

# CHIMNEY HILL OWNERS ASSOCIATION, INC.

BY-LAWS

OF

CHIMNEY HILL OWNERS ASSOCIATION, INC.

As amended and  
approved by members (owners)  
May 16, 1976, May 21, 1977,  
May 29, 1978, May 18, 1985,  
May 20, 2001, May 25, 2002

BY-LAWS OF CHIMNEY HILL OWNERS ASSOCIATION, INC.

ARTICLE I

Definitions

The following words, when used in these By-Laws, or any amendments thereto, shall have the following meanings:

- (a) "Association" shall mean and refer to Chimney Hill Owners Association, Inc.
- (b) "The Properties" shall mean and refer to all such property, and additions thereto, included in the development at Chimney Hill since its inception.
- (c) "Common Properties" shall mean and refer to those areas of land shown on any recorded subdivision plot of The Properties and intended to be devoted to the common use and enjoyment of the owners of The Properties.
- (d) "Lot" shall mean and refer to any plot of land shown on any recorded subdivision map of The Properties with the exception of Common Properties as herebefore defined.
- (e) "Living Unit" shall mean and refer to any portion of a building situated upon The Properties, and designed and intended for use and occupancy as a residence by a single family.
- (f) "Multi-family Structure" shall mean and refer to any building containing two or more Living Units under one roof, except when each such Living Unit is situated upon its own individual Lot.
- (g) "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 Living Unit situated upon The Properties.
- (h) "Member" shall mean and refer to all those Owners who are members of the Association as provided in Article VI hereof.
- (i) "Director" shall mean and refer to any duly-elected Member of the Board of Directors of the Association, currently in office.
- (j) "Developer" shall mean and refer to the Chimney Hill Corporation and others as further defined in Article II of the Articles of Association.

ARTICLE II

Purposes and Powers

This Association is organized not for the purpose of pecuniary gain or profit, either direct or indirect, to its membership.

Section 2. In order to qualify for the Deed Restricted Lot Program an owner shall merge two or more adjacent lots to form one undivided (deed restricted) parcel. The deed restriction shall run with the land and be recorded at the Town of Wilmington Land Records. Only one single family residential dwelling shall be permitted upon the merged parcel. All costs associated with document preparation and recording shall be borne by owner. Lots eligible for the program must abut, be adjacent to, or be across the road from the fully assessed lot. Any lot not fully assessed and enrolled in the Deed Restricted Lot Program shall receive no Chimney Hill Owners Association, Inc. water service.

Section 3. Lots within the program shall be assessed as follows:

- a. lots improved by a habitable dwelling shall be fully assessed; and
- b. All adjacent lots shall be assessed by payment of a one time program fee, as determined by Chimney Hill Board of Directors, with all subsequent annual assessments being at the rate of fifteen percent of the full assessment rate thereafter.

Section 4. Any lot paying less than a full assessment shall forfeit the vote associated with its ownership.

Section 5. The Chimney Hill Owners Association, Inc. Board of Directors may establish such regulations or guidelines as it deems appropriate to administer the Deed Restricted Lot Program.

## ARTICLE IV

### Membership

Section 1. Membership shall be subject to all provisions contained in the Covenants and Restrictions and the Articles of Association and the provisions of these By-Laws.

Section 2. The rights of membership are subject to the payment of annual assessments, special assessments, charges, fees and/or dues, the payment of which becomes a personal obligation of each Owner and a lien upon each Owner's property.

Section 3. The membership rights of any Owner or the rights of any person who derives his rights from said Owners, whether or not he be personally obligated to pay such assessments, may be suspended by action of the Directors during the period when the assessments, special assessments, charges, fees and/or dues remain unpaid. Upon payment and remedying of any other outstanding violations, his rights and privileges shall be restored. The Directors will, from time to time, adopt and publish rules and regulations governing the use of the Common Properties and facilities, and the personal conduct of any person thereon, and may, at their discretion, suspend the rights of any such person for violation of such rules and regulations for a reasonable period to be determined by the Board of Directors.

