

BY-LAWS OF THE WHITTIER COMMUNITY ASSOCIATION, INC.

ARTICLE I NAME AND LOCATION

The name of the corporation is Whittier Community Association, Inc., hereinafter referred to as the "Association". The principal office of the corporation shall be located at 8031 Reichs Ford Road, Frederick, Maryland 21701, but meetings of members and directors may be held at such places within the state of Maryland as may be designated by the Board of Directors.

ARTICLE II DEFINITIONS

- Section 1. "Association" shall mean and refer to Whittier Community Association, Inc., a Maryland non-profit, non-stock corporation, and its successors and assigns.
- Section 2. "Common Area" shall mean all real and personal property now or hereafter owned or leased by the Association or otherwise held for the common use and enjoyment of the owners.
- Section 3. "Common Expenses" shall mean and include the actual and estimated expenses incurred by the Association in connection with the use, maintenance, and operation of the Common Area and the Association, whether for the benefit of all members or due to enhanced services provided to a specific Neighborhood. Common. Expenses shall include amounts necessary to establish and maintain any reserve fund determined to be necessary and appropriate by the Board of Directors.
- Section 4. "Community Assessment" shall mean those assessments that are levied equally against all Lots and Residential Units within the Properties to cover the basic expenses for services and facilities that benefit all Members and all Lots and Residential Units.
- Section 5. "Community standard" shall mean the standard of maintenance, condition, repair, appearance, cleanliness, or other activity generally prevailing on the Common Area. Such Standard may be specifically determined and set forth in Rules, Regulations and policies adopted by the Board of Directors.
- Section 6. "Declarant" shall mean and refer to Ausherman Development Corporation, a Maryland corporation, and its successors and assigns to whom any or all of the special rights, reservations, easements, interests, exemptions, privileges, and powers of the Declarant are specifically assigned or transferred in writing.
- Section 7. "Declaration" shall mean and refer to the Declarat"ion of Covenants, Conditions and Restrictions for the Whittier community Association, Inc. as recorded among the Land Records for Frederick County, Maryland.
- Section 8. "Electoral District" shall mean and refer to a portion of the Properties, comprised of one or more neighborhoods, as designated by the Declarant, which shall,

upon lapse of the Class B membership, elect one representative from such Electoral District to serve on the Board of Directors.

Section 9. "Eligible Mortgage Holder" shall mean a holder of a first mortgage 'on a unit who has requested notice from the Association of amendments to the Association documents or other significant matters which would affect the interests of the mortgagee.

Section 10. "Lots shall mean and refer to any plot of land (with the exception of the Common Area), regardless of the size, shown upon any recorded subdivision plat of the Properties; on which is intended to be constructed a residential dwelling unit; provided, however, that Lot shall not include, platted parcel of land on which is located a condominium unit or an apartment unit both of which will hereinafter be known as a "Residential Unit.

Section 11. "Member" shall mean and refer to a person or entity entitled to membership in the Association, as 'provided herein.

Section 12. "Mortgage" shall mean any recorded instrument, including a deed of trust, encumbering a Lot or Residential Unit which is intended to serve the performance of an obligation.

Section 13. "Mortgagee" shall mean the holder of any recorded mortgage, or the party secured or beneficiary of any recorded deed of trust, encumbering one or more of the Lots or Residential units and shall also include a beneficiary, holder or party secured by a first deed of trust.

Section 14. "Mortgagor" shall include the trustor of a deed of trust as well as a mortgagor.

Section 15. "Neighborhood" shall mean and refer to each separately developed and denominated residential area comprised of one (1) or more housing types, subject to the Declaration and these By-Laws in which owners may have common interests other than those common to all Association members, such as common theme, entry feature, development name, and/or common areas and facilities that are not generally used by all Association members. Each parcel of land described in Exhibit "A" of the Declaration, intended for development as any of the above, shall be designated a Neighborhood or made part of a Neighborhood when it is made subject to the provisions of this Declaration except that Residential Units shall not be included within a Neighborhood. The Declarant shall initially establish the number and boundaries of Neighborhoods. Following the lapse of the Class B memberships, the Board of Directors shall establish and be the final arbiter of the number and boundaries of Neighborhoods.

