

## BYLAWS OF WHISPERING WOODS COMMUNITY ASSOCIATION

### ARTICLE I:

#### GENERAL PROVISIONS

1.01 Definitions- Terms used in these Bylaws but not specifically defined herein are intended to have the same meanings given to them by the Pennsylvania Uniform Planned Community Act, 68 Pa. CSA §5101 et seq. (the "Act"), and by the Declaration of Whispering Woods Estates, a Planned Community (the "Declaration").

1.02 Purpose, Powers and Duties of the Association. Whispering Woods Community Association (the "Association") is a Pennsylvania nonprofit corporation which was organized pursuant to the Act and the Declaration. In addition to the powers of the Association enumerated in its articles of incorporation, the Association shall have the powers and shall discharge all obligations specified in the Act, the Declaration and these Bylaws.

1.03 Association Office. The mailing address of the Association is P.O. Box 9702 Erie, Pennsylvania 16506. The Executive Board may designate a different office for the Association upon notice to all members of the Association.

### ARTICLE II

#### MEMBERSHIP

2.01 Association Membership. Every owner of a unit in the Planned Community shall be a member of the Association and shall be legally bound by these Bylaws. Membership shall be an appurtenant to and may not be separated from ownership of a unit in the Planned Community.

2.02 Addition of Members. If the Declarant adds Additional Real Estate to the Planned Community and new units are thereby added to the Planned Community, the owner of each unit amended to add such additional units to the Planned Community.

### ARTICLE III

#### MEETINGS OF MEMBERS

3.01 Annual Meetings. The annual meetings of the members of the Association shall be held during the month of May each year.

3.02 Special Meetings. Special meetings of the members may be called at any time by the president or by the written request of the members who are entitled to vote 25% of all votes of the Association. No business shall be transacted at a special meeting except as stated in the notice given to members.

3.03 Place of Meetings. Meetings of the members shall be held at such suitable place convenient to the members as may be designated by the Executive Board.

3.04 Notice of Meetings. Written notice of each meeting of the members shall be given by, or at the direction of, the secretary to each member entitled to vote at the meeting, by either hand delivering or mailing a copy of the notice, postage prepaid, at least ten (10) but not more than twenty-one (21) days before each meeting. The notice shall specify the time and place of the meeting and the items on the agenda. The cost of providing notice of meetings shall be an expense of the Association.

3.05 Quorum. The presence at a meeting of the members, in person or by proxy, of members entitled to cast ten percent of all votes of the Association shall constitute a quorum for any action except as otherwise provided in the articles of incorporation or these Bylaws.

3.06 Votes of Members. Each unit shall be entitled to one vote. Cumulative voting is not permitted. If the Declarant adds Additional Real Estate to the Planned Community and new units are thereby added to the Planned Community, each unit thereby added shall be entitled to one vote and all existing units shall continue to have one vote.

3.07 Voting by Unit Owners Other Than Natural Persons. If a unit owner is a corporation, joint venture, partnership or unincorporated association, the natural person who shall be entitled to cast the vote for that unit shall be the person named in the certificate executed by that entity pursuant to its governing documents. If the unit owner is a trust, the trustees shall be deemed to be the owner for voting purposes.

3.08 Voting by Multiple Persons Owning a Unit. If the ownership of a unit is in more than one person, the natural person entitled to cast the vote of the unit shall be the person named in a certificate executed by all of the owners of the unit and filed with the secretary of the Association or, in the absence of that named person from the meeting or in the event of failure to execute and file such a certificate, the person owning such unit who is present at the meeting. If more than one of the multiple owners is present, the vote allocated to that unit may be cast only in accordance with their unanimous agreement. There shall be deemed to be unanimous agreement if any one of the multiple owners casts the vote allocated to that unit without protest being made promptly to the person presiding over the meeting by any of the other owners of the unit.

3.09 Proxies. Votes allocated to a unit may be cast pursuant to a proxy duly executed by a unit owner. If a unit is owned by more than one person, each owner of the unit may vote or register protest to the casting of votes by the other owners of the unit through a duly executed proxy. A unit owner may not revoke a proxy except by actual notice of revocation to the person presiding over a meeting of the Association. A proxy is void if it is not dated or purports to be revocable without notice. A proxy terminates one year after its date unless it specifies a shorter term.

