

BYLAWS

WHISPERING CREEK HOMEOWNERS ASSOCIATION, INC.

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BYLAWS

WHISPERING CREEK HOMEOWNERS ASSOCIATION, INC.

ARTICLE I.

NAME

The name of the corporation is **WHISPERING CREEK HOMEOWNERS ASSOCIATION, INC.**, hereinafter referred to as the "Association."

ARTICLE II.

DEFINITIONS

1. Declaration.

"**Declaration**" means the Declaration of Covenants, Conditions, Restrictions and Easements dated _____, 2005, applicable to the Property and recorded or intended to be recorded among the Land Records of Frederick County, Maryland, and any additions, amendments or modifications thereto.

2. Other Defined Terms.

Capitalized terms used but not defined in these Bylaws are used as defined in the Declaration.

ARTICLE III.

MEETINGS OF MEMBERS

1. Annual Meetings.

The first annual meeting of the Members shall be held within one (1) year from the date of incorporation of the Association, and each subsequent regular annual meeting of the Members shall be held annually thereafter, at a date, time and place within the State of Maryland selected by the Board of Directors of the Association. If the day for the annual meeting of the Members is a Saturday, Sunday or a legal holiday, the meeting will be held on the first day following which is not a Saturday, Sunday or a legal holiday.

2. Special Meetings.

Special meetings of the Members may be called at any time by the President or by the Board of Directors, or upon written request of the Members who are (i) entitled to vote one-fourth (1/4) of all of the votes of the Class A membership, or (ii) entitled to vote one-fourth (1/4) of all of the votes of the Class B membership.

3. Notice of Meetings.

Written notice of each meeting of the Members shall be given by, or at the direction of, the Secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least fifteen (15) days but not more than sixty (60) days before such meeting to each Member entitled to vote thereat, addressed to the Member's address last appearing on the books of the Association, or supplied by such Member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and, in the case of a special

meeting, the purpose of the meeting. No notice of the time, place or purpose of any meeting of Members need be given to any Member who attends in person, or by proxy, or who, in writing, executed and filed with the records of the meeting, either before or after the holding of the meeting, waives such notice. The record date for determining the Members entitled to vote at any meeting of the Members shall be the date established in this Section 3 for determining the Members entitled to notice of the meeting.

4. **Quorum.**

The presence at the meeting of Members or of proxies entitled to cast twenty percent (20%) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, these Bylaws or applicable law. If a quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have the power to adjourn the meeting from time to time, and may call another meeting, by a majority vote of the Members present at such meeting in person or by proxy, with notice as set forth in Section 3 of this Article being sent to all Members, and the Members present at such meeting in person or by proxy shall constitute the requisite quorum. In the alternative, the Members entitled to vote at the meeting shall have the power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or be represented.

5. **Proxies.**

At all meetings of Members, each Member may vote in person or by proxy. All proxies (other than the proxy given by each Builder to the Declarant pursuant to the provisions of the Articles of Incorporation for the Association) shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of legal title to its Lot (other than as security for a loan).

6. **Voting.**

A majority of the votes cast (the votes cast by all classes of Members being combined) at a meeting of Members duly called and at which a quorum is present shall be sufficient to approve any matter which may properly come before the meeting, unless (1) a greater number or percentage of votes, and/or (2) the separate computation of the votes of each class, is required by the Articles of Incorporation, by the Declaration, by another provision of these Bylaws, or by applicable law.

7. **Action Taken Without a Meeting.**

The Members shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of a majority of the Members; provided notice of such action was provided to all Members as aforesaid. Any action so approved shall have the same effect as though taken at a meeting of the Members.

8. **Electronic Transmission of Notice; Votes or Proxies.**

The Association is authorized to provide notice of a meeting or deliver information to a Member by electronic transmission only in accordance with the provisions of Section 11B-113.1 of the Maryland Homeowners Association Act. Owners may submit a vote or proxy by

electronic transmission only in accordance with the provisions of Section 11B-113.2 of the Maryland Homeowners Association Act.