Section 16. "Neighborhood Committee" shall refer to the committee established in each Neighborhood whose responsibility it is to recommend adoption of rules and regulations, mediate neighborhood disputes and recommend enforcement of rules and regulations concerning the use of those Common Areas and facilities located within the Neighborhood which are not generally used by all Association members including, but not limited to, parking regulations; the submission of maintenance

requests to the Association; the preparation and submission of budget recommendations concerning "Neighborhood Assessments"; the submission of material for incorporation into the Association newsletter, if any; and the performance of any other such related activities in its role as liaison between the Neighborhood residents and Association as are not specifically reserved to the Association.

Section 17. "Neighborhood Assessments" shall mean those assessments levied equally against all Lots in a Neighborhood benefitting from the services supported thereby which are levied in addition to the Community Assessments. The Neighborhood Assessments shall be used for the purposes of promoting the recreation, health, safety, welfare, common benefit, and enjoyment of the owners and occupants of the Lots against which the specific Neighborhood Assessment is levied and of maintaining those Common Areas and facilities located in the Neighborhood not intended for the primary benefit of all Members of the Association. The Neighborhood Assessment may be set at any amount sufficient to maintain the Common Areas at a higher standard than the established "Community standard" if the Neighborhood Association recommends an increase to the Association and the Association approves the increase in the assessment.

Section 18. "Owner" shall mean and refer to one or more persons or entities who holds the record title to any Lot or Residential unit but shall not include any party holding an interest merely as security for the performance of an obligation.

Section 19. "Person" means a natural person, a corporation, a partnership, trustee, or other legal entity.

Section 20. "Property" or "Properties" shall mean, and refer to the real property described in Exhibit "B" of the Declaration and shall further refer to such additional property such as that described in Exhibit "A" of the Declaration when and if they are annexed pursuant to the filing of a Supplementary Declaration.

Section 21. "Residential Unit" shall mean and refer to a dwelling unit contained in a horizontal property regime (condominium) or rental apartment units on a part of the Property which is subject to this Declaration.

Section 22. "Supplementary Declaration" shall mean and refer to a supplement to the Declaration which, in accordance with the Declaration, adds additional real property to the real property encumbered by the Declaration. Such Supplementary Declaration may, but is not required to, impose, expressly or by reference, additional restrictions and obligations on the land subjected by that Supplementary Declaration to the provisions of the Declaration.

ARTICLE III MEETING OF MEMBERS

Section 1. Annual Meetings. The first annual meeting of the Members shall be held within twelve (12) months from the date of filing of the Articles of Incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter or such other

reasonably similar date as may be selected by the Board of Directors. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a 'legal holiday.

Section 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 entitled to vote one-fourth (1/4) of all of the votes of the Class A membership; except that no special meetings shall be called except upon resolution of the Board of Directors prior to the first annual meeting of Members as herein provided for or to consider any matter which is the same as a matter voted on at any special meeting of the Members held during the preceding twelve (12) months.

Section 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 or delivering a copy of such notice, at least seventy-two (72) hours (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 may be waived upon the declaration of an emergency by the person calling the meeting 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. All meetings of the Members shall be held at places and times convenient to the greatest numbers of Members. Notice of any Annual or special meeting may be waived by any Member either prior to or after any such meeting. Attendance by any Member at any annual or special meeting, either in person or by proxy, shall be a waiver of notice of that Member of the time, place and purpose of that meeting.

Section 4. Quorum. The presence at the meeting of Members entitled to cast, or of proxies entitled to cast, one tenth (1/10) 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 or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the Members entitled to vote thereat shall have 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.