#### ARTICLE IV

##### PERIOD OF DECLARANT CONTROL

4.01 Period of Declarant Control. The Declarant shall control the Association for the period commencing on the date of the first conveyance of a unit to a person other than the Declarant and ending seven

years after the date of the first conveyance of a unit to a person other than the Declarant, unless (a) such period of Declarant control must terminate earlier as required by §5303(c) (3) of the Act, or (b) the Declarant voluntarily surrenders control. During the period of Declarant control, the Declarant shall appoint and remove the officers and members of the Executive Board; provided, however, that not later than 60 days after the conveyance of 25% of the units which may be created in the Planned Community (including units which may be created by the addition of the Additional Real Estate) to unit owners other than the Declarant, at least one member and not less than 25% of the members of the Executive Board shall be elected by unit owners other than the Declarant; and further provided, that not later than 60 days after the conveyance of 50% of the units which may be created in the Planned Community (including units which may be created by the addition of the Additional Real Estate) to unit owners other than the Declarant, not less than 33% of the members of the Executive Board shall be elected by unit owners other than the Declarant.

4.02 Termination of Declarant Control. Upon the termination of the period of Declarant control, the Association shall inherit control.

## ARTICLE V

### EXECUTIVE BOARD

5.01 General Powers. The Executive Board shall act on behalf of the Association. The Executive Board is authorized to adopt and promulgate rules and regulations consistent with these Bylaws, the Declaration and the Act. The Executive Board shall not have authority to take any action inconsistent with the Declaration or the Act.

5.02 Directors. The executive Board shall consist of not less than three or more than nine directors. The initial Executive Board shall consist of three directors. Following the period of Declarant control, the size of the Executive Board may be increased or decreased by action of the Executive Board. The Association President, Vice President, Treasurer and Secretary shall be members of the executive board.

5.03 Qualifications. Directors shall be natural persons of full age and shall be members of the Association.

5.04 Election and Terms of Office. Immediately following the period of Declarant control, the members shall elect three directors, each of whom shall serve until their successors are elected at the next annual meeting. Thereafter, directors shall be elected by the members at the annual meeting and shall serve until the next succeeding annual meeting or until after their successors are elected.

5.05 Nomination and Election. Following the period of Declarant control, nominations for election to the Executive Board shall be made from the floor at each annual meeting of the Association. Any unit owner desiring to be nominated may, but is not required to, give notice to the secretary of the Association, and the secretary shall, in giving notice to members of the annual meeting, advise the members of unit owners who have expressed a desire to be nominated. Election to the Executive Board shall be by secret

ballot. Nominees receiving the largest number of votes shall be elected. Ties shall be broken by a coin toss.

5.06 Term Limits. There shall be no limit on the number of terms a director may serve.

5.07 Vacancies. A director shall be deemed to have vacated his office upon his resignation, the transfer of title to his unit, his death, his adjudication as an incompetent, or his removal (with or without cause), by vote, at any annual or special meeting of the members, of 67% of all members of the Association present in person or by proxy at such meeting. If a vacancy occurs on the Executive Board, the remaining directors shall select a qualified person to fill that vacancy for the unexpired term of the director who has vacated his office. The members of the Association shall fill any vacancy at the next annual meeting of the members.

5.08 Compensation. Directors shall receive no compensation for any services, rendered to the Association in their capacities as directors. However, nothing contained in these Bylaws shall be construed to preclude any director from receiving compensation from the Association for other services actually rendered to the Association. Directors may be reimbursed for actual expenses incurred in performance of their duties, upon approval by the Executive Board.

5.09 Meetings, Quorums and Actions. The Executive Board shall meet immediately after each annual meeting of the members and, thereafter, at least semi-annually in accordance with a schedule designating meeting dates, times and places prepared each year and distributed to all directors and all unit owners. Special meetings of the Executive Board shall be held at the request of any director following reasonable notice to all other directors. A majority of directors shall constitute a quorum for the transaction of business at any meeting of the Executive Board. Any action required or permitted to be taken by the Executive Board at any meeting may be taken without such meeting if all directors consent to such action in writing. All proceedings and actions of the Executive Board shall be recorded in a minute book maintained by the secretary of the Association. Every unit owner shall be entitled to attend any meeting by the Executive Board, but shall not participate therein except with the consent of all directors in attendance. All records and proceedings of the Executive Board shall be the property of the Association and shall be available at reasonable times for inspection and copying by unit owners.

