote at any meeting of Members or any adjournment thereof, or to express consent to or dissent from any proposal without a meeting, or for the purpose of any other action, the Board of Directors may fix, in advance, a date as the record date for any such determination, of Members. Such date shall not be more than 50 nor less than 10 days before the date of such meeting nor more than 50 days prior to any other action.

## ARTICLE VI

### Board of Directors: Nomination, Election and Term of Office

Section 1. Number. Until such time as Class B membership in the Association shall cease, as provided in Article IV, Section 3 above, the affairs of the Association shall be managed by a Board of Directors comprised of five Directors, who need not be Members of the Association. Thereafter the affairs of the Association shall be managed by a Board of Directors comprised of **twelve** Directors, ~~who need not be Members of the Association.~~

Section 2. Nominations. **The Nominating Committee, as hereinafter provided in Article XI, shall make nominations for election to the Board of Directors Section 1. Other** nominations for election to the Board of Directors may be made in writing, signed by at least five Members holding at least five votes, and accepted in writing by the person nominated. **The Secretary of the Association, whether made by the Nominating Committee, or otherwise, must receive all advance nominations at least thirty days prior to the meeting at which the election is to be held.** The Secretary shall prepare and make available for inspection, at least ten days before such meeting, a list of the nominees. **Nominations may not be made in any manner other than the foregoing. If no nominations or insufficient nominations are made in advance of the meeting at which elections are to be held, nominations may be taken from the floor.**

Section 3. Election and Term of Office.

- (a) Number to be elected. At each annual meeting of the Association held prior to the cessation of Class B membership, the Members shall elect five Directors, each to serve for a term of one year. At the first annual meeting of the Association held within thirty days after the cessation of Class B membership, the Members shall elect four Directors for a term of one year four Directors for a term of two years, and three Directors for a term of three years. At each annual meeting thereafter the Members shall elect either **six** Directors or **no** Directors, depending upon the number whose term of office are expiring, each to serve for a term of three years.
- (b)
- (c) Procedure. Election to the Board of Directors shall be by written ballot. At such election, Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The



persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

Section 4. Removal. Any Director may be removed from the Board with or without cause by a vote equal to two-thirds of the total possible votes of Class A and Class B Members of the Association. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor and until his successor is elected and qualifies.

Section 5. Compensation. No Director shall receive Compensation for any service he may render to the Association. However, any Director may be reimbursed, at the discretion of the Board, for his actual expenses incurred in the performance of his duties.

## ARTICLE VII Meetings of Directors

Section 1. Meetings. Regular meetings of the Board of Directors shall be held at such places, in or outside of the, State of New York, and at such times as the Board of Directors by vote may determine, and if so determined, no notice thereof need be given. One such regular meeting shall be held within two weeks after the annual meeting of the Members. Special meetings of the Board of Directors may be held at any time or place, in or outside of the State of New York, whenever called by the President, a Vice-President, the Treasurer; the Secretary or an Assistant Secretary, or two Directors, notice thereof being given to each director by the Secretary or an Assistant Secretary or an officer calling the meeting, or at any time without formal notice provided all the directors are present, or those not present shall, at any time, waive or have waived notice thereof. Notice of special meetings, stating the time and place thereof, shall be given by mailing the same to each director at his residence or business address at least two days before the meeting, or by delivering the same to him personally or by telegraphing the same to him at his residence or business address not later than the date before the day on which the meeting is to be held, unless, in case of emergency, the President shall prescribe a shorter notice to be given personally to or by **notifying** each director at his residence or business address. Such special meeting shall be held at such time and place as the notice thereof or waiver shall specify.

Section 2. Quorum and Voting. A majority of the members of the Board of Directors shall constitute a quorum for the transaction of business, but a lesser number may adjourn any meeting and the meeting may be held as adjourned without further notice. When a quorum is present at any meeting, a majority of the members present thereat shall decide any question brought before such meeting, except as otherwise provided by law or by these By-Laws.