## ARTICLE V

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

Section 1. Each member shall be entitled to the use and enjoyment of the Common Properties and facilities as provided by the Covenants and Restrictions, Articles of Association and By-Laws applicable to the Properties.

Section 2. Any Member may delegate his rights of enjoyment in the Common Properties and facilities to the members of his family who reside upon the Properties or to any of his tenants who reside thereon under a leasehold interest. Tenants may be subject to payments of fees established by the Board of Directors for use of the facilities. Said Members shall notify the Secretary, or his designee, in writing, of the name of said tenant and the relationship of the Member to such tenant. The rights and privileges of such tenant are subject to suspension under Article IV, Section 3, to the same extent as those of a Member.

Section 5. The Maintenance Committee shall advise the Board of Directors on all matters pertaining to the maintenance, repair or improvement of the Common Properties and facilities of the Association, and shall perform such other functions as the Board, in its discretion, shall determine.

Section 6. The Recreation Committee shall advise the Board of Directors on all matters pertaining to the recreational program and activities of the Association and shall perform such other functions as the Board, in its discretion, shall determine.

Section 7. The Public Relations and Records Committee shall inform the Members of all activities and functions of the Association and shall, after consulting with the Board of Directors, make such public releases and announcements as are in the best interests of the Association.

Section 8. The Legal Committee shall advise the Board of Directors on the selection and retention of legal counsel and shall serve as a liaison between counsel and the Board. It shall bring to the attention of the Board of Directors all matters which require legal action and shall perform such other functions as the Board, in its discretion, shall determine.

Section 9. The Architectural Control Committee shall have the duty of applying the Covenants as applicable to the Properties. It shall look out for any proposals, programs or activities which may adversely affect the residential value of the Properties and shall advise the Board of Directors regarding Association action on such matters. It shall refuse or grant permission to build to applicants who have filed plans and specifications as directed.

Section 10. The Insurance Committee shall advise the Board of Directors on the best and most economical insurance program for the protection of the Members.

Section 11. The Nominations Committee shall have the duties and functions described in Article IX, Sections 2, 3 and 4.

Section 12. Each committee shall have the power to appoint subcommittees from among its membership and may delegate to such subcommittee any of its powers, duties and functions.

Section 13. It shall be the duty of each committee member to receive complaints from Members on any matters involving Association functions, duties and activities within the field of his committee's responsibility. The committee shall dispose of complaints as it deems appropriate or refer them to such other committee, Director or officer of the Association as is further concerned with the matter presented.

ARTICLE XIV

Books and Papers

The books, records and papers of the Association shall, at all times, during reasonable hours, be subject to the inspection of any Members in good standing who wish to see them.

ARTICLE XV

Corporate Seal

The Association shall have a seal in circular form, having within its circumference the words: CHIMNEY HILL OWNERS ASSOCIATION, INC.

ARTICLE XVI

Amendments

Section 1. The By-laws may be amended, at a regular or special meeting of the Members, by a vote of a majority of a quorum of each class of Members present in person or by proxy, provided that those provisions of these By-laws which are governed by the Articles of Association may not be amended except as provided in the Articles of applicable law.

Section 2. In the case of any conflict between the Articles of Association and these By-laws, the Articles shall control.

ARTICLE XVII

DEED RESTRICTED LOT PROGRAM

Section 1. In order to maintain and increase the open spaces of Chimney Hill Owners Association, Inc.; to allow equitable relief for owners, current or future, who require more than one lot to construct a home; to control the maximum build-out within the Association; and to facilitate the sale of Chimney Hill Owners Association, Inc. owned lots on a fair and equitable basis thereby increasing assessment revenue to the Association, the following Deed Restricted Lot Program is hereby incorporated within the By-Laws of the Chimney Hill Owners Association, Inc.