## ARTICLE VI

### OFFICERS

6.01 Enumeration, Qualification, and Authority of Officers. The officers of the Association shall be a president, a vice president, a secretary and a treasurer, all of whom shall be directors. All contracts of the Association, and all amendments to the Declaration, shall be executed on behalf of the Association by two of its officers, at least one of whom shall be the president or the vice president.

6.02 Election of Officers. The officers shall be elected by the directors at the meeting of the Executive Board following the annual meeting of the members of the Association.

6.03 Term. The officers of the Association shall hold office for three years.

6.04 Special Appointments. The Executive Board may, by resolution, elect other officers as the affairs of the Association may require, each of whom shall hold office for the period, have the authority, and perform the duties that the Executive Board may, from time to time, determine.

6.05 Removal. Any officer may be removed from office with or without cause by the Executive Board.

6.06 Vacancies. A vacancy in any office may be filled by the Executive Board. The officer appointed to fill a vacancy shall serve for the remainder of the term of the officer he replaces.

6.07 Multiple Officers. The offices of secretary and treasurer may be held by the same person. If the office of secretary and treasurer are not held by the same person, then the offices of vice president and secretary, and the offices of vice president and treasurer, may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 6.04 of these Bylaws.

6.08 President. The president shall preside at meetings of the Executive Board and of the Association and shall have power that is generally exercised by the president of a Pennsylvania corporation or generally exercised by the chair under recognized parliamentary procedure.

6.09 Vice President. The vice president shall perform the duties and exercise the power of the president in the absence of the president.

6.10 Secretary. The secretary shall record and maintain a record of all actions of the Association and of the Executive Board and shall perform all acts, generally exercised by the secretary of a Pennsylvania corporation.

6.11 Treasurer. The treasurer shall receive, maintain, invest and expend funds of the Association, pursuant to procedures established by the Executive Board. All funds received by the treasurer shall be deposited promptly in an account in the name of the Association at a bank in Erie County, Pennsylvania specified by the Executive Board. The Executive Board, at the Association's cost and expense, may require the treasurer to give his bond with corporate surety in such amount as the Executive Board may determine, conditioned upon the treasurer's faithful performance of the duties of the office.

6.12 Delegation of Duties. The secretary and treasurer may delegate some or all of their duties to a manager or management company approved by the Executive Board.

## ARTICLE VII

### INSURANCE

7.01 Insurance Carried by Association. The Executive Board shall procure and continuously maintain, as a common expense of unit owners of the Association, to the extent reasonably available, the insurance coverage specified in §5312 of the Act. Such insurance shall name Millcreek Township as an additional insured as to the condition and maintenance of the common and controlled facilities of the Planned Community. Millcreek Township shall be annually provided with a certificate of insurance.

7.02 Unit Owner Insurance. Unit owners shall insure their units at their own expense. The Association shall have no responsibility for insuring the property of a unit owner or the contents of a unit.

