

❖ Bylaws Of Summer Grove Homeowners  
Association

**BYLAWS**  
**OF**  
**SUMMER GROVE HOMEOWNERS ASSOCIATION**

Rouse/Chamberlin, Ltd.  
500 Exton Commons  
Exton, PA 19341

.SUMMER GROVE HOMEOWNERS ASSOCIATION

BYLAWS

TABLE OF CONTENTS

ARTICLE 1 NAME ..... **1**  
    1.1 Name.....1

ARTICLE 2 PURPOSES AND POWERS; DEFINITIONS ..... 1  
    2.1 Purpose.....1  
    2.2 Powers .....1  
    2.3 Definitions.....4

ARTICLE 3 OFFICES ..... 4  
    3.1 Initial Office.....4  
    3.2 Maintain Office.....4

ARTICLE 4 MEMBERSHIP, VOTING RIGHTS AND ASSESSMENTS .....4  
    4.1 Membership.....4  
    4.2 Duration of Membership.....4  
    4.3 Voting .....4  
    4.4 Matters Requiring Vote of Membership .....5  
    4.5 Annual Meeting of Members.....6  
    4.6 Special Meeting of Members.....6  
    4.7 Notices of Meetings of Members .....6  
    4.8 Quorum at Meeting of Members .....6  
    4.9 Annual Assessments.....6  
    4.10 Special Assessments.....7

ARTICLE 5 EXECUTIVE **BOARD** .....8  
    5.1 Executive Board .....8  
    5.2 Regular Meetings of Executive Board .....9  
    5.3 Special Meetings of Executive Board .....9  
    5.4 Quorum.....10  
    5.5 Act by Majority .....10  
    5.6 Vacancies on Executive Board .....10  
    5.7 Removal of Directors .....10  
    5.8 Compensation .....10  
    5.9 Chairman and Secretary .....11  
    5.10 Action Without Meeting of Executive Board .....11

ARTICLE 6 COMMITTEES ..... **11**  
    6.1 Creation of Committees..... 11  
    6.2 Non-Liability of Board and Committee Members..... 11

ARTICLE 7 OFFICERS ..... 12

7.1	Officers .....	12
7.2	Qualifications .....	12
7.3	Officer's Vacancy .....	12
7.4	Removal of Officers .....	12
7.5	President.....	12
7.6	Secretary .....	12
7.7	Treasurer.....	13
7.8	Assistant Treasurer.....	13
7.9	Assistant Secretary.....	13
<b>ARTICLE 8 LIABILITY AND INDEMNIFICATION .....</b>		<b>13</b>
8.1	Standard of Care and Justifiable Reliance .....	13
8.2	Exercise of Powers .....	14
8.3	Liability of Directors and Officers .....	15
8.4	Indemnification of Directors and Officers .....	15
8.5	Amendments Affecting Provisions of this Article.....	16
<b>ARTICLE 9 DELEGATION OF POWERS OF BOARD AND OFFICERS .....</b>		<b>16</b>
9.1	Delegation of Powers of Board.....	16
9.2	Delegation of Powers of Officers .....	16
<b>ARTICLE 10 COMMUNITY MANAGEMENT .....</b>		<b>17</b>
10.1	Contracts .....	17
10.2	Checks .....	17
10.3	Deposits .....	17
10.4	Insurance.....	17
10.5	Gifts .....	20
10.6	Surplus Funds .....	20
10.7	Books and Records in General. ....	21
10.8	Financial Records .....	21
10.9	Annual Financial Statements .....	21
10.10	Filing of Complaints .....	21
10.11	Fiscal Year.....	21
10.12	Corporate Seal.....	21
10.13	Waiver.....	21
10.14	Violations; Notice; Remedies.....	22
<b>ARTICLE 11 AMENDMENTS TO BYLAWS .....</b>		<b>22</b>
11.1	Declarant Control Period .....	22
11.2	Subsequent Periods .....	22
11.3	Restrictions on Amendments .....	22
11.4	Notice to Mortgagees .....	22
<b>ARTICLE 12 AMENDMENTS TO DECLARATION .....</b>		<b>23</b>
12.1	Amendment Procedure.....	23
<b>EXHIBIT A.....</b>		<b>1</b>

**RULES AND REGULATIONS REGARDING PROHIBITION OF SEX OFFENDERS.....1**

- 1. Prohibition of Sex Offenders in Community..... 1
- 2. Determination Concerning Possible Registrant..... 1
- 3. Remedies for Violations ..... 2
- 4. Non-liability ofParticipants ..... 4
- 5. Protection of Individual's Rights ..... 5
- 6. Amendments to Sex Offender Rules and Regulations ..... 5

**ARTICLE 1  
NAME**

**1.1 Name.**

The name of the non-profit corporation is Summer Grove Homeowners Association (the "Association").

**ARTICLE 2  
PURPOSES AND POWERS; DEFINITIONS**

**2.1 Purpose.**

The purposes of the Association are: the ownership, management, operation and maintenance of certain real estate and the improvements located in the residential community known as Summer Grove (the "Community"), and located in Upper Pottsgrove Township, Montgomery County, Pennsylvania. The "Common Facilities", "Controlled Facilities" and "Common Elements" of the Community are defined in the Declaration of Covenants, Conditions and Restrictions of Summer Grove, a Residential Community" (the "Declaration"), dated \_\_\_\_\_ and recorded in the Office of the Recorder of Deeds in and for Montgomery County, Pennsylvania, on \_\_\_\_\_ in Record Book \_\_\_\_\_, Page \_\_\_\_\_ et seq., with Rouse/Chamberlin, Ltd., a Pennsylvania limited partnership as the Declarant. The Association may also manage its affairs and conduct any other lawful business on a not-for-profit basis pursuant to the laws of the Commonwealth of Pennsylvania.

**2.2 Powers.**

Except as otherwise provided in the Declaration or those provisions of the Pennsylvania Uniform Planned Community Act, as amended (the "Act") which are applicable to a Community having as Common Elements only open space, the Association shall have the powers to do and perform the following:

- (1) Adopt and amend bylaws and Rules and Regulations, including particular rules and regulations governing the administration of the Community's Prohibition of Sex Offenders as provide in Section 9.27 of the Declaration. The current set of Rules and Regulations is attached as Exhibit A to these Bylaws.
- (2) Adopt and amend budgets for revenues, expenditures and reserves and collect assessments for Common Expenses from Unit Owners.
- (3) Hire and terminate managing agents and other employees, agents and independent contractors.

(4) Institute, defend or intervene in litigation or administrative proceedings in its own behalf of itself or two or more Unit Owners on matters affecting the Community.

(5) Make contracts and incur liabilities.

(6) Regulate the use, maintenance, repair, replacement and modification of Common Elements.

(7) Cause additional improvements to be made as a part of the Common Facilities and, only to the extent permitted by the Declaration, the Controlled Facilities.

(8) Acquire, hold, encumber and convey in its own name any right, title or interest to real or personal property, but Common Facilities may be conveyed or subjected to a security interest only under the provisions of section 5318 of the Act (relating to conveyance or encumbrance of Common Facilities).

(9) Grant easements, leases, licenses and concessions through or over the Common Facilities and, only to the extent permitted by the Declaration, the Controlled Facilities.

(10) Impose and receive payments, fees or charges, except as limited by other applicable provisions of the Act, for the use, rental or operation of the Common Elements.

(11) Impose charges for late payment of assessments and, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws and Rules and Regulations of the Association as permitted by Article 5 of the Declaration.

