

ARTICLES OF INCORPORATION**OF****TOWNES AT UMSTEAD COMMUNITY ASSOCIATION, INC.****(A NONPROFIT CORPORATION)**

The undersigned, being a natural person of the age of eighteen years or more, hereby makes and acknowledges these Articles of Incorporation (the "Articles") for the purpose of forming a nonprofit corporation under the Nonprofit Corporation Act contained in Chapter 55A of the North Carolina General Statutes:

**ARTICLE I
NAME**

The name of the corporation is TOWNES AT UMSTEAD COMMUNITY ASSOCIATION, INC., hereinafter referred to as the "Association".

**ARTICLE II
DURATION**

The period of duration of the Association is perpetual.

**ARTICLE III
PURPOSES AND POWERS**

The purposes for which the Association is organized, and the powers conferred upon the Association, are specified in the following Sections of this Article.

Section 1. Organization. The Association specifically is organized as the "Association" pursuant to the provisions of that certain "DECLARATION OF PROTECTIVE COVENANTS FOR TOWNES AT UMSTEAD (A CITY OF RALEIGH CLUSTER UNIT DEVELOPMENT AND TOWNHOUSE DEVELOPMENT)", to be recorded in the Wake County, North Carolina Registry (and including all amendments and supplemental declarations thereto, the declaration and such amendments and supplemental declarations being referred to herein as the "Declaration"), the Declaration being incorporated by reference as if fully set out herein. The definitions of terms contained in the Declaration are applicable to the Articles, unless the context clearly indicates otherwise. As referred to herein and in the Declaration, the "Act" is the North Carolina Planned Community Act, currently contained in Chapter 47F of the North Carolina General Statutes, and the "Nonprofit Corporation Act" is the North Carolina Nonprofit Corporation Act, currently contained in Chapter 55A of the North Carolina General Statutes. Except as otherwise provided herein or in

other Governing Documents, the Association shall have all of the rights, powers, duties and obligations conferred upon it by the Act and the Nonprofit Corporation Act. The Association and its Members shall be subject to all of the terms of the Declaration, specifically including, without limitation, the provisions regarding membership in the Association and the obligation of Members of the Association to pay monetary assessments and other charges to the Association.

Section 2. Prohibited Powers. Except as permitted or authorized by the Declaration or required by the Act, the Association does not have the powers described in the following subsections of Section 55A-3-02 (a) of the Nonprofit Corporation Act: subsections (5), (6), (7), (8), (9), (12), (13), (14), (15), (16) and (17).

Section 3. General Powers. Subject to any provisions of the Declaration or the Articles limiting or restricting the Association, in performing its functions under the Declaration the Association may engage in any lawful activity for which nonprofit corporations may be organized under the Act and Nonprofit Corporation Act, and shall have all of the powers necessary to perform such functions.

ARTICLE IV REGISTERED OFFICE AND AGENT

The street and mailing address and county of the initial registered office of the Association is:

5811 Glenwood Avenue, Suite 200
Raleigh, NC 27612

Wake County

The name of the initial registered agent of the Association at the foregoing address is Matthew Danielson.

ARTICLE V PRINCIPAL OFFICE

The principal office of the Association is located at 5811 Glenwood Avenue, Suite 200, Raleigh, Wake County, North Carolina 27612.

ARTICLE VI MEMBERS

Section 1. Membership. Each and every Owner of a Lot is a Class A Member of the Association, every Owner of a Detached Dwelling Lot is a Class C Member of the Association as provided herein, and Declarant is the Class B Member of the Association as provided herein, and by execution of the Declaration or by acceptance of a deed conveying to such Owner title to any Lot or Detached Dwelling Lot, each Owner of a Lot or Detached Dwelling Lot consents to be a Member of the Association, subject to the terms of the Governing Documents. Membership shall be appurtenant to and may not be separated from ownership of the Lot or Detached Dwelling Lot owned by such Owner. An Owner's membership in the Association automatically terminates whenever such Person ceases to be an Owner of a Lot or Detached Dwelling Lot (except that the Declarant's Class B Membership shall terminate only as provided herein), but such termination shall not release or relieve any such Owner from any liability or obligation incurred under the Declaration during the period of such Owner's ownership, nor impair any rights or remedies which the Association or any other Owner has with respect to such former Owner.