ARTICLE IV.
BOARD OF DIRECTORS: SELECTION; TERM OF OFFICE

1. Number.

The affairs of the Association shall be managed initially by a Board of three (3) directors, who need not be Members of the Association. From and after the first annual meeting following the termination of the Class B membership, each newly elected director shall be (a) a Member, either in its own name, or as a joint tenant, tenant in common, tenant by the entirety, or copartner, if its Lot is held in a real property tenancy or partnership relationship, or (b) the spouse of a Member, or (c) an officer, employee or agent of a corporate, partnership, trust or other entity which is a Member of the Association. For each membership, there shall be no limit as to the number of joint tenants, tenants in common or tenants by the entirety, copartners, officers or agents of the Member who may serve as directors at the same time. A majority of the Board of Directors or a majority vote of the Members at a meeting of the membership may increase the number of Directors to five (5).

2. Term of Office.

The initial directors appointed in the Articles of Incorporation for the Association shall serve until the first annual meeting of the Members following the termination of the Class B membership and until their successors are duly elected and qualified. At the first annual meeting of the Members following the termination of the Class B membership, the Members shall elect one-third (1/3) of the number of directors for a term of one (1) year, one-third (1/3) of the number of directors for a term of two (2) years, and one-third (1/3) of the number of directors for a term of three (3) years; and at each annual meeting thereafter, the Members shall elect one-third (1/3) of the total number of directors for a term of three (3) years. Each director elected as provided in this Section 2 may, if reelected, succeed itself, and shall hold office until its successor shall be elected and qualified, or until such director shall die, resign, cease to qualify, or be removed.

3. Removal.

Any director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association present and voting. In the event of death, resignation or removal of a director, his or her successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his or her predecessor. Removal of any director under the provisions of this Section shall, ipso facto, terminate the right of such director to hold any executive office of the Association. Every director who is an officer, director, employee or agent of the Declarant shall be conclusively deemed to have resigned from his or her position as a director, upon termination of such director's relationship with the Declarant.

4. Vacancies.

If any director shall die or resign, or shall cease to qualify for directorship under Section 1 of this Article IV, or if the Members of the Association shall remove any director

without appointing another in its place, a majority of the remaining directors, although such majority is less than a quorum, may elect a successor (the "replacement director") to hold office until the next succeeding annual meeting of the Association, and until the replacement director's successor shall be elected and qualified, or until the replacement director shall die, resign, cease to qualify, or be removed. Vacancies in the Board of Directors created by an increase in the number of directors may be filled by the Declarant prior to the termination of the Class B membership, and thereafter, by the vote of a majority of the votes of the Members of the Association present and voting at an annual meeting of the Association, and the director so elected to fill any such vacancy shall hold office until the third (3rd) succeeding annual meeting of the Association, and until its successor shall be elected and qualified, or until such director shall die, resign, cease to qualify, or be removed.

5. Compensation.

No director shall receive compensation from the Association for acting as such; provided any director may be reimbursed for expenses incurred on behalf of the Association upon approval of a majority of the other directors.

**ARTICLE V.
NOMINATION AND ELECTION OF DIRECTORS**

1. Nomination.

Nomination for election to the Board of Directors shall be made by a Nominating Committee. Nominations may also be made by any Member at or prior to any annual meeting. Each nomination made prior to the annual meeting shall be submitted in writing to the Secretary of the Association. The Nominating Committee shall consist of a chairman, who shall be a member of the Board of Directors, and two (2) or more Members of the Association. The Nominating Committee shall be appointed by the President of the Association prior to each annual meeting and shall serve until the close of the annual meeting or until their successors are appointed. The Nominating Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but in any event not less than the number of vacancies, from among Members or non-members of the Association, and shall submit its nominations to the Secretary of the Association. The decision of a majority of the members of the Nominating Committee shall be reported as the decision of the Nominating Committee.