Section 5. Voting. At every meeting of the Members, each Class A Member shall have the right to cast one (1) vote for each Lot or Residential unit which he owns. Each of the Class B Members shall have the right to cast three (3) votes for each Lot or Residential Unit which is owned by him or each Lot or Residential unit which is planned as shown on the PHD plan for the development of the property as approved by the city of Frederick that has not already been conveyed to an initial purchaser. The vote of the Members representing fifty-one percent (51%) of the total of the votes of all of the memberships at the meeting, in person or by proxy, calculated as aforesaid shall be necessary to decide any question brought before such meeting, unless the question is

one upon which, by the express provision of law or of the Articles of Incorporation, or of the Declaration or of these By-Laws, a different vote is required, in which case express provision shall govern and control. The vote for any membership which is owned by more than one person may be exercised by any 'of the co-owners present at any meeting unless any objection or protest by any other owner of such membership is noted at such meeting. In the event all of the co-owners of any membership who are present at any meeting of the Members are unable to agree on the manner in which the votes for such membership shall be cast on any particular question, then such vote shall not be counted for purposes of deciding that question. In the event any membership is owned by a corporation, then the vote for any such membership shall be cast by a person designated in a certificate' signed by the President or any Vice President of such corporation and attested by the secretary or an Assistant Secretary of such corporation and filed with the Secretary of the Association, prior to or during the meeting. Any such certificate shall remain valid until revoked or superseded in writing. The vote for any membership which is owned by a trust or partnership may be exercised by any trustee or partner thereof, as the case may be, and, unless any objection or protest by any other such trustee or partner is noted at such meeting, the Chairman of such meeting shall have no duty to inquire as to the authority of the person casting such vote or votes. No Class A Member shall be eligible to vote, either in person or by proxy, or to be elected to the Board of Directors, who is shown on the books or management accounts of the Association to be more than sixty (60) days delinquent in any payment due the Association. All election materials prepared with Association funds shall not suggest a preference among candidates. Any action required or permitted to be taken at any annual or special meeting of the Members shall be taken without a meeting if all of the Members shall individually or collectively consent in writing to such action and if such written consent or consents is filed with the minutes of the proceedings of the meeting.

Section 6. Absentee Ballots. Any unsigned absentee ballot, to be valid, shall be received, in a signed, sealed envelope bearing the identification (including the parcel identification, if any, and address and unit number) of the dwelling unit on the outside, and shall be opened only at a meeting at which all candidates or their delegates have a reasonable opportunity to be present.

Section 7. Proxies. At all meetings of Members, each Member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the Member of his Lot or Residential unit. No proxy shall be valid after eleven (11) months from its date, unless otherwise provided in the proxy. Any proxy must be in writing and must be filed with the Secretary in a form approved by the Board of Directors, which approval may not be unreasonably withheld, before the appointed time of each meeting. Any written proxy which conforms with the applicable laws of Maryland shall be satisfactory and approved as to form by the Board of Directors.

Section 8. Rights of Eligible Mortgagees. Any institutional mortgagee of any Lot or Residential Unit who desires notice of the annual and special meetings of the Members shall notify the Secretary to that effect by Registered Mail-Return Receipt Requested. Any such notice shall contain the name and post office address of such institutional mortgagee and the name of the person to whom notice of the annual and special meetings of the Members should be addressed. The Secretary of the Association shall maintain a roster of all institutional mortgagees from whom such notices are received and it shall be the duty of the secretary to mail or otherwise cause the delivery of a notice of each annual or special meeting of the Members to each such institutional mortgagee in the same manner, and subject to the same requirements and limitations as are otherwise provided in this Article for notice to the Members. Any such institutional mortgagee shall be entitled to designate a representative to attend any annual or special meeting of the Members and such representative may participate in the discussion at any such meeting and may, upon his request made to the Chairman in advance of the meeting, address the Members present at any such meeting. Such representative shall have no voting rights at any such meeting. Such representative shall be entitled to copies of the minutes of all meetings of the Members upon request made in writing to the Secretary.