## ARTICLE VIII

### Powers and Duties of Directors

Section 1. Powers. The Board of Directors shall have the power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Areas and facilities, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) Exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Certificate of Incorporation or the Declaration; and
- (c) Employ a manager, an independent contractor or such other agents or employees as it deems necessary, and prescribe their duties.

Section 2. Duties. It shall be the duty of the Board of Directors to:

- (a) Cause to be kept a complete record of all its acts and corporate affairs, and cause to be prepared and presented to the Members at the annual meeting of the members the annual financial report required by Section 519 of the Not-For-Profit corporations Law;
- (b) Supervise all officers, agents and employees of this Association;
- (c) Establish, levy and assess, and collect the assessments or charges referred to in Article IV, Sections 3 and 4 of the Declaration;
- (d) Issue, or to Cause an appropriate officer to issue, upon demand by any interested person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of such certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) Procure and maintain adequate liability and casualty insurance on property owned by the Association;
- (f) Pay taxes and assessments levied against the properties of the Association; and
- (g) Cause the Common Areas to be maintained.

### ARTICLE IX Officers and Their Duties

Section 1. Officers. The officers of this Association shall be a President, Vice-President, Secretary and Treasurer. The president and Vice-President must be Members of the Association and Directors, but the Secretary and Treasurer need not be members of the Association or Directors. The Board of Directors, in its discretion, may elect a Chairman of the Board of Directors, who must be a Member of the Association, and who, when present, shall preside at all meetings of the Board of Directors, and who shall have such other powers as the Board of Directors shall prescribe. The Board of Directors, at its discretion, may appoint a General Manager, one or more Assistant Treasurers, and one or more Assistant Secretaries, and such other officers or agents as it may deem advisable,

none of whom need be Members of the Association or Directors, and prescribe the duties and terms of office thereof. No person shall hold more than one office.

Section 2. Elections. The officers of the Association shall be elected by the Board of Directors at its first regular meeting after its election by the Members, and a meeting may be held without notice for this purpose immediately after the annual meeting of the Members and at the same place.

Section 3. Term. Each officer shall hold office for a term of one year. A vacancy in any office caused by death, resignation, removal, or otherwise, shall be filled by appointment by the Board of Directors, and the person so appointed shall serve for the balance of the term.

Section 4. Resignation and Removal. Any officer may be removed from office with or without cause by the affirmative vote of two-thirds of the Directors then in office. Any officer may resign at any time by giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice, or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. Compensation. No officer shall receive compensation for any service he may render to the Association. However, any officer may be reimbursed at the discretion of the Board of Directors for his actual expenses incurred in the performance of his duties.

Section 6. Duties. The duties of the officers are as follows:

- (a) President. The President shall be the chief executive officer of the Association, and, when present, shall preside at all meetings of the Members and, unless a Chairman of the Board of Directors has been elected and is present, shall preside at meetings of the Board of Directors. The President or Vice-President unless some other person is specifically authorized by vote of the Board of Directors, shall sign all bonds, notes, deeds, mortgages, extension agreements, modification of mortgage agreements, leases and contracts of the Association and other similar written instruments. He shall perform such other duties as the Board of Directors shall designate.
- (b) Vice-President. Except as especially limited by vote of the Board of Directors, the Vice-President shall perform the duties and have the powers of the President during the absence or disability. He shall perform such other duties and have such other powers as the Board of Directors shall designate.
- (c) Secretary. The Secretary shall attend all meetings of the Board of Directors and of the Members, and shall record all votes and the minutes of all proceedings in a book to be kept for that purpose. The Secretary shall have charge of the corporate seal of the Association and such books, records and papers as the Board of Directors may prescribe. The Secretary shall affix the seal of the corporation to such papers as require it, shall make such requests to the Board of Directors as they request, and shall prepare and cause to be filed, such reports and statements as may be required by law. In his absence at any meeting, an Assistant Secretary or a secretary pro tempore shall perform his duties thereat.