## ARTICLE VIII

### FINANCIAL MATTERS

8.01 Fiscal Year. The fiscal year of the Association shall end on December 31 of each year.

8.02 Preparation and Approval of Budget. On or before September 1 of each year the Executive Board shall approve and adopt a budget for the Association, in reasonable detail for the next fiscal year. The budget shall contain the Executive Board's best estimate of the total amount of money necessary to pay all common expenses, including but not limited to capital expenditures, all costs of the operation of the Planned Community, development and maintenance of recreational facilities within the dedicated open space of the Planned Community, maintenance and repair and replacement of common elements, money for wages, services, materials, and supplies, and insurance premiums which are common expenses. In considering the total amount of money necessary to pay the common expenses, the Executive Board shall also estimate money necessary to provide working capital, a general operating reserve and a reserve for unanticipated contingencies, including common element replacement. Immediately upon approval and adoption of the budget, the Executive Committee shall furnish a copy to each member of the Association with notice that it shall be effective as of January 1 of the next fiscal year and that it shall serve as the basis for each unit owner's assessment for that year. For 30 days following the Executive Board's adoption of the budget, the members, at any regular or special meeting, by vote of 67% of all votes entitled to be cast, may reject the budget and cause the Executive Board to immediately consider, approve, adopt and submit to the members a revised budget. At any time during the Association's fiscal year, the Executive Board may amend the Association's budget for the fiscal year and assess unit owners based on the amended budget. The process for amending the Association budget and assessing unit owners shall be as set forth in this Section 8.02 and in 8.03 of these Bylaws.

8.03 Budget Revision. If the budget is rejected by the members, or If the actual costs of operation of the Association are expected to exceed the budgeted common expenses of the Association, the Executive Board shall immediately meet and consider, approve and adopt a revised budget and send copies to the members.

8.04 Failure to Budget. The failure of the Executive Board to cause and approved and adopted budget to revised budget to be distributed to unit owners shall not render and adopted budget ineffective. The failure or delay of the Executive Board to consider, approve and adopt a budget or a revised budget for any year shall not constitute a waiver or release of any unit owner's liability for the payment of common expenses allocable to his unit whenever such common expenses shall be determined. In the absence of an approved budget or revised budget for the year, each unit owner shall continue to pay the assessment at the rate established for the prior year plus five percent until a revised budget has been adopted and becomes effective. The Executive Board may not expend, cause to be expended or commit to the expenditure of any money which will cause the budgeted common expenses of the Association

for the year to increase to an amount in excess of 110% of the budgeted expenses without adopting a revised budget.

8.05 Uniform Rate of Assessment. Each unit shall be responsible for a fractional share of the common expenses of the Association, the numerator of which is one and the denominator of which is the total number of units in the Planned Community. All assessments shall be fixed at a uniform rate for all units.

8.06 Assessment of Added Units. If units are added to the Planned Community, and if the Association has levied an assessment for the fiscal year in which such units are added, each unit added to the Planned Community shall be responsible for a pro-rated share of the current annual assessment. The pro-rated amount shall be determined by multiplying the amount of the assessment imposed on a unit owner during the fiscal year by a fraction, the numerator of which is the number of days between the date the unit was added to the Planned Community and the date upon which the then-current fiscal year of the Association ends, and the denominator of which is 365.

8.07 Collection of Assessments. Any assessment authorized hereunder may be levied and collected on a monthly, quarterly, semi-annual or annual basis as determined by the Executive Board.

8.08 Creation of Lien and Personal Obligation of Unit Owners. The owner of each unit is personally obligated to pay to the Association any and all assessments and fines imposed by the Association. The Association shall have a lien on a unit for any assessment levied against that unit or fine imposed against the owners from the time the assessment or fine becomes due. Any assessment or fine that is not paid when due shall be delinquent, if an assessment or fine is not paid within 30 days after the due date, it shall bear interest from the date of delinquency at the rate of 12% per annum, and the Association may bring an action at law against the owner personally obligated to pay the assessment or fine or foreclose the lien against the unit. Interest, costs, reasonable attorneys' fees of the action and any other amounts authorized by §5315 of the Act shall be added to the amount of the assessment or fine. Sale or transfer of any unit shall not affect the lien of the assessment or fine. No sale or transfer shall relieve the unit owner from liability for any assessment or fine which is due at the time of transfer.

8.09 Unpaid Assessments. Any unpaid assessment which cannot be collected from a unit owner or former unit owner may be reassessed by the Executive Board as a common expense to be collected from all other unit owners. Upon the voluntary sale of the unit against which there is an unpaid lien or liens, the grantee of the unit shall be jointly and severally liable with the grantor of the unit for all such unpaid lien or liens against the unit as of the date of the sale.

## ARTICLE IX

### ASSOCIATION RECORDS

9.01 Financial Records. The Association shall keep financial records sufficiently detailed to enable the Association to comply with Section 5407 of the Act. All financial and other records shall be made reasonably available for examination by any unit owner and authorized agents.