Section 9. Open Meetings

- a. All meetings of the Association shall be open to all Owners or Occupants of Lots and Residential Units of the Association, their guests and any representative of the news media, except that such meetings may be held in closed session for the following purposes:
 - i. Discussion of the employment, assignment, appointment, promotion, demotion, compensation, discipline, removal or resignation of employees over whom it has jurisdiction, or any other personnel matter affecting one or more particular individual(s);
 - ii. Protection of the privacy or reputation of individuals in matters not related to Association 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. complying with a specific constitutional, statutory or judicially imposed requirement protecting particular proceedings or matters from public disclosure;

- vii. On an individual recorded affirmative vote of two-thirds (2/3) of the Members present, for some other exceptional reason so compelling as to override the general public policy in favor of open meetings;
 - viii. Acquisition of capital items previously specifically approved as part of a published budget adopted in an open meeting;
 - ix. Short-term investments of funds of the Association in liquid assets if authorized by an investment policy previously adopted in an open meeting;
 - x. conducting collective bargaining negotiations or considering matters and issues in conjunction therewith; or
 - xi. Discussions concerning public security, including the deployment of personnel in connection therewith and the development and implementation of emergency plans.
- b. If a meeting is held in closed session pursuant to the procedures established above:
- i. No action may be taken and no matter may be discussed other than those permitted above; and
 - ii. A statement of the time, place and purpose of any closed meeting, the record of the vote of each Member by which any meeting was closed, and the authority under this section for closing any meeting shall be made available so as to reasonably notify Members of the Association within fourteen (14) days after the meeting.

ARTICLE IV

BOARD of DIRECTORS: SELECTION: TERM OF OFFICE

Section 1. Number. The affairs of the Association shall be managed by a Board of Directors initially consisting of three (3) persons who shall be designated by the Declarant and who shall hold office until the election of their successors at the first annual meeting of the Members of the Association. The names of the initial Directors are James MacGillivray, Mark Butterfield, and Ken Liebegott. Commencing with the first annual meeting of the Association, the Board of Directors shall consist of three (3) persons who shall be elected by the Members of the Association and who need not be members of the Association. Prior to the lapse of all of the Class B memberships as provided for in the Articles of Incorporation and the Declaration, the number of Directors shall be determined from time to time by a vote of the initial Directors or their replacement(s) named by the Declarant; thereafter the number of Directors shall be nine (9). There shall be four (4) electoral districts within the Whittier Community Association as shown on Exhibit "A" attached hereto. Upon lapse of the Class B memberships, each electoral district shall elect one (1) member to the Board of Directors from among the Owners of Lots or Residential units within said electoral

district provided part or all of said electoral district has been made subject to the provisions of the Declaration. The remainder of the members of the Board of Directors, if any, shall be elected "at large" by the entire membership of the Association. In no event may there be more than nine (9) members on the Board of Directors at any time. Notwithstanding anything to the contrary contained herein, the Declarant and its successors and assigns, shall be reserved the right to elect or appoint a majority of the members of the Board of Directors until the lapse of the Class B memberships, as provided for in the Declaration and Articles of Incorporation.

Section 2. Term of Office. At the first annual meeting, the members shall elect the Board of Directors and the term of office shall be one (1) year. At each annual meeting thereafter as long as there is a Class B member, the members shall elect directors for a term of one (1) year. When there are no longer any Class B Members, the Board of Directors shall consist of nine (9) members and the annual elections for the Board shall be conducted in such manner so as to permit the election of one-third (1/3) of the Board members each year for a term of three (3) years each. At the first annual election following the elimination of any Class B memberships, nine (9) Board Members shall be elected, three (3) for a term of three (3) years, three for a term of two (2) years and three (3) for a term of one (1) year.

All terms of office shall commence on January 1 and end on December 31.

Section 3. Removal. After the first annual meeting of the Members, any Director may be removed from the Board, with or without cause, by a majority vote of the Members of the Association. Prior to the first annual meeting of the Members, any Director may be removed from the Board, with or without cause, by the Declarant. In the event of death, resignation or removal of a Director, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor. If such Director was elected as the representative of a particular electoral district, his successor must also be a member of that particular district.

Section 4. Compensation. No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

ARTICLE V

NOMINATION AND ELECTION OF DIRECTORS

Section 1. Nomination. Nomination for election to the Board of Directors, commencing with the first annual meeting of Members, may be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating committee shall consist of a Chairman, who shall be a member of the Board of Directors, and two or more Members of the Association. If a Nominating Committee is appointed, at least one Member from each electoral district entitled to elect a director to the Board of Directors in that particular election shall be appointed to serve on the committee. The Nominating committee may be appointed by the Board of Directors prior to each annual meeting of the Members, and such appointment shall be

announced at each annual meeting. The Nominating committee may make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among Members non-members, except that only members from a specific electoral district may be nominated to fill a vacancy on the Board for a representative from that particular electoral district.