Section 2. Classes of Voting Members. The Association shall have three (3) classes of voting Members as follows:

(a) **Class A.** Class A Members are all Owners of Lots, except for the Class B Member. A Class A Member is allocated one (1) vote for each Lot owned by the Class A Member; provided, however, only one (1) Class A Member vote is allocated for each Lot, regardless of the number of Owners thereof. When more than one Person owns an interest (other than a leasehold or security interest) in any Lot, all such Persons shall be Members and the voting rights appurtenant to their Lot shall be exercised as they, among themselves, determine, but fractional voting shall not be allowed.

(b) **Class B.** The Class B Member is the Declarant. The Class B Member shall have three (3) votes for each Lot and Proposed Lot owned by the Class B Member. At the time of the recording of the Declaration, the Class B Member is entitled to **546 votes**, as the number of Lots at the time of the recording of the Declaration is 182, and 182 multiplied by 3 is 546 (there are no Proposed Lots at the time of the recording of the Declaration).

(c) **Class C.** Class C Members are all Owners of Detached Dwelling Lots, except for the Class B Member. A Class C Member is allocated one (1) vote for each Detached Dwelling Lot owned by the Class C Member; provided, however, only one (1) Class C Member vote is allocated for each Detached Dwelling Lot, regardless of the number of Owners thereof. When more than one Person owns an interest (other than a leasehold or security interest) in any Detached Dwelling Lot, all such Persons shall be Members and the voting rights appurtenant to their Lot shall be exercised as they, among themselves, determine, but fractional voting shall not be allowed. The Class C

Members have voting rights only with respect to stormwater management matters as described in the Declaration.

Provided, however, and notwithstanding anything to the contrary in the Declaration or any other Governing Document, with respect to the dedication, conveyance, or exchange of Common Property (but not with respect to the mortgage and pledge of Common Property), at all times during the Development Period the Class B Member is deemed to have more than the minimum voting percentage required under applicable provisions of the Act to authorize and require the Association to dedicate, convey, or exchange Common Property.

The Class B Membership shall terminate at the end of the Development Period, subject to reinstatement from time to time as provided in the definition of Development Period. At any time that the Class B Membership does not exist, the Declarant shall be a Class A Member with respect to any Lots owned by the Declarant.

Section 3. Exercise of Voting Rights. The exercise of voting rights shall be governed by the Articles and/or Bylaws of the Association, as applicable, including, as determined by the Board, exercise of voting rights by written consent or other method allowed in the Articles and/or Bylaws instead of a vote at a meeting of the Association, or by any combination of voting at a meeting and other method of voting as allowed in the Articles and/or Bylaws.

Section 4. Cumulative Voting. There shall be no cumulative voting.

ARTICLE VII EXECUTIVE BOARD

The business of the Association shall be managed by an Executive Board (also referred to herein and in the Bylaws as the "Board of Directors" or the "Board"). The qualifications for serving as a director, number of directors, and the method of electing or appointing directors, shall be as provided in the Bylaws.

ARTICLE VIII EARNINGS; COMPENSATION

No part of the earnings of the Association shall inure to the benefit of any director, officer, Architectural Review Committee member, other Board committee member, employee or agent of the Association (other than as a Member of the Association in the same manner as all other Members are benefitted), except that, unless prohibited or limited by the Act, the Nonprofit Corporation Act or Governing Documents: (i) reasonable compensation may be paid for services rendered to or for

the Association by its employees and agents; (ii) payments and indemnifications may be made to and on behalf of directors, officers, Architectural Review Committee members, other Board committee members, employees and agents of the Association as allowed in one or more of the Act, the Nonprofit Corporation Act, or other Governing Documents; and (iii) any officer, director, Architectural Review Committee member, other Board committee member, employee or agent of the Association who also is an Owner as defined in the Declaration, shall have all of the rights, powers, privileges and obligations of an Owner.

ARTICLE IX EXCULPATION, IMMUNITY AND INDEMNIFICATION

Section 1. Exculpation of Directors. To the fullest extent permitted by the Nonprofit Corporation Act as it currently or hereafter exists, no person who is serving or who has served as a director of the corporation shall be liable personally for monetary damages for breach of any duty as a director. No amendment or repeal of this Section, nor the adoption of any amendment to the Articles inconsistent with this Section, shall eliminate or reduce the protection granted herein with respect to any act or matter that occurred prior to such amendment, repeal, or adoption.