The purposes for which it is formed include, in addition to any other purposes and powers provided by law, uniting home and lot owners of Chimney Hill in a continuing effort to protect the value of their property and promote the common welfare of the area; providing a medium for the free discussion of topics of general interest; serving as an effective management agency according to the highest business standards, and, as the following actions become appropriate:

- (a) To acquire, build, operate and maintain recreation areas, recreation buildings, playgrounds, swimming pools, common land, footways, including buildings and other structures, personal properties incident thereto, hereinafter referred to as the Common Properties,
- (b) To provide garbage and trash collection,
- (c) To provide exterior maintenance for homes on the Properties,
- (d) To provide fire and police protection, including the formation of a fire district or other municipal corporation if permitted by law,
- (e) To maintain unkempt lands and trees,
- (f) To supplement municipal services where permitted by law, and to provide water to all Living Units,
- (g) To fix assessments to be levied against The Properties,
- (h) To enforce any and all covenants and restrictions and agreements applicable to The Properties,
- (i) To amend, remove, revise and create covenants and restrictions and agreements applicable to The Properties and to the facilities thereon,
- (j) To pay taxes, if any, and other assessments on common lands and facilities,
- (k) To cooperate with municipal and state governments for the purpose of construction and maintenance of a sewer and/or water system,
- (l) To bring suit or suits in the name of the Association to enforce any rights against the Developer or others, which may inure to the benefit of the Association or any of its members, and
- (m) To do any other thing that, in the opinion of the Board of Directors, will promote the common benefit and enjoyment of the residents of The Properties.

ARTICLE III

Location

The principal office of the Association is located at 9 Haystack Road, Wilmington, Vermont. The address: Chimney Hill Owners Association, Inc., PO Box 415, Wilmington, Vermont 05363.

## ARTICLE XIII

### Committees

Section 1. The standing committees of the Association shall be:

- The Executive Committee
- The Budget/Audit Committee
- The Maintenance Committee
- The Recreation Committee
- The Public Relations and Records Committee
- The Legal Committee
- The Architectural Control Committee
- The Insurance Committee
- The Nominations Committee

Unless otherwise provided herein, each committee shall consist of a Chairman and two or more members and shall include a member of the Board of Directors. The committees shall be appointed by the Board of Directors following each annual meeting to serve from the close of such annual meeting until the close of the next annual meeting, and such appointments shall be announced following each such annual meeting. The Board of Directors may also appoint such other committees as it deems desirable.

Section 2. The Board of Directors may, by resolution or resolutions passed by a majority of the Board, designate one or more committees, each to consist of two or more of the Directors, which, to the extent provided in said resolution or resolutions, shall have and may exercise the powers of the Board of Directors in the management of the business and affairs of the corporation, and may have the power to authorize the seal of the corporation to be affixed to all papers which may require it. Such committees shall have such name or names as may be determined, from time to time, by resolution adopted by the Board of Directors.

Section 3. The Executive Committee shall consist of the President, Vice-President-Treasurer, the immediate past-President and a Director at large. It shall select its own Chairperson. The Executive Committee's duties shall be to carry out the current business of the corporation. The Administrative Assistant and/or the General Manager of the Properties will report to the President, and all other staff members will report to a designated member of the Executive Committee.

Section 4. The Budget/Audit Committee shall supervise the annual audit of the Association's books and approve the annual budget and balance sheet statement to be presented to the membership at its regular annual meeting as provided in Article XII, Section 8. The Vice-President-Treasurer shall be ex officio a member of the Budget/Audit Committee.

## ARTICLE VI

### Membership and Voting Rights

Section 1. Each owner of a lot in Chimney Hill to which the Declaration of Protective Covenants, Restrictions and Reservations applies, as amended and as reformed by order of court, shall be a member of the Association. When any lot is owned by more than one person, all such persons shall be members of the Association.

Section 2. One vote may be cast for each lot owned by a member. Each member shall be entitled to one vote for each lot he or she owns, provided that, in the case of multiple owners of a single lot, no more than one vote shall be cast for any lot.