Section 2. Election. Election to the Board of Directors shall be by secret written ballot. All members are entitled to vote to fill any at-large vacancies on the Board of Directors. only members within a particular electoral district may vote to fill a vacancy for a representative from their particular electoral district. At such election the 10 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. Any proxy valid under Maryland law shall be valid for the purpose of such casting of votes. All election materials prepared with funds of the Association shall list candidates in alphabetical order and shall not suggest a preference among candidates. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

ARTICLE VI

MEETING OF DIRECTORS

Section 1. Regular and Special Meetings. All meetings of the Board of Directors or any committee created by the Board of Directors shall be held only upon regularly scheduled and established dates or periods at such time and place as shall have been made known to all Members in accordance with the procedures established in Article III, section 3, of these By-Laws. All such meetings shall be open to all Owners of the Association, their lessees, guests and any representative of the news media and be held at places and times convenient to the greatest number of Members. Meetings of the Board of Directors may be held in closed session only in accordance with Article III, section 9, of these By-laws.

Section 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.

Section 3. Fidelity Bonds. To the extent reasonably available the Board of Directors shall require that all officers, Directors and employees of the Association regularly handling or otherwise responsible for the funds of the Association shall furnish adequate fidelity bonds or equivalent insurance against acts of dishonesty. The premiums on such bonds or insurance shall be paid by the Association.

ARTICLE VII

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

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

- a. Adopt and publish rules and regulations governing the use of the Common Area and facilities and the personal conduct of the members and their guests thereon and to establish penalties for infraction thereof.
- b. Suspend the voting rights and right to use of the recreational facilities located, within the Common Areas of a member during any period- in which such member shall be in default in the payment of any assessment levied by the Association. The right to use of the recreational facilities may also be suspended for a period not to exceed thirty (30) days for each infraction of published rules and regulations.
- c. Declare the office of a member of the Board of Directors to be vacant in the event such member shall be absent from three consecutive regular meetings of the Board of Directors.
- d. Employ a manager, an independent contractor, or such other employees as they deem necessary to prescribe their duties.
- e. To borrow funds without mortgages for purposes as set forth in these By-Laws, in a total aggregate amount not to exceed fifty percent (50%) of the annual assessment income of the Association. Borrowings without mortgages in excess of this amount must be approved by a majority vote of the' members present at a meeting of the Association when a quorum is present; and
- f. After there are no longer any Class B members, combine or redistrict Neighborhoods in order to ensure fair and adequate representation within the Association; and
- g. Grant all necessary easements and rights of way over the Common Areas; and
- h. Exercise for the Association all powers" duties, and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws or the Declaration or Articles of Incorporation.

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

- a. Cause-to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members, or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the, Class "A" members who are entitled to vote.
- b. Supervise all officers, agents, and employees of this Association and to see that their duties are properly performed.
- c. Cause an annual operating budget to be prepared based on estimated or actual expenses so as to maintain a ten percent (10%) contingency each year and to fund a capital asset replacement fund in an amount established by the Board; to set an annual assessment sufficient to satisfy the approved budget requirements (except where the membership must set such assessment in accordance with the Declaration); to require that such budget be reviewed for