Section 2. Immunity. To the fullest extent permitted by the Nonprofit Corporation Act as it currently or hereafter exists, each director and officer of the Association shall be immune individually from civil liability for monetary damages, except to the extent covered by insurance, for any act or failure to act arising out of such director or officer's service as a director or officer of the Association. No amendment or repeal of this Section, nor the adoption of any amendment to the Articles inconsistent with this Section, shall eliminate or reduce the protection granted herein with respect to any act or matter that occurred prior to such amendment, repeal, or adoption.

Section 3. Indemnification. To the fullest extent permitted by the Nonprofit Corporation Act as it currently or hereafter exists, the Association shall indemnify each Association director, officer, Architectural Review Committee member and other Board committee member (each of whom is referred to hereinafter as an "Indemnitee") as follows:

(a) The Association shall indemnify and hold harmless each Indemnitee in the event the Indemnitee is made, or threatened to be made, a party to any pending, threatened, or completed civil, criminal, administrative, investigative, or arbitral action, suit, or proceeding, including any appeal therein and any inquiry or investigation that could lead to such action, suit or proceeding, by reason of the fact that such Indemnitee is or was a director, officer or Architectural Review Committee member or other Board committee member.

(b) The indemnification shall include all liabilities and expenses, including without limitation all attorney's fees and expenses, judgments, fines, excise taxes, and amounts paid in

settlement, and all expenses incurred by the Indemnatee in enforcing the Indemnatee's rights hereunder.

(c) The Association shall pay, in advance of the final disposition of such action, suit or proceeding, each Indemnatee's reasonable expenses, including attorney's fees, incurred in defending any such action, suit, or proceeding.

(d) The foregoing rights of an Indemnatee shall inure to the benefit of the Indemnatee with respect to matters indemnified, whether or not the Indemnatee is a director, officer, Architectural Review Committee member or other Board committee member at the time such liabilities or expenses are imposed or incurred, and in the event of the Indemnatee's death shall extend to the Indemnatee's heirs and legal representative.

(e) The rights of each Indemnatee hereunder are in addition to and not exclusive of any other rights to which the Indemnatee may be entitled under any Legal Requirement, agreement, insurance policy, or otherwise.

(f) To the extent reasonably possible, prior to expending any funds of the Association for an indemnity, the Association first shall obtain and apply all available insurance proceeds toward such indemnity.

(g) No amendment or repeal of this Section, nor the adoption of any amendment to the Articles inconsistent with this Section, shall eliminate or reduce the protection granted herein with respect to any act or matter that occurred prior to such amendment, repeal, or adoption.

Section 4. Limitations. The foregoing provisions for exculpation, immunity and indemnification are for directors, officers, Architectural Review Committee members and other Association committee members acting in their capacities as such, and with respect to any such Persons who also are Owners of any part of The Properties, such provisions are not intended to and shall not exculpate, provide immunity or indemnify any of such Persons from their liabilities as Owners under the Declaration and other Governing Documents.

ARTICLE X AMENDMENT

Section 1. Amendment by Declarant. During the Declarant Control Period Declarant may unilaterally, and in its sole discretion, without the joinder or approval of the Association, any Member, or any other Person and without the necessity of a meeting of the Association, amend the Articles for any purpose, and, as required by Legal Requirements, shall file any such amendment or an amended and restated version of the Articles that incorporates any such amendment. Following

the end of the Declarant Control Period, during the existence of the Development Period Declarant may unilaterally, and in its sole discretion, without the approval or joinder of the Association, any Member, or any other Person and without the necessity of a meeting of the Association, amend any provision of the Articles to: (i) make non-material, clarifying or corrective changes not materially affecting any Owner's rights or obligations hereunder; or (ii) satisfy the requirements of FHA, VA, FNMA, FHLMC, OILSR or other governmental agency, Secondary Mortgage Market Agency or Institutional Lender; or (iii) establish or maintain the tax exempt status of the Association under the laws of the United States or the State of North Carolina; or (iv) amend the Articles as may be necessary to prevent the Articles from being declared invalid under any Legal Requirement or by any court of competent jurisdiction, or to add or delete provisions to or from the Articles as may be necessary to prevent the Articles from being declared invalid under any Legal Requirement or by any court of competent jurisdiction. Any amendment to the Articles adopted by the Declarant shall be effective upon the later of the effective date contained therein or the date of its filing as required by Legal Requirements.