(12) Impose reasonable charges for the preparation and recording of amendments to the Declaration, resale certificates required by section 5407 of the Act (relating to resales of Units) which shall be ONE charge that may be made by the Association solely because of a resale or retransfer of any Unit or statement of unpaid assessments. In addition, the Association may impose a capital improvement fee, but no other fees, on the resale or transfer of Units in accordance with the following:

(i) The capital improvement fee for any Unit shall not exceed the annual assessments for general Common Expense charged to such Unit during the most recently completed fiscal year of the Association; provided that:

(a) In the case of resale or transfer of a Unit consisting of unimproved real estate, the capital improvement fee shall not exceed one-half of the annual assessments for general Common Expenses charged to such Unit during the most recently completed fiscal year of the Association; and

(b) In the case of resale or transfer of a Unit which was either created or added to the Community in accordance with section 5311 of the Act (relating to conversion and expansion of flexible planned communities) at some time during the most recently completed fiscal year of the Association but was not in existence for the entire

fiscal year, the capital improvement fee shall not exceed one-half of the annual assessments for general Common Expenses charged to a Unit comparable to such Unit during the most recently completed fiscal year of the Association; and

(c) Capital improvements fees are not refundable upon any sale, conveyance or any other transfer of the title to the unit.

(ii) Capital improvement fees allocated by the Association must be maintained in a separate capital account and may be expended only for new capital improvements or replacement of existing Common Elements, and may not be expended for operation, maintenance or other purposes.

(iii) No capital improvement fee shall be imposed in the case of resale or transfer of a Unit consisting of unimproved real estate, a transfer from the Declarant to a third-party buyer, or on any gratuitous transfer of a Unit between any of the following family Members' spouses, parent and child, siblings, grandparent and grandchild; nor on any transfer of a unit by foreclosure sale or deed in lieu of foreclosure to a secured lending institution as defined by the act of December 3, 1959 (P.L. 1688, No. 621), known as the Housing Finance Agency Law (35 P.S. § 1680.101 et seq.).

(iv) No fees may be imposed upon any person who;

(a) Acquires a Unit consisting of unimproved real estate and signs and delivers to the Association at the time of such person's acquisition a sworn affidavit declaring the person's intention to reconvey such Unit within 18 months of its acquisition; and

(b) Completes such reconveyance within such 18 months.

(13) Provide for the indemnification of its Officers and executive board and maintain Directors' and Officers' liability insurance.

(14) Borrow money for the purpose of improving the Common Facilities and Controlled Facilities and, in aid thereof, to mortgage the Common Facilities. The rights of such mortgagee in the Common Facilities shall be subordinate to the rights of the Owners hereunder.

(15) Assign its right to future income, including the right to receive Common Expense assessments. Reserve funds held for future major repairs and replacements of the Common Elements may not be assigned or pledged.

(16) Exercise any other powers conferred by the Act, the Declaration or Bylaws.

(17) Exercise all other powers that may be exercised in this Commonwealth by legal entities of the same type as the Association.



(18) Exercise any other powers necessary and proper for the governance and operation of the Association.

**2.3 Definitions.**

Any capitalized term used in these Bylaws but not otherwise defined shall have the meaning as set forth in the Declaration.

**ARTICLE 3  
OFFICES**

**3.1 Initial Office.**

The Association shall have its initial principal office at 500 Exton Commons, Exton, PA 19341.

**3.2 Maintain Office.**

The Association shall have and continuously maintain a registered office in the Commonwealth of Pennsylvania.

**ARTICLE 4  
MEMBERSHIP, VOTING RIGHTS AND ASSESSMENTS**

**4.1 Membership.**

Each Owner of a Lot, including Declarant, shall be a Member of the Association at such time as set forth in the Declaration. Each membership shall be appurtenant to, and not severable from, ownership of a Lot, and shall be held in the name of the record Owner of the Lot, whether or not the Lot is owned jointly, in common or in any other form of tenancy. Each Lot shall have one, and only one, membership regardless of the number of co-tenants, joint-tenants or tenants by the entireties holding interest in said Lot. The Declarant shall be a Member until the Declarant's interest is terminated by selling all of the Lots it owns.

**4.2 Duration of Membership.**

Each membership shall initially commence upon the recording of the Declaration. Thereafter, membership shall be transferred to each successive record Owner of a Lot as of the date and hour of the completion of settlement on the conveyance of a Lot to a new Owner.

**4.3 Voting.**

**4.3.1 In General:** Members may vote on those items submitted to their vote by the Executive Board. Each Member shall be entitled to one vote on all matters on which Members are entitled to vote. Members shall not be entitled to cumulative voting for the election

of members of the Executive Board. Except where a higher percentage of votes is required in these Bylaws or in the Declaration, the vote of the majority of Members shall be controlling.

**4.3.2 Unit Owner Other Than Natural Person:** If the Owner of a Unit is a corporation, joint venture, partnership or unincorporated association, then the natural person who shall be entitled to cast the vote for that Unit shall be the person named in a certificate executed by that entity pursuant to its governing documents. If the Owner of a Unit is a trust, the trustee or trustees shall be deemed to be the Owner for voting purposes.

**4.3.3 Ownership by More Than One Person:** If the ownership of a Unit is in more than one person, then the natural person who shall be 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, then the person owning such Unit who is present. If more than one of the multiple Owners are present, then the votes allocated to that Unit may be cast only in accordance with their unanimous agreement unless the Declaration expressly provides otherwise. There shall be deemed to be unanimous agreement if any one of the multiple Owners casts the votes 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. Such a certificate shall be valid until revoked by a subsequent certificate similarly executed.

**4.3.4 Approval or Disapproval:** Except where execution by Owners of a Unit in the same manner as a deed is required in the Act, and subject to the provisions of the Declaration and these Bylaws, wherever the approval or disapproval of a Unit Owner is required by the Act, the Declaration or the Bylaws, the approval or disapproval shall be made only by the person who would be entitled to cast the vote of the Unit at any meeting of the Association.

**4.3.5 Proxies:** Votes allocated to a Unit may be cast pursuant to a proxy duly executed by a Unit Owner. If more than one person owns a Unit, then 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 given under this section 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.

**4.3.6 Units Owned by Association:** No votes allocated to a Unit owned by the Association may be cast.

#### **4.4 Matters Requiring Vote of Membership.**

Among other matters that may from time to time be submitted to the Members for a vote by the Executive Board, the Members shall in any event be entitled to vote at the annual meeting of the Members of the Association for the election of members of the Executive Board (see Section 4.5), or the amendment of these Bylaws (see Article 11 hereof), or on an amendment of the Declaration.

#### 4.5 Annual Meeting of Members.

The annual meeting of the Members of the Association, beginning in the year in which Declarant Control ends, shall be held no later than the first Monday of July of each year, at the registered office of the Association or at such other location as may be determined by the Executive Board (but not outside the County of Montgomery, Commonwealth of Pennsylvania) and as shall be designated in the notice of the meeting, for the purpose of electing members of the Executive Board and transacting such other business as may properly be brought before the meeting . .

#### 4.6 Special Meeting of Members.

Special meetings of the Members may be called to be held at the registered office of the Association, or at such other place designated in the call of the meeting (but not outside of the County of Montgomery, Commonwealth of Pennsylvania), at any time, by the President of the Association or by resolution of the Executive Board, or upon written request of Members holding not less than one-fifth (1/5) of the outstanding voting rights. Upon written request of the Members, as aforesaid, the Secretary of the Association shall give notice of such special meeting, to be held at such time (within seventy five (75) days of the request) as the Secretary may fix, not less than fourteen (14) nor more than sixty (60) days in advance of the meeting. Upon neglect or refusal of the Secretary to issue such notice, the Members making the request may do so.

#### 4.7 Notices of Meetings of Members.

The Secretary or any Assistant Secretary of the Association shall cause notice of any meeting to be hand-delivered or sent prepaid by United States mail to the mailing address of each Unit or to any other mailing address designated in writing by the Unit Owner, not less than fourteen (14) nor more than sixty (60) days in advance of the meeting. The notice of any meeting must state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws; any budget or assessment changes; and, where the Declaration or these Bylaws require approval of Unit Owners, any proposal to remove a Director or Officer.