2. Election.

Election to the Board of Directors shall be by secret written ballot. At such election the Members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI.
MEETINGS OF DIRECTORS

1. Regular and Special Meetings.

Within seven (7) days after each annual meeting of the Members, the Board of Directors shall meet at such time and place as shall be fixed by the Members at said annual meeting, in which case no notice to the directors shall be necessary, or if no time and place was fixed for such meeting at the annual meeting of the Members, then the Board shall meet within seven (7) days following the day of such annual meeting, at such time, date and place as may be fixed by a majority of the directors. In addition to the foregoing meeting, regular meetings of the Board of Directors shall be held at such other date, time and place as may be fixed from time to time by a majority of the directors. Special meetings of the Board of Directors may be called by the President of the Association or by any two (2) of the directors, either by vote or in writing. Notice of the place, day and hour of every regular and special meeting shall be given to each director (a) in writing, either mailed to each director, postage prepaid, not later than the fifth (5th) day before the day set for the meeting, or (b) delivered personally not later than the day before the date set for the meeting, or (c) by telecopy or telephone not later than the day before the date set for the meeting. No notice of the time or place of the meeting need be given to any director who, in writing, executed and filed with the records of the meeting, either before or after the holding of the meeting, waives such notice, or, in fact, attends the meeting.

2. Quorum.

A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

3. Telephone Meetings.

Members of the Board may participate in the meeting by means of a conference telephone or similar communications equipment, if all persons participating in the meeting can hear each other at the same time. Participation in a meeting by these means shall constitute presence in person at the meeting.

4. Action Taken Without a Meeting.

The directors shall have the right to take any action in the absence of a meeting which they could take at a closed meeting by obtaining the written approval of all the directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

5. Open Meetings.

Except as provided in Section 6, all meetings of the Association, including meetings of the Board of Directors or other governing body of the Association, and of any committee of the Board, shall be open to all Members and their agents. Following the termination of the Class B membership in the Association, (i) the Board of Directors or other governing body of the Association, shall, subject to reasonable rules adopted by the Board or other governing body of the Association, provide a designated period of time during an open meeting to allow Lot Owners an opportunity to comment on any matter relating to the Association; provided, however, during any such meeting at which the agenda is limited to specific topics or at a special

meeting, the Lot Owner's comments may be limited to the topics listed on the meeting agenda, and (ii) the Board or other governing body of the Association shall convene at least one meeting each year at which the agenda is open to any matter relating to the Association.

6. Closed Sessions.

(a) The Board or any committee of the Board may, with approval of a majority of a quorum, convene in closed session for the following purposes:

- (i) Discussion of a matter pertaining to employees and personnel;
- (ii) Protection of the privacy or reputation of individuals in matters not related to the Association's business;
- (iii) Consultation with legal counsel;
- (iv) Consultation with staff personnel, consultants, attorneys, or other persons in connection with pending or potential litigation;
- (v) Investigative proceedings concerning possible or actual criminal misconduct;
- (vi) Consideration of the terms or conditions of a business transaction in the negotiation stage if the disclosure could adversely affect the economic interests of the Association;
- (vii) Compliance with a specific constitutional, statutory, or judicially imposed requirement protecting particular proceedings or matters from public disclosure;
- (viii) On an individually recorded affirmative vote of two-thirds of the Board of Directors or committee members present, some other exceptional reason so compelling as to override the general public policy in favor of open meetings; or
- (ix) or any other reason permitted by applicable law.

(b) If a meeting is held in closed session under this Section:

- (i) An action may not be taken and a matter may not be discussed if it is not permitted by enumerated clauses (i) through (ix) of subsection (a) of this Section; and
- (ii) A statement of the time, place, and purpose of the closed meeting, the record of the vote of each director or committee member by which the meeting was closed, and the authority under this Section for closing the meeting shall be included in the minutes of the next meeting of the Board of Directors or the committee, as the case may be.

7. Notice of Meetings.

All Members shall be given reasonable notice of all regularly scheduled open meetings of the Association.