- adequacy by an independent certified Public Accountant prior to approval; and to supply a copy of the accountant's report to the Frederick City Treasurer.
- d. Fix the amount of the community and Neighborhood Assessments against each Lot or Residential unit at least thirty (30) days in advance of each annual assessment period; send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and foreclose the lien against any property for which assessments are not paid or to bring an action at law against the Owner personally obligated to pay the same and to cause notices to be sent to first mortgages within thirty (30) days after due date.
 - e. Issue, or cause an appropriate officer to issue, upon demand by any person a certificate setting forth whether or not any assessment has been paid, and releases of liens when the assessment, interest, and reasonable attorneys' fees relating thereto have 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.
 - f. Procure and maintain adequate liability and hazard insurance on property owned by the Association.
 - g. Cause all officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate.
 - h. Cause the Common Areas to be maintained.
 - i. Grant necessary easements across the Common Areas.
 - j. Retain any person, firm, entity or organization necessary to assist the Board in (fulfilling its obligations and duties.
 - k. Cause' the books and records of the Association to be reviewed annually by an independent Certified Public Accountant in accordance with generally accepted accounting principles except that when the annual budget exceeds Seventy Thousand Dollars (\$70,000.00) the books and records shall be subject to an annual audit by an independent Certified Public Accountant.
 - l. Otherwise perform or cause to be performed the functions and obligations of the Board' and the Association as provided for in the Articles of Incorporation, Declaration and these By-Laws.

Section 3. Management Agent. The Board of Directors may employ for the Association a professional management-agent or manager (the "Management Agent") at the rate of compensation established by the Board of Directors to perform such duties and services as the Board of Directors shall from time to time authorize, Any management agreement entered into by the Association shall provide, inter alia, that such agreement may be terminated for cause by either party upon thirty (30) days' written notice thereof to the other party. The terms of any such management agreement shall not exceed two (2,) years; provided, however, that the terms of any such management

agreement may be renewable by mutual agreement of the parties for successive one (1) year periods.

ARTICLE VIIX OFFICERS AND THEIR DUTIES

- Section 1. Enumeration of Officers. The officers of this, Association shall be a President and Vice President, who shall at all times be Members of the Board of Directors, a Secretary and a Treasurer, and such other officers as the Board may from time to time by resolution create, all of which officers are to be elected by the Board of Directors.
- Section 2. Election of Officers. The' election of officers shall take place at the first meeting of the Board of Directors following each annual-meeting of the Members; provided that the initial Board of Directors shall elect the first group of officers at its first organizational meeting.
- Section 3. Term. The officers of this Association shall be elected annually by the Board and each shall hold office for one (1) year or until his successor is duly elected and qualified, unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.
- Section 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
- Section 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 giving written notice to the Board, the President or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.
- Section 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 replaces.
- Section 7. Multiple Offices. The offices of the Secretary and Assistant Secretary, Treasurer and Vice President may be held by the same person, but in no event shall the same officer execute; acknowledge or verify any instrument in more than one capacity, if such instrument is required by law, the Declaration, the Articles of Incorporation or these By-Laws to be executed, acknowledged or verified by two (2) or more officers. No person shall simultaneously hold more than one (1) of any of the other offices except in the case of special offices created pursuant to section 4 of this Article and except as otherwise provided in section 7.
- Section 8. Duties. The duties of the officers are as follows:
- a. President. The President shall preside at all meetings of the Board of Directors; shall see that the orders and resolutions of the Board are carried out; shall 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 of him by the Board.
- c. Secretary. The Secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the Members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings 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 in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; shall sign all checks and promissory notes of the Association; keep proper books of account, cause an annual review of the Association books to be made by an independent Certified Public Accountant at the completion of each fiscal year until such time as the annual budget reaches Seventy Thousand Dollars (\$70,000) after which time he shall cause an annual audit to be made; and shall prepare an annual budget and statement of income and - expenditures to be represented to the membership at its regular annual meeting, and deliver a copy of each to the Members.

ARTICLE IX

LIABILITY AND INDEMNIFICATION OF OFFICERS AND DIRECTORS

The Association shall indemnify every officer and director of the Association against any and all expenses, including counsel fees, reasonably incurred by or imposed upon an officer or director in connection with any action, suit or other proceeding (including the settlement of any such suit or proceeding if approved by the then Board of Directors of the Association) to which he may be made a party by reason of being or having been an officer or director of the Association, whether or not such person is an officer or director at the time such expenses are incurred. The officers and directors of the Association shall not be liable to the members of the Association for any mistake of judgment, negligence, or otherwise, except for their own individual willful misconduct or bad faith. The officers and directors of the Association shall have no personal liability with respect to any contract or other commitment made by them, in good faith, on behalf of the Association and the Association shall indemnify and forever hold each such officer and director free and harmless against any and all liability to others on account of any such contract or commitment. Any right to indemnification provided for herein shall not be exclusive of any other rights to which any officer or director of the Association or former officer or director of the Association may be entitled.