#### 4.8 Quorum at Meeting of Members.

A quorum is present throughout any meeting of the Association if persons entitled to cast twenty percent (20%) of the votes that may be cast for election of the Executive Board are present in person or by proxy at the beginning of the meeting.

#### 4.9 Annual Assessments.

4.9.1 General Rule: Until the Association makes a Common Expense assessment, the Declarant shall pay all the expenses of the Community. After any assessment has been made by the Association, assessments shall be made at least annually, based on a budget adopted at least annually by the Association. The Executive Board shall approve each budget no later than December 1st of each year for each succeeding year.

4.9.2 Budgets: The budgets of the Association shall segregate limited Common Expenses from general Common Expenses if and to the extent appropriate. The Executive Board

shall deliver to all Unit Owners copies of each budget approved by the Executive Board and notice of any capital expenditure approved by the Executive Board promptly after such approval. In addition to other rights conferred by the Declaration, Bylaws or the Act, the Unit Owners, by a two-thirds (2/3) vote of all persons present and entitled to vote at any meeting of the Unit Owners at which a quorum is present, or any larger vote specified in the Declaration, may reject any budget or capital expenditure approved by the Executive Board within thirty (30) days after approval.

**4.9.3 Allocation and Interest:** Except for assessments under subsection 4.9.4 below, all Common Expenses shall be assessed against all the Units in accordance with the Common Expense liability allocated to each Unit in the case of general Common Expenses and in accordance with subsection 4.9.4 in the case of special allocation of expenses. Any past due assessment or installment thereof shall bear interest at the rate established by the Association at not more than twenty percent (20%) per year.

**4.9.4 Special Allocations of Expenses:** Except as provided by the Declaration:

(1) Any Common Expense associated with the maintenance, repair or replacement of a Limited Common Element shall be assessed in equal shares against the Units to which that Limited Common Element was assigned at the time the expense was incurred.

(2) Any Common Expense benefiting fewer than all of the Units shall be assessed exclusively against the Units benefited.

(3) The costs of insurance may be assessed in proportion to risk.

(4) If a Common Expense results from damage, injury or destruction caused by the negligence or misconduct of any Unit Owner, then the Association may assess that expense exclusively against his or her Unit. Furthermore, if a Common Expense is the result of a violation of the Declaration, or Rules and Regulations of the Community, then the Association may assess that expense as well as any fines and/or legal fees attributed to or resulting from said violation, exclusively against the Unit Owner causing or permitting the violation.

**4.9.5 Reallocation:** If Common Expense liabilities are reallocated, Common Expense assessments and any installment thereof not yet due shall be recalculated in accordance with the reallocated Common Expense liabilities.

#### **4.10 Special Assessments.**

In addition to the annual assessments authorized above, the Association, acting by its Executive Board (and with the consent of the Declarant during the time that the Declarant owns any Unit in the Community), may levy, in any assessment year:

(a) **Common Elements:** Special assessments applicable to that year only, for the purpose of defraying, in whole or in part, the cost of any construction, reconstruction or improvement, unexpected repair, replacement or cost in connection with the operation, maintenance, repair, restoration, and management of the Common Elements; and

(b) **Budget Shortfall:** Assessments for any insufficiency of the annual assessment for a preceding assessment year to cover the actual costs incurred by the Association in such year.

Any special assessment made pursuant to this Section shall be apportioned equally among the Lots and the Owners thereof.

## **ARTICLE 5 EXECUTIVE BOARD**

### **5.1 Executive Board.**

The affairs of the Association shall be governed and conducted by its Executive Board, which shall initially be comprised of three (3) persons, to be elected or appointed in accordance with these Bylaws, and the provisions of Article 4 of the Declaration. The number of directors shall change as provided in Subsections 5.1.2 and 5.1.3 below.

#### **5.1.1 Status During Period of Declarant Control.**

(a) The Declaration provides for a period of Declarant Control of the Association, during which the Declarant or persons designated by the Declarant may appoint and remove the Officers and members of the Executive Board.

(b) The period of Declarant Control extends from the date of the first conveyance of a Unit to a person other than a Declarant for a period of not more than five years.

(c) The period of Declarant Control terminates no later than the earlier of: (i) sixty (60) days after conveyance of seventy-five percent (75%) of the Units which may be conveyed to Unit Owners other than the Declarant; (ii) two (2) years after Declarant (or its successors and assigns) has ceased to offer Units for sale in the ordinary course of business; or (iii) two (2) years after any development right to add new Units was last exercised.

(d) Declarant may voluntarily surrender the right to appoint and remove Officers and members of the Executive Board before termination of that period. In that event the Declarant may require, for the duration of the period of Declarant Control, that specified actions of the Association or Executive Board, as described in a recorded instrument executed by the Declarant, be approved by the Declarant before they may become effective.

**5.1.2 Election of Members during Transfer of Declarant Control:** During the period of Declarant Control, there shall be a transfer of control of the Executive Board as follows:

(a) Not later than 60 days after the conveyance of the 19th Unit to a Owner other than a Declarant, the Executive Board shall be increased from three to four members; and one of the

four members of the Executive Board shall be elected by Owners other than the Declarant;

(b) Not later than 60 days after the conveyance of the 37th Unit to an Owner other than Declarant, the Executive Board shall be increased to five members, and two of the five members shall be elected by Owners other than the Declarant.

**5.1.3 Election of Members and Officers following Declarant Control:** Not later than 60 days after the conveyance of the 56th Unit within the Community to a Owner other than a Declarant, the period of Declarant Control shall terminate, the number of members of the Executive Board shall be set at three (3), and all three members of the Executive Board shall thereafter be elected by the Owners as a whole (including the Declarant as a Owner) in accordance with the allocation of voting rights set forth in Section 4.3 above. At that time, all members of the Board appointed by the Declarant shall resign, and the Owners shall elect successor members as provided herein. The Executive Board shall elect the Officers. The Executive Board members and Officers shall take office upon election.

**5.1.4 Term of Executive Board:** Except during the period of Declarant Control, and the one year transition period, Board members shall serve for a term of two (2) years, or until their successor has been appointed or elected.

## **5.2 Regular Meetings of Executive Board.**

Regular meetings of the Executive Board shall take place immediately following the annual meeting of the Association, and at such other times as the Board may reasonably agree.

## **5.3 Special Meetings of Executive Board.**

Special meetings of the Executive Board may be called by or at the request of the President of the Association, or any three (3) members of the Executive Board, or any two (2) members when there is a three-member Executive Board; provided however that during the period of Declarant Control, at least one (1) of the members requesting a special meeting must be a member appointed by the Declarant. Such special meetings shall be held at the registered office of the Association or at such other location within the County of Montgomery, Commonwealth of Pennsylvania as may be determined by the person calling such special meeting and as shall be designated in the notice of special meeting. Notice of any special meeting of the Executive Board shall be given at least four (4) business days previously thereto by written notice delivered personally or sent by first class mail or fax to each member of the Executive Board at his or her address as shown by the records of the Association. If mailed, such notice shall be deemed to be delivered when deposited in the United States mail in a sealed envelope so addressed, with postage thereon prepaid. Any member of the Executive Board may waive their notice of any meeting. The attendance of a member of the Executive Board at any meeting shall constitute a waiver of notice of such meeting, except where a member of the Executive Board attends a meeting for the express purpose of objecting to the transaction of any business because the meeting is not lawfully called or convened. Neither the business to be transacted at, nor the purpose of, any regular or special meeting of the Executive Board need be specified in the notice or waiver of notice of such meeting, unless specifically required by law or these Bylaws.