**ARTICLE VII.
POWERS AND DUTIES OF THE BOARD OF DIRECTORS**

1. Powers.

The Board of Directors shall, subject to the provisions of the Declaration, the Articles of Incorporation and applicable law, have the power to:

(a) adopt and publish rules and regulations governing the use of the Common Area, including any improvements and amenities located thereon, and the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof; including the imposition of monetary fines, by majority vote of the Board, after notice and a hearing. Prior to reaching a decision to impose any penalty provided herein for breach of any provisions hereof, of any rules enacted hereunder or any covenants, conditions or restrictions contained in the Declaration, the Board shall send written notice to the Owner specifying the nature of the infraction and shall provide an opportunity to the Owner for a hearing before the Board regarding such infraction and the penalty to be imposed. Said notice shall be given at least fifteen (15) days prior to said hearing. If the Board determines that said infraction has occurred, it may impose a penalty to become effective not less than five (5) days after said hearing. Any such determination of the Board shall be final. Notwithstanding anything to the contrary herein contained, neither the Board nor the Association shall have the power to cause a forfeiture or abridgement of an Owner's right to the full use of its Lot, including access thereto over and across the Common Area;

(b) suspend the voting rights and right to use of any recreational facilities located on any Common Area of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended, after notice and hearing, for a period not to exceed sixty (60) days for any violation of the Declaration, any architectural guidelines or any other published rules and regulations;

(c) 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 Bylaws, the Articles of Incorporation, or the Declaration;

(d) declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board of Directors;

(e) employ a manager, independent contractor, or such other individuals, entities or employees as they deem necessary and to prescribe their duties;

(f) enforce the provisions of the Declaration, the Articles of Incorporation and these Bylaws by appropriate means, including, without limitation, the expenditure of funds of the Association, the employment of legal counsel, the commencement of legal and/or equitable actions and the settlement of same. Each Member and Owner hereby vests in and irrevocably delegates to the Board or its duly authorized representative, the right and power to so act;

(g) in accordance with the provisions of the Articles of Incorporation and the Declaration, grant and convey easements, licenses for use and rights-of-way, to any third party where necessary in, on, over and through the Common Area for the benefit of the Owners;

(h) to the extent permitted by law, to participate in mergers and consolidations with other nonprofit corporations organized for the same purposes as the Association;

(i) in accordance with the provisions of the Articles of Incorporation and the Declaration, dedicate in fee simple or in any lesser estate or grant easements over any of the Association's real property to any governmental body or agency, public authority, private or public utility

company, or other service companies, for public use or in connection with providing services to the Property;

(j) delegate its powers under the Declaration, these Bylaws or the Articles of Incorporation to committees, officers, employees or a manager;

(k) in accordance with the provisions of the Declaration, enter upon any Lot or Common Area for the purpose of enforcing any of the provisions of the Declaration, or for the purpose of maintaining the Common Area, or for the purpose of maintaining any slopes located on any Lots;

(l) acquire and hold real property by lease or purchase for offices or other Common Area that may be necessary or convenient for the management of the Common Area, the administration of the affairs of the Association or for the benefit of the Members and Owners;

(m) acquire and hold, as trustee for the benefit of its Members, tangible and intangible personal property and to dispose of the same by sale or otherwise;

(n) establish and maintain a working capital and reserve funds in amounts, if any, to be determined by the Board; and

(o) borrow money for the administration of the Association and its functions, without the approval of the Owners; provided, the Board shall obtain the approval of the Members in the same manner provided in Article IX, Section 4 of the Declaration for special assessments in the event that the proposed borrowing is for the purpose of modifying, improving, or adding amenities and the total amount of such borrowing exceeds or would exceed five percent (5%) of the budgeted gross expenses of the Association for that fiscal year; and to pledge personal and real property assets of the Association as security for such loan, as provided in the Articles of Incorporation.

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 to present a statement thereof to the Members at the annual meeting of the Members, or at any special meeting when such a statement is requested in writing by one-fourth (1/4) of the Class A Members or of the Class B Members who are entitled to vote;

(b) supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;

(c) determine, notify owners of, collect and enforce annual and special assessments as provided in the Declaration and these Bylaws;

(d) issue, or cause an appropriate officer to issue, upon written demand by any 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 these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) procure and maintain liability and hazard insurance on property owned by the Association;

(f) cause all officers or employees having fiscal responsibilities to be bonded as it may deem appropriate;

(g) cause the Common Area and any other areas shown on the plats for the Property that may be owned by governmental authorities but not being properly maintained, to be maintained and landscaped as needed;