ARTICLE X COMMITTEES

Section 1. Architectural Control Committee. The Declarant shall appoint the initial Architectural Control committee and shall have the right to appoint and remove members of the Architectural Control Committee.

Section 2. Neighborhood Committees. The Neighborhood Committees shall be composed of an uneven number of not less than three (3) nor more than seven (7) Lot owners who actually reside in a particular Neighborhood. These Committee members shall be elected by the Owner within the same Neighborhood and shall serve a term of one (1) year unless a different term is established by the Board of Directors. The Board of Directors shall establish procedures to be followed by Neighborhoods for the election of members to the Neighborhood Committees and for the conduct of Neighborhood Committee meetings.

Section 3. Nominating Committee. The Board of Directors may appoint a Nominating Committee s provided for in Article V of these By-Laws.

Section 4. General. In addition, the Board of Directors shall appoint other committees as deemed appropriate in carrying out its purposes. All committees shall provide reasonable notice of meetings and shall hold meetings in accordance with the provisions of Article III, section 9 of these By-Laws.

ARTICLE XI INSURANCE

Section 1. Insurance. In addition to the insurance coverage required to be maintained by the Declaration, the Board of Directors of the Association may obtain and maintain, to the extent reasonably available, the following:

- a. A "Legal Expense Indemnity Endorsement", or its equivalent, affording protection for the officers and Directors of the Association for expenses and fees incurred by any of them in defending any suit or settling any claim, judgment or cause of action to which any such officer or Director shall have been made a party by reason of his or her services as such; and
- b. Such other policies of insurance, including director and officer liability insurance and insurance for other risks of a similar or dissimilar nature and fidelity coverage as required by these By-Laws, as are or shall hereafter be considered appropriate by the Board of Directors.

Section 2. Limitations. Any insurance obtained pursuant to the requirements of this Article shall be subject to the following provisions to the extent reasonably available:

- a. Exclusive authority to negotiate looses under said policies shall be vested in the Board of Directors of the Association, or its authorized representative.
- b. In no event shall the insurance coverage obtained and maintained pursuant to the requirements of this Article be brought into contribution with insurance purchased by the owners of the Lots or Residential units or their mortgagees, as

herein permitted, and any "no other insurance" or similar clause in any policy obtained by the Association pursuant to the requirements of this Article shall exclude such policies from consideration.

- c. All policies shall provide that such policies may not be cancelled or substantially modified (including cancellation for non-payment of premium) without at least thirty (30) days' prior written notice to any and all insureds named thereon, including any mortgagee of any Lot or Residential unit who requests such notice in writing.
- d. All policies shall contain a waiver of subrogation by the insurer as to any and all claims against the Association, the Board of Directors, the Members of the Association and their respective agents, employees or tenants, and of any defenses based upon co-insurance or invalidity arising from the acts of the insured.
- e. All policies shall be written or reinsured with a company or companies licensed to do business in the state where the project is located and holding a general policyholder's rating of Class B or better and a current financial rating of Class VI or better in the current edition of Best's Insurance Reports.

ARTICLE XII

BOOKS AND RECORDS/FISCAL MANAGEMENT

Section 1. Fiscal Year. The fiscal year of the Association shall begin on the first day of January every year. except for the first fiscal year of the Association which shall begin at the date of recordation of the, Declaration among the Land Records for Montgomery County, Maryland. The commencement date of the fiscal year herein established shall be subject to change by the Board of Directors should the practice of the Association subsequently dictate.

Section 2. Principal Office - Change of Same. The principal office of the Association shall be as set forth in Article I of the Articles of Incorporation of the Association. The Board of Directors, by an appropriate resolution, shall have the authority to change the location of the principal office of the Association from time to time.