(d) Treasurer. The Treasurer, subject to the order of the Board of Directors, shall have the care and custody of the money, funds, valuable papers and documents of the Association, and shall have and exercise under the supervision of the Board of Directors, all the powers and duties commonly incident to his office. He shall deposit all funds of the Association in such bank or banks, trust company or trust companies, or with such firm or firms, doing a banking business as the Board of Directors shall designate. He may endorse for deposit or collection all checks and notes payable to the corporation, and shall disburse the funds of the Association as directed by the resolution of the Board of Directors. He shall keep accurate books of account of the Associations' transactions, which shall be the property of the Association and, together with all its property in his possession, shall be subject at all times to the inspection and control of the Board of Directors. He shall cause an annual audit of the books of the Association to be made by a certified public accountant at the completion of each fiscal year, and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and transmit a copy of each to the Members. He shall also cause to be prepared and filed the annual financial report of the Board of Directors required by Section 519 of the Not-For-Profit Corporation Law.

#### ARTICLE X Signatures

All checks, drafts, notes, or other obligations for the payment of money shall be signed by such officer or officers or agent or agents as the Board of Directors shall, by general or special resolution, direct. The Board of Directors may also, in its discretion, require, by general or special resolutions, that checks, drafts, notes, and other obligations for the payment of money shall be countersigned or registered as a condition to their validity by such officer or officers or agent or agents as shall be directed in such resolutions.

#### ARTICLE XI Committees

Section 1. Nominating Committee. At its first regular meeting held after the annual meeting of the Members, the Board of Directors shall appoint a Nominating Committee, consisting of three or more Members who are not Directors, who shall each serve for a term of one year. Such Committee shall nominate candidates for election to the Board of Directors, and shall submit a written report of such nominations to the Secretary of the Association at least sixty days prior to the meeting at which directors are to be elected. No person shall be appointed to the Nominating committee for more than three successive terms.

Section 2. Architectural Control Committee. At its first regular meeting held after the annual meeting of the Members, the Board of Directors shall appoint an Architectural Control Committee, to perform the functions and exercise the authority specified in Article VI of the Declaration. Such Committee shall consist of three or more Members of

the Association who may be Directors, who shall each serve a term of three years. No person shall be appointed to the Architectural Control Committee for more than three successive terms.

Section 3. Other Committees. The Board of Directors may constitute and appoint the members of any other committees it deems appropriate, and prescribe the duties and terms of office thereof.

## ARTICLE XII Property Rights: Rights of Enjoyment

The Common Areas subject to the provisions of Article III of the Declaration shall be limited to the use of the Members and their guests. In the event that a Member shall lease or permit another to occupy his Home, however, the lessee or occupant shall at the option of the Member, be permitted to enjoy the use of the Common Areas in lieu of and subject to the same restrictions and limitations as said Member. Any Member, lessee or occupant entitled to the use of the Association facilities may extend such privileges to members of his family residing in his household by notifying the Secretary in writing of the names of any such persons and of the relationship of such Member, lessee or occupant to such persons. **Occupancy of the lots shall be restricted to "One Family Occupancy" as defined in the Declaration. The allowed use of the properties is restricted to residential/recreational by one family.**

## ARTICLE XIII Assessments

Section 1. Personal Obligation for Assessments and Creation of Lien. Personal obligation of Members to pay assessments, and the creation of a lien upon the property against which the assessment is made, is governed by Article IV, Section 3 and 4 of the Declaration.

Section 2. Purpose of Assessments. The purpose of assessments is as specified in Article IV, Section 4 of the Declaration.

Section 3. Basis and Minimum Amount of Annual Assessments. The basis and minimum amount of annual assessments is as specified in Article IV, Section 4 of the Declaration.