(h) accept any Common Area and improvements situated thereon conveyed by the Declarant, and maintain, operate, and otherwise manage all of the facilities situated on the Common Area, and all personal property acquired by the Association;

(i) pay any real and personal property taxes and assessments and other charges assessed against the Common Area unless the same are separately assessed to the Owners;

(j) obtain utility services necessary or desirable, for the benefit of the Common Area, including, but not limited to, water, gas, electricity, telephone, refuse collection, sewage disposal and other services;

(k) adopt, amend, and repeal such rules and regulations as it deems reasonable. A copy of the rules and regulations, as they may from time to time be adopted, amended or repealed, shall be delivered to each Owner in the same manner established in the Declaration for the delivering of notices. Upon such delivery, said rules shall have the same force and effect as if they were set forth in and were part of the Declaration. The rules as adopted, amended or repealed, shall be available at the principal office of the Association to each Owner and Mortgagee upon request or at such other place as may be designated by the Board. In the event of any conflict between any such rules and any other provisions of the Declaration, the Articles of Incorporation or these Bylaws, the provisions of the rules shall be deemed to be superseded by the provisions of the Declaration, the Articles of Incorporation or the Bylaws to the extent of any such inconsistency; and

(l) pay any amount necessary to discharge any lien or encumbrance upon the Common Area, or any other property or interest of the Association.

ARTICLE VIII.

OFFICERS AND THEIR DUTIES

1. Enumeration of Officers.

The officers of the Association shall be a President and Vice-President, who shall at all times be members of the Board of Directors, a Secretary, a Treasurer and such other officers as the Board may from time to time by resolution create.

2. Election of Officers.

The election of officers shall take place at the first meeting of the Board of Directors, and thereafter at the meeting of the Board of Directors following each annual meeting of the Members.

3. Term.

The officers of the Association shall be elected annually by the Board and each shall hold office for one (1) year unless any officer shall sooner resign, or shall be removed, or otherwise disqualified to serve.

4. Special Appointments.

The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

5. Resignation and Removal.

Any officer may be removed from office with or without cause by the Board. 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. Every officer who is an officer, director, employee or agent of the Declarant shall be deemed conclusively to have resigned from all offices that he or she holds upon the termination of such officer's relationship with the Declarant.

6. Vacancies.

A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he or she replaced.

7. Multiple Offices.

The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of offices created pursuant to Section 4 of this Article.

8. Duties.

The duties of the officers are as follows:

(a) President. The President shall preside at all meetings of the Members and of the Board of Directors and shall see that orders and resolutions of the Board are carried out. The President shall have the authority to sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

(b) Vice-President. The Vice-President shall act in the place and stead of the President, in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required by the Board. The Vice-President shall likewise have the authority to sign all leases, mortgages, deeds and other written instruments.

(c) Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and the Members; serve notice of meetings of the Board and of the Members; keep appropriate current records showing the Members of the Association together with their addresses and shall perform such other duties as required by the Board.

(d) Treasurer. The Treasurer shall receive and deposit or shall cause to be received and deposited in appropriate bank accounts all monies of the Association and shall cause such funds to be disbursed as directed by resolution of the Board of Directors; shall co-sign checks or promissory notes of the Association; shall keep or cause to be kept all books of account; cause an annual audit of the Association's books to be made by an independent accountant at the completion of each fiscal year or by an authorized officer of the Association who certifies that

the annual statement was prepared without audit from the books and records of the Association; and shall prepare or cause to be prepared an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

9. Contracts, Agreements and Other Instruments.

No deed, deed of trust, mortgage, lease, bond, bill of sale, assignment, contract, agreement, promissory note, check, or any other instrument or document intended to bind the Association shall be valid or binding unless signed (a) by the President or Vice President and the Treasurer of the Association, or (b) by the manager of the Association (except that the manager shall not have the authority to execute deeds, deeds of trust, mortgages, leases or promissory notes on behalf of the Association).

ARTICLE IX.
COMMITTEES

The Board of Directors of the Association shall appoint an Architectural Review Committee as provided in the Declaration; and the President of the Association shall appoint a Nominating Committee, as provided in these Bylaws. In addition, the Board of Directors shall appoint such other committees as deemed appropriate in carrying out its purpose. Any member of any committee who is an officer, director, employee or agent of the Declarant shall be deemed to have resigned from his or her position as a member of such committee upon termination of such members' relationship with the Declarant.