#### **5.4 Quorum.**

A quorum is deemed present throughout any meeting of the Executive Board if persons entitled to cast fifty percent (50%) of the votes on the Board are present at the beginning of the meeting.

#### **5.5 Act by Majority.**

The act of a majority of the members of the Executive Board shall be the act of the Executive Board, except where otherwise provided by law or by these Bylaws.

#### **5.6 Vacancies on Executive Board.**

Any vacancy occurring in the Executive Board, or any vacancy to be filled by reason of any increase in the number of members of the Executive Board resulting from any amendment of the Declaration or these Bylaws, shall be filled by the Executive Board appointing a replacement; except that a vacancy due to the resignation, withdrawal or incapacity of members of the Executive Board appointed by the Declarant shall be filled by the Declarant appointing a replacement. A Director appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office.

#### **5.7 Removal of Directors.**

**5.7.1 General Removal Powers:** Notwithstanding any provision of the Declaration of these Bylaws to the contrary, the Members, by a three-quarters (3/4) vote of all persons present and entitled to vote at any meeting of the Unit Owners at which a quorum is present, may remove any member of the Executive Board with or without cause, other than a member appointed by the Declarant.

**5.7.2 Removal for Dishonesty:** Members of the Executive Board may be removed for dishonesty, incompetence or other good cause shown, by a vote of at least two-thirds (2/3) of the Members attending a special meeting called for that purpose. Any such Director shall have the right to speak and present evidence in his defense at the special meeting prior to any vote being taken on his removal. These removal rights shall not apply to a Director who was appointed by the Declarant.

**5.7.3 Declarant Appointees:** Members of the Executive Board appointed by the Declarant serve at the pleasure of the Declarant and may be removed at any time by the Declarant.

#### **5.8 Compensation.**

Members of the Executive Board as such shall not receive any stated salaries for their services, but by resolution of the Executive Board, a fixed sum and expenses of attendance, if any, may be allowed for attendance at each regular or special meeting of the Board. Nothing herein contained shall be construed to preclude any member of the Executive Board from serving the Association in any other capacity and receiving compensation therefor.

**5.9 Chairman and Secretary.**

Meetings of the Executive Board shall be presided over by the President, or by a Chairman to be chosen at the meeting if the Executive Board prefers. The Secretary of the Association shall act as Secretary of every meeting, but if the Secretary is not present, the persons present at such meeting shall choose any person present to act as Secretary of the meeting.

**5.10 Action Without Meeting of Executive Board.**

Subject to the further specific provisions of these Bylaws, any action required or permitted to be taken at any meeting of the Executive Board may be taken without a meeting, if prior to such action, a written consent thereto is signed by all members of the Executive Board and such written consent is filed with the minutes of proceedings of the Executive Board.

**ARTICLE 6  
COMMITTEES**

**6.1 Creation of Committees.**

The Association may appoint such Committees as are deemed appropriate in the sole discretion of the Executive Board, said Committees to be appointed by and in the numbers prescribed by the Executive Board. Such Committees may consist of:

(a) **Architectural Review Committee:** An architectural review committee (the "Architectural Review Committee"), which shall exercise such powers as may be granted by the Executive Board with respect to review of proposed alterations to a Unit requested by a Member, including without limitation color, fascia material, structural alterations, etc.. The Executive Board may establish rules and regulations governing the procedures for same, consistent with the Declaration and Section 9.18 thereof; and

(b) **Other Committees:** Such other committees as the Board may create from time to time, either on a temporary or permanent basis, for the benefit of the Community.

**6.2 Non-Liability of Board and Committee Members.**

Neither the Architectural Review Committee, any other advisory committee nor the Executive Board, nor any member thereof, nor their duly authorized representatives shall be liable to the Association, or to any Unit Owner for any loss, damage or injury arising out of or in any way connected with the performance of the duties hereunder, unless due to the willful misconduct or bad faith of such person.



## **ARTICLE 7 OFFICERS**

### **7.1 Officers.**

The Officers of the Association shall be a President, a Secretary, a Treasurer, and such Assistant Secretaries and Assistant Treasurers as the Board may from time to time authorize. Officers may hold more than one office. Declarant shall appoint the initial Officers of the Association and they shall serve until successor Officers are elected by the Executive Board at the first regular annual meeting of the Board after the period of Declarant Control has ended. The Officers shall thereafter be elected annually by the Executive Board at the regular annual meeting of the Board. The Officers shall have the authority and shall perform the duties as set forth in these Bylaws, and as the Executive Board may prescribe as from time to time.

### **7.2 Qualifications.**

All Officers shall qualify as Members, as set forth in Section 4.1 of these Bylaws, at the time of their election or appointment to office. Officers who are no longer Members during their term in office shall be deemed to have resigned their office, and their successor shall be appointed as provided herein.

### **7.3 Officer's Vacancy.**

Any vacancy occurring in any office, including any new office to be created in the future, shall be filled by the Executive Board appointing a replacement. An Officer appointed to fill a vacancy shall be appointed for the unexpired term of his predecessor in office.

### **7.4 Removal of Officers.**

Each Officer shall serve at the pleasure of the Executive Board. Officers may be removed for dishonesty, incompetence or other good cause shown, and may also be removed at any time and for any reason or no reason, by the unanimous vote of the full Executive Board.

### **7.5 President.**

The President shall be the principal executive Officer of the Association and shall, in general, supervise and control all of the business and affairs of the Association. He shall preside at all meetings of the Members and of the Executive Board. He may sign, along with the Secretary or any other proper Officer of the Association authorized by the Executive Board, any deed, mortgage, bond, contract, or other instrument which the Executive Board has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the Executive Board or by these Bylaws or by statute to some other Officer or agent of the Association. In general, the President shall perform all duties incident to the office of President and such other duties as may be prescribed by the Executive Board from time to time.

### **7.6 Secretary.**

The Secretary shall: (a) keep the minutes of the meetings of the Executive Board in one (1) or more books provided for that purpose; (b) see that all notices are duly given in accordance with the provisions of these Bylaws or as required by law; and (c) be custodian of the Association's

records and of the seal of the Association and see that the seal of the Association is affixed to all documents, the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provisions of these Bylaws.

**7.7 Treasurer.**

The Treasurer shall have charge and custody of and be responsible for all funds of the Association, receive and give receipts for moneys due and payable to the Association from any source whatsoever, and deposit all such moneys in the name of the Association in such banks, trust companies or other depositories as shall be selected in accordance with the provisions of these Bylaws. If required by the Executive Board, the Treasurer shall give a bond for the faithful discharge of his duties in such sum and with such surety or sureties as the Executive Board shall determine, which cost shall be an expense of the Association.

**7.8 Assistant Treasurer.**

The Assistant Treasurer shall have the same power and authority as the Treasurer, such authority to be exercised only at the direction of the President, and only upon the incapacity or unavailability of the Treasurer to perform such tasks.

**7.9 Assistant Secretary.**

The Assistant Secretary shall have the same power and authority as the Secretary, such authority to be exercised only at the direction of the President, and only upon the incapacity or unavailability of the Secretary to perform such tasks.

**ARTICLE S  
LIABILITY AND INDEMNIFICATION**

**8.1 Standard of Care and Justifiable Reliance.**

(a) **Fiduciary Relationship.** A Director of this Association shall stand in a fiduciary relation to this Association and shall perform his duties as a Director, including his duties as a member of any committee of the Executive Board upon which he may serve, in good faith, in a manner he reasonably believes to be in the best interest of this Association, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. In performing his duties, a Director shall be entitled to rely in good faith on information, opinions, reports or statements, including financial statements and other financial data, in each case prepared or presented by any of the following:

(i) One (1) or more Officers or Members of this Association, including, but not limited to, members of any standing committee, whom the Director reasonably believes to be reliable and competent in the matters presented,

(ii) Counsel, public accountants or other persons as to matters that the Director reasonably believes to be within the professional or expert competence of such persons,

(iii) A committee of the Executive Board upon which he does not serve, duly designated in accordance with law, as to matters within its designated authority, which committee the Director reasonably believes to merit confidence.