Section 3. If there are multiple owners of a lot, and only one of the owners is present at a meeting of the Association, he is entitled to cast the vote allocated to that lot. If more than one of the multiple owners is present, the vote allocated to that lot may be cast only in accordance with their unanimous agreement. There is unanimous agreement if any one of the multiple owners casts the vote allocated to that lot without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

## ARTICLE VII

### Meeting of Members

Section 1. The annual meeting of the Members shall be held at a convenient place and time to be designated by the Board of Directors.

Section 2. Special meetings of the Members for any purpose may be called at any time by the Executive Committee, President, Vice-President-Treasurer, Vice-President-Secretary or the Board of Directors, or upon the written request of the Members who have the right to vote one-fourth (1/4) of all the votes of the entire membership.

Section 3. Notice of any meetings shall be given to the Members, at the Vice-President-Secretary's election, by sending a copy of the notice by mail, postage thereon fully prepaid to his address appearing on the books of the Association. Each Member shall register his correct address with the office of the Association, and if the Vice-President-Secretary elects to mail notices, then notices of meetings shall be mailed to each Member fifteen (15) days in advance to such address, and it shall set forth, in general, the nature of the business to be

transacted. If the business of any meeting shall involve an election governed by Article VII or any action governed by the Articles of Association or by the Covenants applicable to the Properties, notice of such meeting shall be given or sent therein provided.

Section 4. The presence at any meeting of Members entitled to cast one-tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action governed by these By-Laws. Any action governed by the Articles of the Association shall require a quorum as therein provided. If, however, such quorum, consisting of Members in person and Members represented by proxy having the right to vote at the meeting, shall not be present, then the Vice-President-Secretary shall have the power to adjourn the meeting to a future date at which a quorum shall be present or represented. At such adjourned meeting, any business may be transacted which might have been transacted at the meeting as originally called. Except as herein or as otherwise provided in the Articles of the Association, all corporate action shall be determined by a majority of the votes cast at a meeting of Members by the Members entitled to vote thereon.

Section 5. The agenda for the annual meeting shall include any matter not contrary to law or to the Covenants, Restrictions and Reservations applicable to The Properties, which is submitted in writing to the Board of Directors by a member in good standing, prior to March 1 of the year in which said annual meeting is to be held, and is supported by petition of at least five (5) percent of the other members in good standing.

### ARTICLE VIII Board of Directors

Section 1. The affairs of the Association shall be managed by a board of not less than three (3) nor more than twelve (12) Directors (including the past-President), as the membership shall, from time to time, determine. The terms of office shall be fixed at three years, excepting those Directors elected to shorter terms at the annual meeting, May 25, 1975, and excepting those appointed to fill unexpired terms.

Section 2. Any vacancy on the Board of Directors may be filled by a majority vote of the Board of Directors. The person appointed to such vacancy shall serve for the remainder of the term of the director he or she replaces and may subsequently be appointed to a longer term if such vacancy should occur.

Section 3. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least four such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each director

Section 3. REMOVAL OF OFFICERS Upon an affirmative vote of a majority of the members of the Board of Directors, any officer may be removed, with cause, and his successor elected at any regular meeting of the Board of Directors or at any special meeting of the Board called for such purpose.

Section 4. The President shall be the chief executive officer and shall preside at all meetings of the Board of Directors and all other meetings of the Association, shall see that orders and resolutions of the Board of Directors are carried out, and shall sign all notes, checks, leases, mortgages, deeds and all other written instruments. He shall be ex officio a member of all standing committees, and shall have the general powers and duties of supervision and management usually vested in the chief executive officer of a corporation.

Section 5. The Vice-President-Treasurer shall perform all the duties of the President in the absence of the President.

Section 6. The Vice-President-Secretary shall be ex officio the secretary of the Board of Directors, shall record the votes and keep the minutes of all proceedings in a book to be kept for the purpose. He shall keep the records of the Association. He shall record in a book kept for that purpose the names of all Members of the Association, together with their addresses as registered by such members. (see Article VII, Section 3.).