ARTICLE X.
BOOKS AND RECORDS

1. Inspection and Maintenance.

The books and records of the Association, and copies of the Declaration, the Articles of Incorporation, these Bylaws and any other rules, regulations or architectural guidelines shall be available for examination and copying by any Owner and any Mortgagee of a Lot, and the duly authorized agents or attorneys of any such Owner or Mortgagee, during normal business hours and after reasonable notice at the principal office of the Association, or at the offices of any manager employed by the Association, where copies may be purchased at reasonable cost. All books and records of the Association shall be kept in accordance with good accounting practices on a consistent basis.

2. Withholding from Inspection.

Notwithstanding the foregoing, books and records kept by or on behalf of the Association may be withheld from public inspection to the extent such books and records concern:

- (a) personnel records;
- (b) an individual's medical records;
- (c) records relating to business transactions that are currently in negotiation;
- (d) the written advice of legal counsel;
- (e) an individual's financial records; or

(f) as otherwise permitted by applicable law.

3. **Homeowners Association Depository.**

The Association shall from time to time deposit such records and other information, and all amendments thereto, as may be required by the Maryland Homeowners Association Act with such officials and in such places as the Act may require.

ARTICLE XI.
WORKING CAPITAL AND RESERVE FUNDS

1. **Creation and Investment of Funds.**

The Board of Directors shall establish and maintain a working capital fund consisting of the initial capital contributions made by the Owners (other than the Declarant). From and after such time as the collection of annual assessments is commenced, the Board of Directors shall establish and maintain a reasonable repair and replacement reserve fund (if appropriate), and reserve funds for such other purposes, if any, as it deems appropriate. All funds may be commingled in one account or placed in segregated accounts as determined by the Board of Directors. The Board shall invest Association funds in depositories or instruments in a manner that achieves a prudent balance among safety, liquidity and rate of return, and taking into account the cash flow needs of the Association on a short term and long term basis.

2. **Working Capital Funds.**

The working capital funds shall be used to provide the cash needed to pay the start-up costs and initial operating expenses incurred by the Association and for such other purposes as determined by the Board of Directors. The working capital fee for each Lot shall become due and payable to the Association on the date the Declarant transfers legal title to an Owner (other than to a Builder) or on the date a Builder transfers legal title to such Lot to an Owner.

3. **Repair and Replacement Reserve Funds.**

The repair and replacement reserve funds, if any, shall be used for the maintenance, repair, and replacement of the Common Area and any improvements thereon for which the Association is responsible, provided, however, that such reserves may be used for such other purposes as are approved by Owners having a majority of the votes appurtenant to all Lots.

4. **Contributions to Capital.**

All funds assessed for payment into, or otherwise credited to, any working capital or reserve funds shall be deemed contributions to the capital of the Association made or to be made by the Owners, and same shall be shown on the balance sheet and other financial records of the Association as "paid-in-surplus," or its equivalent, to the end and intent that none of the working capital or reserve funds received or retained by the Association shall be considered as income for tax purposes.

ARTICLE XII.
CORPORATE SEAL

The seal of the Association is circular in form and contains the following wording:

WHISPERING CREEK HOMEOWNERS ASSOCIATION, INC.
INCORPORATED MARYLAND
2005

but nothing here shall limit the right of the Association, to the fullest extent permitted by applicable law, to place the word ("SEAL"), in lieu of affixing the seal, adjacent to the signature of the person authorized to execute the document on behalf of the Association.

ARTICLE XIII.
ADOPTION OF RULES AND REGULATIONS

1. Authorization.

Subject to the provisions of this Article, (a) the Association, acting through the Board of Directors, may adopt reasonable rules and regulations for the use, operation and maintenance of the Common Area and any buildings and other improvements now or hereafter located thereon or therein, and (b) the Association, acting through the Board of Directors, upon the recommendation of the Architectural Review Committee, or upon its own initiative, may adopt reasonable rules and regulations to govern the making of improvements, additions, and alterations to and upon the Lots and the structures thereon by the Owners thereof, as provided in Article III of the Declaration.