(b) **Acting in Good Faith.** A Director shall not be considered to be acting in good faith if he has knowledge concerning the matter in question that would cause his reliance to be unwarranted.

(c) **Ordinary Prudence.** An Officer of this Association shall perform his duties as an Officer in good faith, in a manner he reasonably believes to be in the best interests of this Association, and with such care, including reasonable inquiry, skill and diligence, as a person of ordinary prudence would use under similar circumstances. A person who so performs his duties shall not be liable by reason of having been an Officer of the Association.

## 8.2 Exercise of Powers.

(a) **Considerations:** In discharging the duties of their respective positions, the Executive Board, committees of the Executive Board and the individual Directors may, in considering the best interest of this Association, consider to the extent they deem appropriate:

(1) The effects of any action upon any or all groups affected by such action, including Members, suppliers and creditors of this Association and upon communities in which offices or other establishments of this Association are located;

(2) The short-term and long-term interests of the Association, including benefits that may accrue to the Association from its long-term plans and the possibility that these interests may be best served by the continued independence of the Association;

(3) The resources, intent and conduct (past, stated and potential) of any person seeking to acquire control of the Association;

(4) All other pertinent factors.

(b) **Corporate or Group Interest:** The Executive Board, committees of the Executive Board and the individual Directors shall not be required, in considering the best interests of the Association or the effects of any action, to regard any corporate interest or the interests of any particular group affected by such action as a dominant or controlling interest or factor. The consideration of interests and factors in the manner described in this sub-section and in sub-section (a) shall not constitute a violation of the standard of care provisions of Section 8.1.

(c) **Presumption:** Absent the breach of any fiduciary duty, lack of good faith or self-dealing, any act of the Executive Board, a committee of the Board or an individual Director shall be presumed to be in the best interest of the Association.

### 8.3 Liability of Directors and Officers.

A Director or an Officer of this Association shall not be personally liable, as such, for monetary damages for any action taken, or any failure to take any action, unless:

(a) The Director or Officer has breached or failed to perform the duties of his office as provided by law; and,

(b) The breach or failure to perform constitutes self-dealing, willful misconduct or recklessness.

### 8.4 Indemnification of Directors and Officers.

(a) **Duty of Indemnity.** This Association shall indemnify any Director or Officer, and may indemnify any other employee, agent or other person, who was or is a party to, or is threatened to be made a party to or who is called as a witness in connection with any threatened, pending, or completed action, suit or proceeding, whether civil, criminal, administrative or investigative, including an action by or in the right of this Association, by reason of the fact that he is or was a Director, Officer, employee or agent of this Association, or is or was serving at the request of this Association as a Director, Officer, employee or agent of another corporation, trust or other enterprise, against expenses, including attorneys' fees, judgments, fines and amounts paid in settlement actually and reasonably incurred by him in connection with such action, suit or proceeding, unless the act or failure to act giving rise to the claim for indemnification is determined by a court to have constituted willful misconduct or recklessness.

(b) **Non-exclusive of Other Rights.** The indemnification and advancement of expenses provided by, or granted pursuant to this Section shall not be deemed exclusive of any other rights to which those seeking indemnification or advancement or expenses may be entitled under any Bylaw, agreement, contract, vote of shareholders or disinterested Directors or pursuant to the direction, howsoever embodied, of any court or competent jurisdiction or otherwise, both as to action in his official capacity and as to action in another capacity while holding such office. It is the policy of this Association that indemnification of, and advancement of expenses to, Directors and Officers of this Association shall be made to the fullest extent permitted by law. To this end, the provisions of this Section shall be deemed to have been amended for the benefit of Directors and Officers of this Association effective immediately upon any modification of the Nonprofit Corporation Law of 1988 of the Commonwealth of Pennsylvania (the "NCL") or the Directors' Liability Act of the Commonwealth of Pennsylvania (the "DLA") which expands or enlarges the power or obligation of corporations organized under the NCL or subject to the DLA to indemnify, or advance expenses to, Directors and Officers of such corporations.

(c) **Expenses.** This Association shall pay expenses incurred by an Officer or Director, and may pay expenses incurred by any other employee, agent or other person, in defending a civil or criminal action, suit or proceeding, in advance of the final disposition of such action, suit or proceeding upon receipt of a written undertaking by or on behalf of such person to repay such amount if it shall ultimately be determined that he is not entitled to be indemnified by this Association.

(d) **Continuing Duty.** The indemnification and advancement of expenses provided by, or granted pursuant to this Section 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.

(e) **Funding for Obligations.** This Association shall have the authority to create a fund of any nature, which may, but need not be, under the control of a trustee, or otherwise secure or insure in any manner, its indemnification obligations, whether arising under these Bylaws or otherwise. This authority shall include, without limitation, the authority to: (i) deposit funds in trust or in escrow, (ii) establish any form of self-insurance, (iii) secure its indemnity obligation by grant of a security interest, mortgage or other lien on the assets of this Association, (iv) establish a letter of credit, guaranty or surety arrangement, or (v) purchase and maintain liability insurance, for the benefit of such persons in connection with the anticipated indemnification or advancement of expenses contemplated by this Section. The provisions of this Section shall not be deemed to preclude the indemnification of, or advancement of expenses to, any person who is not specified in paragraph (a) of this Section but for whom this Association has the power or obligation to indemnify, or to advance expenses to, under the provisions of the NCL or the DLA or otherwise. The Executive Board of this Association shall exercise the authority granted by this subparagraph (e).

#### **8.5 Amendments Affecting Provisions of this Article.**

Notwithstanding any other provisions of these Bylaws, the approval of the Members as provided by Article 11 of these Bylaws shall be required to amend, alter, change, repeal or adopt any provision or part of these Bylaws which is consistent with the purpose or intent of this Article 8. No amendment to or repeal of any of these sections shall apply to or have any effect on the liability or alleged liability of any Director or Officer for, or with respect to, any acts or omissions of such Director or Officer occurring prior to such amendment or repeal.

### **ARTICLE 9 DELEGATION OF POWERS OF BOARD AND OFFICERS**

#### **9.1 Delegation of Powers of Board.**

The powers of the Executive Board may not be delegated to other persons or agents, but shall be reserved to those individuals who have been duly elected or appointed as members of the Executive Board.

#### **9.2 Delegation of Powers of Officers.**

The day to day operating authority of the Officers, with respect to the handling of complaints, the enforcement of the provisions of the Declaration and these Bylaws, the collection of assessments and any applicable fines and penalties, contracting for the ordinary and necessary maintenance and repairs for the Community, the payment of ordinary and necessary bills, any and all property management issues, and such other powers as the Executive Board may be resolution specifically

identify, may be delegated to a managing agent to conduct the ordinary daily business of the Association.

## **ARTICLE 10 COMMUNITY MANAGEMENT**

### **10.1 Contracts.**

The Executive Board may authorize any Officer or Officers, agent or agents of the Association, in addition to the Officers so authorized by these Bylaws, to enter into any contract or execute and deliver any instrument in the name of and on behalf of the Association and such authority may be general or confined to specific instances.

### **10.2 Checks.**

All checks, drafts or other orders for the payment of money, and notes or other evidences of indebtedness issued in the name of the Association, shall be signed by such Officer or Officers, agent or agents of the Association and in such manner as shall from time to time be determined by resolution of the Executive Board. In the absence of such determination by the Executive Board, such instrument shall be signed by the Treasurer and countersigned by the President of the Association.

### **10.3 Deposits.**

All funds of the Association shall be deposited from time to time to the credit of the Association in such banks, trust companies or other depositories as the Executive Board may select.