Section 2. Amendment by the Members. Unless amended as allowed under Section 1 or required under Section 3 of this Article, the Articles may be amended only as follows:

(a) Unless a higher percentage or different voting requirement is specified herein or by Legal Requirements, the Articles may be amended only by (i) the written agreement or consent of those Members who have, or the affirmative vote at a meeting of the Association of those Members who have, sixty-seven percent (67%) or more of the total number of votes allocated to the Members, and (ii) during the Development Period, with the written consent of Declarant. Provided, however, any amendment

(b) Written notice of an annual or special meeting of the Association at which any proposed amendment to the Articles is to be voted on, together with at least a summary description of the proposed amendment, shall be given to all Members. If the meeting for which notice has been given is adjourned, notice of the subsequent meeting shall be given as required by the Bylaws.

(c) Upon adoption of any amendment to the Articles, the Board shall cause such amendment to be executed in proper form and, as required by Legal Requirements, shall file any such amendment or an amended and restated version of the Articles that incorporates any such amendment.

Section 3. Amendment of Declaration. Upon amendment of the Declaration, the Articles shall be deemed amended as necessary to conform to the amended Declaration, and the directors and officers of the Association shall file such documents with the office of the North Carolina Secretary of State as may be reasonably required to conform the Articles to the amended Declaration.

Section 4. Prohibited Effects of Amendment. Notwithstanding the provisions of Sections 1 and 2 of this Article allowing amendments to the Articles, no amendment to the Articles, whether adopted by the Declarant, by the Association, or by the Members or any applicable group of Members of the Association, shall be effective to do or result in anything prohibited by any "Prohibited Effects of Amendment" section in the Declaration.

ARTICLE XI DISSOLUTION OF ASSOCIATION; DISTRIBUTION OF ASSETS UPON DISSOLUTION

Section 1. Duration. As provided in the Declaration, unless sooner terminated as required by Legal Requirements the Declaration shall run with and bind the Properties and each Owner, and shall inure to the benefit of the Association, and each other Owner of any portion of the Properties, and their respective heirs, successors, and assigns, from and after the recording of the Declaration in the Registry until such time as it is terminated by a written termination agreement, executed or ratified in the same manner as a deed, by those Members to whom eighty percent (80%) or more of the total votes in the Association are allocated, and also with the written consent of Declarant during the Development Period. Execution or ratification by any one of multiple Owners of a Lot is sufficient for that Lot unless, prior to the time the termination agreement is recorded in the Registry, any other Owner of that Lot files with the Association a written objection to the termination of the Declaration (in which event the vote allocated to that Lot shall be considered as not having been exercised). The termination agreement shall specify a date after which it will be void unless it is recorded in the Registry before that date. The termination agreement may not be recorded in the Registry unless and until the requisite number of signatures have been obtained as provided herein, and it shall be effective only upon recording. If, pursuant to the termination agreement, any real estate in the Properties is to be sold following termination of the Declaration, the minimum terms of the sale shall be set forth therein.

Section 2. Dissolution of the Association. The Association shall be dissolved upon the termination of the Declaration. Provided, however, until any sale of the Common Property authorized by the termination agreement or approved by the Owners in the same manner as required for approval of the termination agreement is completed and the sale proceeds distributed, the Association shall continue in existence with all of the powers it had before termination. The Association, on behalf of the Owners, may contract for the sale of the Common Property, but the contract is not binding unless such sale has been authorized in the termination agreement or it has been approved by the Owners in the same manner as required for approval of the termination agreement. Proceeds of the sale of Common Property shall be distributed to the Owners and lienholders as their interests may appear, as provided in the termination agreement or other agreement approved by the Owners in the same manner as required for approval of the termination agreement. If the Common Property is not to be sold following termination of the Declaration, title

to the Common Property vests in the Owners upon termination, as tenants in common in proportion to their respective interests as provided in the termination agreement.