Section 7. The Vice-President-Treasurer shall receive and deposit in appropriate bank accounts all moneys of the Association and shall disburse such funds as directed by resolution of the Board of Directors, provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements made in the course of business conducted within the limits of a budget adopted by the Board. He shall sign all checks and notes of the Association, provided that such checks and notes also be signed by the President.

Section 8. The Vice-President-Treasurer shall keep proper books of account and cause an annual audit of the Association books to be made by a certified public accountant at the end of each fiscal year. He shall prepare an annual budget and an annual balance sheet statement, and the budget and balance sheet statement shall be presented to the membership at its regular annual meeting.

Section 9. SUBORDINATE OFFICERS The President, with the approval of the Board of Directors, may appoint such other officers and agents as the Board may deem necessary, who shall hold authority and perform such duties as, from time to time, may be prescribed by the President or by the Board.

Section 10. The immediate past-President shall be a member of the Board of Directors until a new past-President will have taken up that office.

Properties and facilities and the personal conduct of the Members and their guests thereon.

(e) Exercise for the Association all powers, duties and authority vested in, or delegated to, this Association, except those reserved to the annual meeting or to Members in the Covenants.

(f) Declare the office of any member of the Board of Directors to be vacant in the event that said Director shall have been absent from three (3) consecutive regular meetings of the Board of Directors. The Board may take such action at the meeting during which said third absence occurs.

(g) Borrow money to meet the needs of the Association, and this power shall be vested in the President and Vice-President-Treasurer.

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

(a) Cause to be kept a record of its acts and corporate affairs, and to present a statement thereof to the Members at the annual meeting of the Members or at any special meeting of the Members when such is requested in writing by one-fourth (1/4) of the voting membership, as provided in Article VII, Section 2.

(b) Supervise all officers, agents and employees of this Association, and to see that duties are properly performed.

(c) Issue, or cause an appropriate person to issue, upon demand by any Member, a certificate setting forth whether any assessment has been paid. Such certificates shall be conclusive evidence of any assessment therein stated to have been paid, and, as more fully provided in the Covenants and Articles of Association applicable to The Properties, to:

(d) Fix the amount of the assessment against each Lot (Property) for each assessment period at least thirty (30) days in advance of such date or period and, at the same time,

(e) Prepare a roster of the properties and assessments applicable thereto, which shall be kept in the office of the Association and shall be open to inspection by any Member, and, at the same time,

(f) Send written notices of each assessment to every Owner subject thereto.

## ARTICLE XII

### Officers

Section 1. DESIGNATION The principal officers of the Association shall be President, Vice-President-Treasurer and Vice-President-Secretary. The Directors may appoint an assistant to either of the latter two and such other officers as, in their judgment, may be necessary.

Section 2. ELECTION OF OFFICERS The officers shall be elected annually by a majority vote of the Board of Directors at the organizational meeting of each new Board and shall hold office at the pleasure of the Board.

personally or by mail, telephone or telegraph at least seven (7) days prior to the day named for such a meeting.

Section 4. Special meetings of the Board of Directors may be called by the President on three (3) days notice to each Director given personally, or by mail, telephone or telegraph, which notice shall state the time, place and purpose of the meeting. Special meetings of the Board of Directors shall be called by the President or Vice-President-Secretary in the manner and on like notice on the written request of at least three (3) Directors.

Section 5. For the purposes of conducting business, a quorum shall consist of a majority of the total membership of the Board of Directors.

Section 6. The Board of Directors shall have the power to designate from annual assessments, contributions to capital, to be used for capital improvements. Such contributions to capital are to be segregated in special accounts to be used for said purposes.

Section 7. Indemnification of Directors. Chimney Hill Owners Association, Inc. shall have the power to indemnify, and shall indemnify, each member of the Board of Directors against all expenses, judgments and/or amounts paid in settlement by him in connection with any action to which he is a party by reason of the fact that he is or was a Director of Chimney Hill Owners Association, Inc. unless he has been adjudged liable due to willful misfeasance, gross negligence, bad faith, or reckless disregard of the duties involved in the conduct of his office. Chimney Hill Owners Association, Inc. shall purchase and maintain insurance specifically designed to offset any obligations which might result from the said indemnification.