9.02 Annual Financial Statements. Within 180 days after the close of its fiscal year the Association shall prepare annual financial statements consisting of at least a balance sheet and a statement of revenues and expenses for the Association. The cost of preparing the financial statements shall be a common expense. Each unit owner shall be entitled to receive from the Association, within 30 days after submitting a written request of the Association, a copy of the annual financial statements and, if such financial statements are audited, reviewed or compiled by an independent certified public accountant or independent public accountant, a copy of the independent accountant's report on the financial statements. The Association may charge a fee not to exceed the cost of producing copies of records other than the financial statement.

## ARTICLE X

### INDEMNIFICATION

10.01 Indemnification. Pursuant to the recorded Maintenance Agreement with Millcreek Township, the Association is contractually obligated to indemnify Millcreek Township in connection with claims, damages and expenses related to the maintenance, repair and condition of the controlled facilities of the Planned Community. In addition, the Association shall indemnify to the full extent required by law, and may indemnify or agree to indemnify to the full extent permitted by law, any person who was or is a party, or is threatened to be made a party, to any threatened, pending or completed action, suit, or proceeding, whether civil, criminal, administrative or investigative, by reason of that person's being or having been a director, officer, employee or agent of the Association or of any other enterprise at the request of the Association. Any indemnification by the Association in accordance with this Article 10 shall be paid by the Executive Board on behalf of the Association and shall constitute a common expense and shall be assessed and collectible as such.

10.02 Advances. Expenses incurred in defending a civil or criminal action, suit or proceeding may be paid by the Association in advance of the final disposition of such action, suit or proceeding upon receipt of an undertaking by or on behalf of the person to repay such amount if it shall ultimately be determined that he or she is not entitled to be indemnified by the Association.

10.03 Non-Exclusivity. The indemnification and advancement of expenses provided by, or granted pursuant to, these Bylaws shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement of expenses may be entitled under any bylaw, agreement, vote of the Executive Board or pursuant to the direction of any court of competent jurisdiction or otherwise, both as to action in his or her official capacity and as to action in another capacity while holding such office.

10.04 Insurance. The Association has no obligation to purchase insurance on behalf of any person who is or was a director, officer, employee or agent of the Association against any liability asserted against or incurred by him or her in any such capacity, or arising out of his or her status as such. Such insurance may be provided by the Association at the sole discretion of the Executive Board.

10.05 Continuation. The indemnification and advancement of expenses provided by, or granted pursuant to, these Bylaws shall, unless otherwise provided when authorized or ratified, continue as to a



person who has ceased to be a director, officer, employee or agent and shall inure to the benefit of the heirs, executors and administrators of such person.

## ARTICLE XI

### AMENDMENTS

11.01 Amendment of Bylaws. These Bylaws may be amended by a two-thirds vote of all directors of the Executive Board, except that any amendment to Article XII shall also require the consent of Millcreek Township. Notwithstanding the foregoing, if any attempted amendment of these Bylaws would have a material effect upon any of the rights, privileges, powers or options of the Declarant, such amendment shall be effective only upon the express, written approval of the Declarant.

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

## ARTICLE XII

### EFFECT UPON TERMINATION OF ASSOCIATION

If the Association fails to perform its obligations under any agreement with Millcreek Township in the maintenance of the Planned Community, or if the unit owners terminate that Association, the unit owners shall be individually liable, on a pro-rata basis, for all the liabilities of the Association, including all obligations owed under contracts, easements and development plans with Millcreek Township.

## ARTICLE XII

### COMPLIANCE

Each unit owner shall be governed by and shall comply with the provisions of the Act, the Declaration, and the recorded Restrictions applicable to the Planned Community, these Bylaws and any rules and regulations promulgated by the Executive Board. The Executive Board may take such action as it deems necessary to abate any violations of the foregoing, including but not limited to a suit at law or in equity. All costs and reasonable attorneys' fees shall be recoverable by the Association from the unit owner. The failure of the Executive Board to initiate proceedings to abate violations shall not be construed as a waiver on the part of the Association, the Executive Board, or any other unit owner, of any right to seek abatement of such violations.