2. Notice.

The Board of Directors or the Architectural Review Committee, as applicable, shall mail written notice to each of the Members of the Association setting forth the proposed rule or regulation at least twenty (20) days prior to its adoption. Such notices shall be mailed to the address of each Member as shown on the most current membership roster of the Association.

3. Adoption; Referendum.

The adoption or amendment of rules and regulations shall require the vote of two-thirds ($\frac{2}{3}$) of the Board of Directors and the Declarant, for as long as the Declarant owns any land within the Property or property which may be annexed to the Property subject to the Declaration. However, Members equal to not less than twenty percent (20%) of the total Members of the Association may petition a referendum on a rule or regulation by filing a written petition with the Board of Directors within twenty (20) days after the mailing of a notice of adoption. Upon verifying that the requirements of this Section have been met, the rule or regulation shall be suspended pending the results of the referendum. The rule or regulation shall be submitted to a majority vote of the Members present at a meeting called for this purpose within sixty (60) days after the petition has been verified.

4. Modification or Repeal.

Any rule or regulation adopted by the Board of Directors pursuant to the procedure set forth in this Article XIII may be modified or repealed by the Board of Directors pursuant to the same procedure.

ARTICLE XIV.
AMENDMENTS

1. Procedure.

These Bylaws may be amended, at a regular or special meeting of the Members, by the affirmative vote or written consent, or any combination thereof, of a majority of the votes of each class of the Members of the Association present in person or by proxy at which the vote is taken, provided the requisite quorum is present at such meeting, however, these Bylaws may not be amended so as to modify, impair or revoke any right or privilege reserved for the benefit of the Declarant, or so as to impose on the Declarant any obligation which is not also imposed on all Owners, without the prior written consent of the Declarant.

2. Integration.

In the case of any conflict between the Articles of Incorporation and these Bylaws, the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the Declaration shall control.

ARTICLE XV.
FISCAL YEAR

The fiscal year of the Association shall begin on the first (1st) day of January and end on the thirty-first (31st) day of December of every year, unless a different fiscal year is adopted by the Board of Directors of the Association, except that the first fiscal year of the Association shall begin on the date of its incorporation.

ARTICLE XVI.
INDEMNIFICATION OF OFFICERS AND DIRECTORS

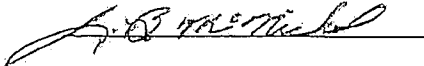
No director or officer of the Association shall be liable to the Association or to its Members for money damages except (a) to the extent it is proved that such director or officer actually received an improper benefit or profit in money, property or services, for the amount of the benefit or profit in money, property or services actually received, or (b) to the extent a judgment or other final adjudication adverse to such director or officer is entered in a proceeding based on a finding in the proceeding that such director's or officer's action, or failure to act, was (i) the result of active and deliberate dishonesty or (ii) intentionally wrongful, willful or malicious and, in each such case, was material to the cause of action adjudicated in the proceeding. In all other cases, the Association shall, to the maximum extent permitted by law, indemnify all members of the Board of Directors and all officers of the Association from and against any and all claims against them which may relate in any way to their status as officers or directors or to their actions or failure to act in such capacity. Neither the amendment nor repeal of this provision, nor the adoption or amendment of any other provision of these Bylaws, the Declaration or the Articles of Incorporation of the Association inconsistent with this provision, shall apply to or affect in any respect the applicability of the foregoing with respect to any act or failure to act which occurred prior to such amendment, repeal or adoption. The foregoing right to indemnification shall be exclusive of any other rights to which the Director or officer or person may be entitled by law or agreement or vote of the Members or otherwise.

CERTIFICATION

I, THE UNDERSIGNED, do hereby certify:

THAT I am the duly elected and acting Secretary of Whispering Creek Homeowners Association, Inc., a Maryland corporation, and that the foregoing Bylaws constitute the original Bylaws of the Association, as duly adopted by unanimous written consent of the Board of Directors thereof on the 30 day of November 2005

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of the Association this 30 day of November 2005

 (SEAL)

Secretary/Treasurer