Upon dissolution of the Association or upon loss of ownership of all of the Common Property by the Association for any reason whatsoever (except for exchange or dedication or conveyance of any part or all of the Common Property as allowed by the Declaration, or by reason of merger and/or consolidation with any other association as allowed by the Declaration), except as otherwise provided in the termination agreement, other agreement approved by the Owners in the same manner as required for approval of the termination agreement, or Legal Requirements (in particular, section 47F-2-118 of the Act, or any successor section of the Act), any portion of the Common Property not under the jurisdiction of and being maintained by another association substantially similar to the Association, together with all other assets of the Association, first shall be offered to the City of Raleigh (or, if the City of Raleigh refuses such offer, then to some other appropriate governmental entity or public agency as determined by the Board) to be dedicated for public use for purposes similar to those to which the Common Property and such assets were required to be devoted by the Association. If the City of Raleigh or such other appropriate governmental entity or public agency accepts the offer of dedication, such portion of the Common Property and assets shall be conveyed by the Association to the City of Raleigh or such other appropriate governmental entity or public agency, subject to the superior right of an Owner to an easement (if necessary) for reasonable ingress and egress to and from such Owner's Lot and the public or private street(s) on which that Lot is located, subject to all other applicable rights of way and easements, and subject to ad valorem property taxes subsequent to the date of such conveyance.

If the City of Raleigh or such other appropriate governmental entity or public agency refuses the offer of dedication and conveyance, the Association may transfer and convey such Common Property and assets to any nonprofit corporation, association, trust or other entity which is or shall be devoted to purposes and uses that would most nearly conform to the purposes and uses to which the Common Property was required to be devoted by the Declaration, such transfer and conveyance to be made subject to the rights of Owners and the other matters set forth in the immediately preceding paragraph of this Section. If there is no nonprofit corporation, association, trust or other entity who will accept such transfer and conveyance of the Common Property and assets of the Association, then such Common Property and assets shall be distributed as provided in the plan of termination/dissolution adopted by the Association.

ARTICLE XII MISCELLANEOUS

Section 1. Titles. The titles, headings and captions which have been used throughout the Articles are for convenience only and are not to be used in construing the Articles or any part hereof, except as necessary with respect to any cross-referencing of any provisions of the Articles.

Section 2. Number and Gender. Whenever the context of the Articles requires, the singular shall include the plural and one gender shall include all.

Section 3. Severability of Provisions. If any paragraph, section, sentence, clause or phrase of the Articles shall be or become illegal, null or void for any reason or shall be held by any court of competent jurisdiction to be illegal, null or void, the remaining paragraphs, sections, sentences, clauses and phrases hereof shall continue in full force and effect and shall not be affected thereby. To the extent that any provision of the Articles is determined to be overly broad or unenforceable and a narrower or partially enforceable construction may be given to such provision without destroying its intent, then the narrower or partially enforceable provision shall be applied and, to the extent lawful, shall be enforced. It is hereby declared that said remaining paragraphs, sections, sentences, clauses and phrases would have been and are imposed irrespective of the fact that any one or more other paragraphs, sections, sentences, clauses or phrases shall become or be illegal, null or void.

Section 4. Conflicts. Whenever there exists a conflict among the Governing Documents of the Association, the provisions of the Declaration and thereafter, any applicable Supplemental Declaration or Subdivision Declaration shall control, except as to matters of compliance with the Nonprofit Corporation Act, in which event the Articles shall control. Whenever there is a conflict between the provisions of the Articles and Bylaws, the provisions of the Articles shall control. The provisions of the Bylaws shall control over any conflicting provision of any Restrictions and Rules, Board resolutions, or Architectural Guidelines. With respect to the foregoing, specific provisions shall control general provisions, except that a construction consistent with the Act, the Nonprofit Corporation Act and other Legal Requirements shall in all cases control over any construction inconsistent therewith. The provisions of the Act and Nonprofit Corporation Act shall in all cases control over any conflicting provisions of the Raleigh City Code. The Governing Documents shall be construed together with the construction that avoids, insofar as possible, conflicts among them.

For the purposes of this Article and any other references in the Governing Documents to similar conflicts, a 'conflict' is a situation in which the provisions in question cannot be reconciled or where enforcement of one provision necessarily would prohibit enforcement of another provision - for example, where one provision allows a certain action and the other provision prohibits the same action. Two provisions that are different, but not mutually exclusive or prohibitive of each other do not constitute a conflict for the purposes of this Article.

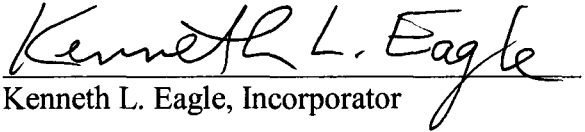
**ARTICLE XIII
INCORPORATOR**

The name and address of the incorporator is as follows:

Kenneth L. Eagle
14600 Weston Parkway, Suite 300
Cary, North Carolina 27513

Wake County

This, the 10th day of November, 2005.


Kenneth L. Eagle, Incorporator