## ARTICLE IX

### Election of Directors: Nominating Committee; Election Committee

Section 1. Election to the Board of Directors shall be by written ballot as hereinafter provided. At such election, the Members, or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Articles of Association. The names receiving the largest number of votes shall be elected.

Section 2. Nominations for election to the Board of Directors shall be made by a Nominating Committee, which shall be one of the standing committees of the Association.

Section 3. The Nominating Committee shall consist of a Chairperson who shall be a

member of the Board of Directors, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Directors prior to each annual meeting until the close of the next annual meeting, and such appointment shall be announced at said annual meeting.

Section 4. 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. Such nominations shall be made from among the Members, as the committee, in its discretion, shall determine. Nominations shall be placed on a written ballot as provided in Section 5 for the mailing of such ballots to Members.

Section 5. All elections to the Board of Directors shall be made on written ballots which shall describe the vacancies to be filled and set forth the names of those nominated by the Nominating Committee for such vacancies. Such ballots shall be prepared and mailed by an Election Committee to be appointed by the Nominating Committee to the Members at least twenty-one (21) days in advance of the date set forth therein for a return, which shall be a date not later than the day before the annual meeting or special meeting called for elections.

Section 6. Each Member shall receive one ballot marked with the number of the Member's total votes. He shall indicate his preference on the ballot for each vacancy shown thereon, his votes being cast either for nominated candidates or for any other Members of the Association. The completed ballot shall be returned, if the Member does not plan to attend the meeting, by mail in an inner sealed envelope marked "Ballot" but not marked in any other way. The outer mailing envelope must clearly bear the name of the Member of his proxy, and shall be sent to: Election Committee, Chimney Hill Owners Association, Inc., P.O. Box 415, Wilmington, Vermont 05363.

Section 7. Upon receipt of each return, it shall be placed in a safe or other locked place until the day set for the annual or other meeting at which the elections are to be held. On that day, the envelopes shall be turned over, unopened, to the Election Committee.

Section 8. In addition to the nominations made by the Nominating Committee, nominations shall be allowed from the floor in any election at any annual meeting or special meeting.

Section 9. Members who attend the annual meeting may mark and present their ballots at that time. Ballots shall be handed to the Election Committee in a sealed envelope marked "Ballot".

Section 10. The Election Committee shall maintain a check-list of ballot returns.

Mailing envelopes of mailed returns shall be discarded as the voters' names are checked off. After all ballots, mailed or presented in person, have been checked off, the Election Committee may, at its own discretion, allow a substitute ballot to any Member who claims to have received no ballot by mail, if the Member is present and if his name has not already been checked off. The Election Committee shall satisfy itself that all proxies voted are valid, said proxies having been filed with the Vice-President-Secretary as provided in Article X, Section 2.

Section 11. The Election Committee shall remove the ballots from the envelopes marked "Ballot", count and tally the votes, announce the results and prepare a written report for the minutes of the meeting.

## ARTICLE X

### Proxies

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

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

Section 3. All proxies shall name a specific person who is entitled to vote a Member's ballot and shall be signed by the Member or Members as their names appear on the mailing lists of the Association.

## ARTICLE XI

### Powers and Duties of the Board of Directors

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

(a) Call the annual meeting as provided in Article VIII, Section 1. and to call special meetings of the Members whenever it deems necessary, and it shall call a meeting at any time upon written request of one-fourth (1/4) of the voting membership, as provided in Article VII, Section 2.

(b) Appoint and remove, at its pleasure, by a majority vote, all officers, agents and employees of the Association, prescribe their duties, fix their compensation and require of them such security or fidelity bond as it may deem expedient.

(c) Establish, levy, assess and collect the assessments, dues or charges referred to in Article IV, Section 2.

(d) Adopt and publish rules and regulations governing the use of the Common