### **10.4 Insurance.**

(a) **Insurance to be Carried by Association:** Commencing not later than the time of the first conveyance of a Unit to a person other than the Declarant, the Association shall maintain, to the extent reasonably available, all of the following:

(1) **Property insurance** on the Common Facilities and Controlled Facilities to the extent the Controlled Facilities can be insured separately from the Unit and, insuring against all common risks of direct physical loss. The total amount of insurance after application of any deductibles shall be not less than eighty percent (80%) of the actual cash value of the insured property, exclusive of land, excavations, foundations and other items normally excluded from property policies.

(2) **Comprehensive general liability insurance**, including medical payments insurance, in an amount determined by the Executive Board but not less than any amount specified in the Declaration covering all occurrences commonly insured against for death, bodily injury and property damage, arising out of or in connection with the use, ownership or maintenance of the Common Elements.

(3) **Deductibles:** Any property or comprehensive general liability insurance carried by the Association may contain a deductible provision.

(b) **Other Insurance Carried by the Association:** If the insurance described in subsection (a) is not maintained, then the Association promptly shall cause notice of that fact to be hand delivered or sent prepaid by United States mail to all Unit Owners. The Declaration may require the Association to carry any other insurance. The Association may carry any other insurance in such reasonable amounts and with such reasonable deductibles as the Executive Board may deem appropriate to protect the association or the Unit Owners.

(c) **Policy Terms:** Insurance policies carried under subsection (a) shall provide all of the following:

(1) Each Unit Owner is an insured person under the policy with respect to liability arising out of his membership in the Association.

(2) The insurer waives its right to subrogation under the policy against any Unit Owner or member of the Owner's household.

(3) No act or omission by any Unit Owner, unless acting within the scope of his authority on behalf of the Association, will void the policy or be a condition to recovery under the policy.

(4) If at the time of a loss under the policy there is no other insurance in the name of a Unit Owner covering the same risk covered by the policy, the Association's policy is primary insurance not contributing with the other insurance.

(d) **Proceeds from Property Insurance:** Any loss covered by the property policy under subsection (a)(1) shall be adjusted with the Association, but the insurance proceeds for that loss shall be payable to any insurance trustee designated for that purpose, or otherwise to the Association, and not to any mortgagee or beneficiary under a deed of trust. The insurance trustee or the Association shall hold any insurance proceeds in trust for Unit Owners and lienholders as their interest may appear. Subject to the provisions of subsection (g) below, the proceeds shall be disbursed first for the repair or restoration of the damaged Common Elements and Units, and Unit Owners and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the Common Elements and Units have been completely repaired or restored or the Community is terminated.

(e) **Unit Owner's Insurance:** A Unit Owner may insure his Unit for all losses to his Unit, including losses not covered by the insurance maintained by the Association due to a deductible provision or otherwise. A residential Unit Owner shall insure the Owner's Unit except as insurance is provided by the Association in accordance with this section or the Declaration. An insurance policy issued to the association shall not prevent a Unit Owner from obtaining insurance for the Owner's own benefit, including, but not limited to, insurance to cover any deductibles or losses not covered by the Association's property or comprehensive general liability insurance.

(f) **Evidence and Cancellation of Insurance:** An insurer that has issued an insurance policy under this section shall issue certificates or memoranda of insurance to the Association and, upon request, to any Unit Owner, mortgagee or beneficiary under a deed of trust. The insurance may not be cancelled until thirty (30) days after notice of the proposed cancellation has been mailed to the Association, each Unit Owner and each mortgagee or beneficiary under a deed of trust, to whom a certificate or memorandum of insurance has been issued.

(g) **Disposition of Insurance Proceeds:**

(1) Any portion of the Community for which insurance is required to be maintained by the Association by this section or the Declaration and which is damaged or destroyed shall be repaired or replaced promptly by the Association unless:

(i) The Community is terminated;

(ii) Repair or replacement would be illegal under any state or local health or safety statute or ordinance; or

(iii) 80% of the Unit Owners, including every Owner of a Unit or assigned Limited Common Element which will not be rebuilt, vote not to rebuild. Except for the costs of repair or replacement which are not covered due to deductibles, the cost of repair or replacement in excess of insurance proceeds and reserves, which have not been identified by the Executive Board to fund costs of capital expenditures budgeted for the current fiscal year of the Association, is a Common Expense.

(2) Any portion of the Community for which insurance is required to be maintained by the Unit Owner by this section or the Declaration and which is damaged or destroyed shall be repaired or replaced promptly by the Unit Owner unless: (i) the Community is terminated; or (ii) repair or replacement would be illegal under any state or local health or safety statute or ordinance. The cost of repair or replacement of these portions in excess of insurance proceeds is the Unit Owner's expense.

(3) If the entire Community is not repaired or replaced, the following apply:

(i) The insurance proceeds attributable to the damaged Common Elements shall be used to restore the damaged areas to a condition compatible with the remainder of the Community.

(ii) The insurance proceeds attributable to Units shall be paid to Unit Owners except those proceeds attributable to Controlled Facilities for which insurance is separately maintained by the Association under this section or the Declaration shall be distributed to all Unit Owners in proportion to their Common Expense liability. Proceeds



attributable to Limited Common Facilities which are not rebuilt shall be distributed equally to Owners of Units to which those Limited Common Facilities were assigned.

(iii) The remainder of the proceeds shall be distributed to all the Unit Owners in proportion to their Common Expense liability.

(4) Notwithstanding the provisions of this subsection, section 5220 of the Act (relating to termination of Community) governs the distribution of insurance proceeds if the Community is terminated.

(h) **Recovery of Deductibles.** If any insurance policy maintained by the Association contains a deductible, then that portion of any loss or claim which is not covered by insurance due to the application of a deductible, as well as any claim or loss for which the Association is self-insured, shall be levied by the Executive Board in accordance with section 5314(c) of the Act (relating to assessments for common expenses) to the extent applicable, or in the absence of the application, in a pro rata manner, as a Common Expense assessment against all of the Units benefited by the repair or replacement.

## **10.5 Gifts.**

The Executive Board may accept on behalf of the Association any contribution, gift, bequest or devise for the general purpose or for any special purpose of the Association.

## **10.6 Surplus Funds.**

**10.6.1 Limited Common Expenses:** Any amounts accumulated from assessments for Limited Common Expenses and income from the operation of Limited Common Elements to which those Limited Common Expenses pertain in excess of the amount required for actual Limited Common Expenses and reserves for future Limited Common Expenses shall be credited to each Unit assessed for a share of those Limited Common Expenses in proportion to the share of those Limited Common Expenses so assessed. These credits shall be applied, unless the Declaration provides otherwise, to the next monthly or annual assessments of Limited Common Expenses against that Unit under the current fiscal year's budget and thereafter until exhausted.

**10.6.2 General Common Expenses:** Any amounts accumulated from assessments for General Common Expenses and income from the operation of the Common Elements, other than Limited Common Elements with regard to which Limited Common Expenses are assessed, in excess of the amount required for actual General Common Expenses and reserves for future General Common Expenses, shall be credited to each Unit in accordance with the Unit's interests in Common Elements. These credits shall be applied, unless the Declaration provides otherwise, to the next monthly or annual assessments of General Common Expenses against the Unit under the current fiscal year's budget and thereafter until exhausted.

### **10.7 Books and Records in General.**

The Association shall keep correct and complete books and records of account and shall also keep minutes of the proceedings of its Executive Board and committees having any of the authority of the Executive Board.

### **10.8 Financial Records.**

The Association shall keep records sufficiently detailed to enable the Association to comply with section 5407 of the Act (relating to resales of Units). All financial and other records shall be made reasonably available for examination by any Unit Owner and authorized agents.