Section 4. Uniform Rate. All Lots shall be assessed in equal amounts for annual maintenance and special assessments. **Members may submit a portion of their assessment as an "in kind" payment by working up to 16 hours per year on approved and tracked committee based projects (as detailed in the proposal titled "Governance Model for Bacon Hill Homeowners' Association" approved on July 30, 2003 by the Board of Directors of the Association).**

Section 5. Special Assessments for Capital Improvements. Special Assessments for capital improvements are as specified in Article IV, Section 5 of the Declaration.

Section 6. Date of Commencement of Annual Assessments: Due Dates. The date of commencement of annual assessments is as specified in Article IV, Section 3 of the Declaration.

Section 7. Effect of Non-Payment of Assessments: Remedies of the Association. The effect of nonpayment of assessments and the remedies of the Association in the event of such nonpayment are specified in Article IV, Section 8 of the Declaration.

Section 8. Subordination of the Lien to Mortgages. The subordination of the lien of the assessments to mortgages is as specified in Article IV, Section 9 of the Declaration.

Section 9. Exempt Property. Property exempt from these assessments created in the Declaration shall be those properties specified in Article IV, Section 10 of the Declaration.

## ARTICLE XIV Member Rules

### Section 1. Use of Common Areas

Enjoyment of the Common Areas is dependent upon mutual cooperation and respect among the Members and their guests.

#### 3. Dogs:

- a) Members should refrain from bringing their dogs to the beach during busy times, e.g. weekends and weekdays after 6 pm from Memorial Day through Labor Day.
- b) All dogs should be leashed at all times.
- c) No dogs should be left unattended at the beach.
- d) Members should always pick up after their dog.

#### 4. Use of Beach Area

- a) Small craft may be stored along the southern property line and securely attached to the cable provided.
- b) Do not leave any small craft on the beachfront.
- c) Do not store trailers on the beach area overnight.
- d) Do not leave litter or personal property on the beach: Follow the Carry In/Carry Out Principle.

#### 5. Boat Moorings

- a) Mooring locations are to be assigned by the Beach Committee Chair/Dockmaster.
- b) Not all properties are guaranteed mooring locations, but every effort will be made to accommodate requests.

- c) Only one mooring location per property. All boats moored at Bacon Hill must be registered to a property owner of a Bacon Hill HOA property.
6. Bacon Hill Roads
- a) Speed limit is posted at 5 miles per hour to reduce the amount of wheel spin and preserve the stone base of the roads.
  - b) Members are expected to maintain their road facing property boundaries by trimming back tree limbs and brush to make it easier for our road maintenance crew to operate, and to reduce the likelihood of trees falling into the roadway.

ARTICLE XV  
Books and Records

The books, records and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any Member. The Declaration, the Certificate of Incorporation and the By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XVI  
Fiscal Year

The fiscal year of the Association shall be fixed by resolution of the Board of Directors.

ARTICLE XVII  
Amendments

Except as otherwise provided by law, by the Declaration and/or by the Certificate of Incorporation, the By-Laws of the Association may be amended, added to or repealed by the affirmative vote of two-thirds of the entire Board of Directors at any meeting of the Board, provided written notice of the proposed change is given before the meeting, or such notice is waived in writing, or by vote of a majority of the Class A and Class B Members of the Association, at any meeting of the Members, provided notice of the proposed change is given in the notice of meeting, or notice thereof is waived in writing.

ARTICLE XVIII  
Construction

Section 1. In the case of any conflict between the Certificate of Incorporation and these By-Laws, the Certificate shall control: and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

Section 2. Roberts Rules of Order, Revised, shall govern all meetings of the Members and the Board of Directors, except as otherwise provided in these By-Laws, in the certificate of Incorporation, or in the Declaration.

IN WITNESS WHEREOF, the undersigned, being all of the Directors of BACON HILL HOMEOWNERS ASSOCIATION, LTD., have executed these By-Laws this (date) day of (month), (year) (previously 18<sup>th</sup> day of August, 1979).