Section 3. Books and Accounts. Books and accounts of the Association shall be kept under the direction of the Treasurer in accordance with generally accepted accounting practices, consistently applied. The same shall include books with detailed accounts, in chronological order, of receipts and of the expenditures and other transactions of the Association and its administration and shall specify the maintenance and repair expenses of the Common Area and community facilities, services required or provided with respect to the same and any other expenses incurred by the Association. The amount of any assessment or portion of any assessment, required by payment of any capital expenditure or reserves of the Association shall be credited upon the books of the Association to the "Paid-in-Surplus" account as a capital contribution by the members.

Section 4. Review. At the close of each fiscal year, the books and records of the Association shall be reviewed by an independent Certified Public Accountant whose report shall be prepared in accordance with generally accepted accounting principles consistently applied. At such time as the annual budget reaches seventy-thousand Dollars (\$70,000), the books and records shall be subject to an annual audit by an independent Certified Public Accountant. Based upon such report, the Association shall furnish the members and any mortgagee requesting the same with an annual financial statement, including the income and disbursements of the Association, within ninety (90) days following the end of each fiscal year.

Section 5. Inspection of Books. The books and accounts of the Association, vouchers accrediting the entries made thereupon and all other records maintained by the Association shall be available for examination by the members and their duly authorized agents or attorneys, and to the institutional holder of any first mortgage on any Lot or Residential Unit and its duly authorized agents or attorneys, during normal business hours and for purposes reasonably related to their respective interests and after reasonable notice. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principal office of the Association, where copies may be purchased at reasonable cost.

ARTICLE XIII ASSESSMENTS

As more fully provided in the Declaration, each member is obligated to pay to the Association annual and special assessments which are secured by a continuing lien upon the property against which the assessment is made any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the date of delinquency at eighteen percent (18%) per annum or the maximum rate permitted by law (or such lesser sum as VA or FHA shall specify if any Lot is insured by FHA or guaranteed by VA), and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs and reasonable attorneys' fees of any such action shall be added to the amount of such assessment. No owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Area or abandonment of his Lot or Residential unit.

ARTICLE XIV CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words: Whittier community Association, Inc., a Maryland corporation.

ARTICLE XV AMENDMENTS

These By-Laws may be amended, at a regular or special meeting of the members, by a vote of a majority of a quorum of members present in person or by proxy, except that

if any Lot or Residential Unit subject to these By-Laws is then encumbered by a mortgage or deed of trust guaranteed by VA or insured by FHA, then VA and/or FHA (as applicable) shall have the right to veto amendments while there is Class B membership.

ARTICLE XVI

INTERPRETATION MISCELLANEOUS

Section 1. Conflict. These By-Laws are subordinate and subject to all provisions of the Declaration and to the provisions of the Articles of Incorporation of the Association. All of the terms hereof, except where clearly repugnant to the context, shall have the same meaning as they are defined to have in the Declaration. In the event of any conflict between these By-Laws and the Declaration, the provisions of the Declaration shall control; and in the event of any conflict between these By-Laws and the Articles of Incorporation of the Association, the provisions of the Articles of Incorporation shall control.

Section 2. Notices. Unless another type of notice is herein elsewhere specifically provided for, any and all notices called for in these By-Laws shall be given in writing.

Section 3. Severability. In the event any provision or provisions of these By-Laws shall be determined to be invalid void or unenforceable, such determination shall not render invalid, void or unenforceable any other provisions hereof which can be given effect.

Section 4. Waiver. No restriction, condition, obligation or provision of these By-Laws shall be deemed to have been abrogated or waived by reason of any failure or failures to enforce the same.

Section 5. Captions. The captions contained in these By-Laws are for convenience only and are not a part of these By-Laws and are not intended in any way to limit or enlarge the terms and provisions of these By-Laws ~r to aid in the construction thereof.

Section 6. Gender. etc. Whenever in these By-Laws the context so requires, the singular number shall include the plural and the converse, and the use of any gender shall be deemed to include all genders.

IN WITNESS WHEREOF, we,. being all of the Directors of the Whittier Community Association, Inc., have hereunto set our hands this 20th day of December , 1989.

(Signatures)