### **10.9 Annual Financial Statements.**

Within ninety (90) 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 thirty (30) days after submitting a written request to the Association, a copy of the annual financial statements and, if such financial statements are audited, reviewed or compiled by 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.

### **10.10 Filing of Complaints.**

If the Association fails to provide a copy of the annual financial statements and, if applicable, the report of an independent accountant as required to the requesting Unit Owner with thirty (30) days of the Unit Owner's written request, or if the financial records of the Association which substantiate the Association's financial statements are not made reasonably available by the Association for examination by any Unit Owner and authorized agents, then the Unit Owner may file a complaint with the Bureau of Consumer Protection in the office of the Attorney General.

### **10.11 Fiscal Year.**

The fiscal year of the Association shall begin on January 1 and end on December 31 in each year.

### **10.12 Corporate Seal.**

The Executive Board shall maintain a corporate seal that shall be in the form of a circle and shall have inscribed thereon the name of the Association.

### **10.13 Waiver.**

Whenever any notice is required to be given under the provisions of the Pennsylvania Non-Profit Corporation Law of 1988, as amended from time to time, or under the provisions of the Articles of Incorporation or the Bylaws of the Association, a waiver thereof in writing signed by the person or persons entitled to such notice, whether before or after the time stated therein, shall be deemed equivalent to the giving of such notice.

#### **10.14 Violations; Notice; Remedies.**

In the event of any violation by any Owner, guest or other invitee of any of the provisions of the Declaration, Bylaws or Rules and Regulations, then the Association may exercise any and all remedies given in the Declaration, these Bylaws or otherwise permitted by law. Upon any occurrence of any such violation, then the Association shall have the right, after notice and a reasonable opportunity to cure (thirty days unless otherwise specified by the Board) to suspend the enjoyment rights to recreational Open Spaces of any Members for any period during which any such Member's assessment remains unpaid, or any violation continues, and for any period not to exceed thirty (30) days for any infraction of its published Rules and Regulations. The Association shall give notice of defaults to any mortgagees as provided in Section 12.2 of the Declaration.

### **ARTICLE 11 AMENDMENTS TO BYLAWS**

#### **11.1 Declarant Control Period.**

During the period of Declarant Control, these Bylaws may only be altered, amended or repealed by an affirmative vote of at least fifty-one percent (51%) of the Executive Board present at any regular meeting or special meeting of the Board. During the period of Declarant Control, the Bylaws may not be amended by vote of the Members.

#### **11.2 Subsequent Periods.**

After the period of Declarant Control has ended, these Bylaws may only be altered, amended or repealed, and new Bylaws may be adopted, by the affirmative vote of at least seventy-five percent (75%) of Members present at a duly called meeting at which a quorum is present.

#### **11.3 Restrictions on Amendments.**

All proposed amendments shall be subject to the following conditions and restrictions: (i) at least ten (10) days written notice must be given to all Members of the intention to alter, amend or repeal or to adopt new Bylaws; (ii) no amendment, modification or repeal of any provision of these Bylaws shall be made which is inconsistent with the provisions of the Declaration; and (iii) the requirement of at least ten (10) days written notice to Members of the intention to so amend or repeal, as set forth above in this Article, shall not be amended so as to require any shorter period of time, or be repealed entirely.

#### **11.4 Notice to Mortgagees.**

The Association shall give to all Mortgagees who have made a prior written request to the Association:

(a) thirty (30) days' written notice prior to the effective date of any proposed, material amendment to this Declaration or the Articles of Incorporation or Bylaws of the Association, and prior to the effective date of any termination of an agreement for professional management of the Community Property following a decision of the Unit Owners to assume self-

management of the Community; and

(b) immediate notice following any damage to the Common Elements whenever the cost of reconstruction exceeds Fifty Thousand Dollars (\$50,000); or as soon as the Board learns of any threatened condemnation proceeding.

The Association may give such notice to the last known address of the Mortgagee, and shall not be required to seek out the identity or new address for the Mortgagee if the last known address is invalid.

## **ARTICLE 12 AMENDMENTS TO DECLARATION**

### **12.1 Amendment Procedure.**

The Declaration may only be amended as provided in Article 14 thereof. After any such amendment has been duly adopted, any Officer may prepare, execute, certify and record such amendments to the Declaration on behalf of the Association.

## EXHIBIT A

### RULES AND REGULATIONS REGARDING PROHIBITION OF SEX OFFENDERS

#### 1. Prohibition of Sex Offenders in Community.

Section 9.27 of the Declaration of Covenants, Conditions and Restrictions for the Community provides in part that "No Megan's Law Registrant shall be permitted to own or reside in a Unit in the Community" (the "Child Safety Provision"). For purposes of these regulations, a "Megan's Law Registrant" is a person who is registered or required to register as an offender under Pennsylvania's "Megan's Law" statute (42 Pa.C.S. §§ 9791-9796), or who is subject to a lifetime registration requirement under any other state, national or international sex offender registration program. The Declaration authorizes the Association to adopt reasonable Rules and Regulations to implement this Child Safety Provision, and the Association has adopted these Regulations, and may amend them from time to time as provided below, to implement the Child Safety Provision.

#### 2. Determination Concerning Possible Registrant.

In the event that the Association or any Owner becomes aware that any other Owner or person who resides in the Community is registered or is required to register as a Megan's Law Registrant, then the person shall be entitled to a hearing to determine whether he or she has violated the Child Safety Provision. (As used in these Regulations, "reside" means living in or possessing all or portion of a Unit for more than 7 days out of any 30 consecutive-day period.)

(a) **Notice and Request for Hearing:** Either the Association or any Owner who becomes aware that a possible Megan's Law Registrant may own or reside in a Unit in the Community may make a written request for a hearing to the Executive Board which identifies the person alleged to be a Megan's Law Registrant (the "Resident") by name and unit number, and provides evidence that either (1) a person with the same name is registered in some state, or (2) that a picture of person appearing to be the same as the Resident is registered in some state; or (3) the Resident has been convicted of a crime that would require registration; or (4) any other documentary evidence that the Resident appears to be in violation of the Child Safety Provisions. The Executive Board shall review the request and all supporting documents, and if it believes that there may be merit to the written request, it shall schedule a hearing to be held within fourteen (14) days of its receipt of the request and all supporting documents. The Executive Board shall give written notice of the hearing by hand-delivery or regular mail to the party who filed the initial request; by hand-delivery or certified mail or overnight delivery service to the Owner of Unit alleged to be in violation; and to the Resident (if different from the Owner) by hand-delivering a copy to him or her personally, or by leaving a copy with an adult resident at the Unit where the Resident owns or resides. The Executive Board shall appoint a Hearing Board, made up of at least three Board members, to determine, to the best of their ability, that the

Resident is or is not in violation of the Child Safety Provision.

(b) **Hearing and Decision:** The Hearing shall be held in private, attended only by the Heming Board, the Resident, legal counsel for each participant, and any persons who may be called to present evidence. If the Resident, having received notice, fails to attend the hearing, then the Hearing Board shall still conduct the hearing, and in any case shall hear all evidence related to the issue of whether the Resident is in violation of the Child Safety Provision, shall deliberate in private, and shall present their findings within 7 days of the hearing via a letter to the Resident. The proceedings and records of the Hearing Board shall remain confidential, although the records of the Association will show the resultant decision.

(c) **Hardship and Waiver:** After hearing the evidence presented, the Hearing Board in its discretion may determine that even though a Resident may have violated the Child Safety Provision, that the violation should be waived in the particular case where it believes the hardship of applying the rule would outweigh the safety considerations for which the rule was adopted. Each such determination is based on the considerations of the particular case, the individual involved, the nature of the crime for which registration is required, how long before it had occurred, whether the crime was one directed at children, or was one of a nature where recidivism is high. The determination to grant a waiver in any one case will have no precedential value in any other case.

### **3. Remedies for Violations.**

(a) **Voluntary Compliance by Resident.** If the Resident, having received written notice of the hearing alleging that he or she is residing the Community in violation of the Child Safety Provision, agrees in writing with the Executive Board to vacate the Unit within thirty days of receiving the notice, then the hearing shall be postponed to permit the Resident to make those arrangements. If the Resident vacates within that thirty day period, then the hearing shall be canceled, and no determination of the existence of a violation of the Child Safety Provision shall be made.

(b) **Voluntary Compliance by Owner.** If the Resident, having received written notice of the hearing alleging that he or she is an Owner of a Unit in the Community in violation of the Child Safety Provision, agrees in writing with the Executive Board to vacate the Unit within 30 days and to sell the Unit within ninety days of receiving the notice, then the hearing shall be postponed to permit the Resident to make those arrangements. If the Resident vacates within that thirty day period, and actively attempts to sell the Unit by engaging a bona fide independent real estate broker under a written listing agreement to market and sell the Unit, then the hearing shall be postponed, and no determination of the existence of a violation of the Child Safety Provision shall be made, as long as no alleged Megan's Law Registrant is residing in the Unit and the Resident is actively marketing the Unit. The Executive Board may from time to time request proof that the Resident is actively marketing the Unit, and may consult with the real estate broker to determine that such active marketing is ongoing and the Resident is fully cooperating in the effort.

(c) **Possible Violation by Tenant.** If a person other than the Owner is alleged to be the Resident in violation of the Child Safety Provision, and if the Owner agrees in writing with

the Executive Board to cause the Resident to vacate the Unit, then the hearing shall be suspended for 30 days to permit the Owner to have the Resident vacate the Unit within that time. If the Resident does not vacate the Unit within the agreed upon 30 days, then the hearing shall be rescheduled and shall proceed to a final decision as provide in Section 2 above. Upon a determination that the Resident is in violation of the Child Safety Provisions, then the Owner will immediately commence eviction proceedings within thirty days of receipt of the written decision. If the Unit Owner fails to commence the eviction proceeding within 30 days, or to diligently pursue the eviction to conclusion, then the Association may act as attorney-in-fact for the Owner and pursue the eviction action in the Owner's name and at the Owner's cost and expense. If any action seeking eviction of a such tenant does not result in a judgment of possession in favor of the Unit Owner, then the Association may, but will not be obligated to, prosecute an appeal seeking the eviction of the tenant. In the event the Association obtains a final judgment resulting in the eviction of the tenant, or the tenant vacates the Unit voluntarily after the legal action is filed, then the Unit Owner will be responsible for all fees and costs incurred by the Association in prosecuting the legal actions (including any appeals), and those amounts shall be liened and collected as assessments against the Unit and the Owner as provided in the governing documents of the Community

(d) **Involuntary Compliance Against Resident.** After hearing and a determination that the Resident is residing in the Community in violation of the Child Safety Provisions, the Resident shall vacate the Unit within ninety (90) days of date the written decision is delivered to him or her or any adult resident at the Unit. If the Resident fails to vacate the Unit within ninety days, then the Association may, in addition to all other remedies available to the Association, begin legal proceeding to have the Resident ejected from the Unit. The Association may act as attorney-in-fact for the Owner and pursue the ejection action in the Owner's name and at the Owner's cost and expense. If any action seeking ejection of a such tenant does not result in a judgment of possession in favor of the Owner, then the Association may, but will not be obligated to, prosecute an appeal seeking the eviction of the tenant. In the event the Association obtains a final judgment resulting in the ejection of the Resident, or the tenant vacates the Unit voluntarily after the legal action is filed, then the Owner will be responsible for all fees and costs incurred by the Association in prosecuting the legal actions (including any appeals), and those amounts shall be liened and collected as assessments against the Unit and the Owner as provide in the governing documents of the Community

(e) **Involuntary Compliance Against Owner.** After hearing and a determination that the Resident is an owner in the Community in violation of the Child Safety Provisions, then the Owner shall vacate the Unit within ninety days (if applicable), and shall actively begin to market with the intention of selling the Unit within ninety days of receiving the decision. If the Resident fails to vacate within that ninety day period, or fails to actively attempt to sell the Unit by engaging a bona fide independent real estate broker under a written listing agreement to market and sell the Unit, then the Association may, in addition to all other remedies available to the Association, (1) begin legal proceeding to have the Resident ejected from the Unit; and /or (2) acting through the power of attorney granted in Section 9.27 of the Declaration, actively market and sell the Unit. The Association may act as attorney-in-fact for the Owner and pursue the ejection action and the proposed sale of the Unit in Owner's name and at the Owner's cost and expense. If any action seeking ejection of the Resident does not result in a judgment of

possession in favor of the Association, then the Association may, but will not be obligated to, prosecute an appeal seeking the eviction of the Resident. In the event that the Resident asserts any legal claims to attempt to block the marketing or sale of the Unit, or the Association must bring a legal action to attempt to enforce the rights granted herein, then the Association shall be entitled to reimbursement from the Owner and from any proceeds of sale of the Unit for all fees and costs incurred by the Association in prosecuting or defending any such legal action. At the conclusion of any such legal action, the Owner shall be responsible for all fees and costs incurred by the Association in prosecuting or defending such actions, including any necessary appeals, and those amounts shall be liened and collected as assessments against the Unit and the Owner as provide in the governing documents of the Community.

**(f) Right of Purchase.** Within ninety (90) days of the date the written decision is delivered to the Resident or any adult resident at the Unit, if the Resident fails to vacate the Unit, then the Association may exercise the right to purchase the Unit at a purchase price equal to the average fair market value of two independent appraisals to be obtained by the Association, less the Association's anticipated transaction costs for buying and subsequently reselling the Unit, including, without limitation, appraisal fees, brokerage fees (of not more than seven percent (7%) of the average appraised value), recording fees and the realty transfer tax (based on the average appraised value), and other customary and incidental selling costs not in excess of one percent (1%) of the average appraisal value. The Association shall tender the terms of the offer to the Resident in writing, with copies of the appraisals, and a pro form settlement sheet showing the estimated expenses and the net amount due. If the Resident does not cooperate in closing the sale, then the Association may bring a legal action to compel the sale of the Unit on the terms outlined herein. In any such action, regardless of outcome, the Association shall be entitled to be reimbursed for all legal fees and expenses incurred in the legal action, including any appeals; and all such fees and costs shall be liened and collected as assessments against the Unit and the Owner as provide in the governing documents of the Community.

#### 4 **Non-liability of Participants.**

The implementation of the Child Safety Provision is intended as a practical measure to discourage Megan's Law Registrants from seeking to buy Units or live in the Community. The Community recognizes that the adoption of this policy cannot of itself completely prevent an offender from evading its terms, from failing to register under any applicable law, or otherwise live in the Community while evading all reasonable measures designed to prevent that occurrence. Neither the Declarant, nor the Association, nor the Township nor any Board member can guarantee that the implementation of this policy will completely prevent an offender from evading its terms; but they believe that the adoption of such a prohibition will reduce that possibility, and that they would be remiss in not doing what they are permitted to do to achieve that result. Each Owner is given a right to enforce these provisions, and each Owner has the same access to information that the Association would have, including access to online data bases for registered Megan's Law Registrants. Neither the Township, the Declarant nor the Association, nor their respective directors, officers, employees or agents, nor any Unit Owner (other than one who is an offender and has evaded this prohibition) shall be liable for any failure or alleged failure to enforce the prohibitions in this section, and each Owner, by electing to live in this Community, and intending to be legally bound by this provision, covenants that they shall not bring any such claim or suit. The Association will not be liable to any Owner or anyone



occupying or visiting the Community as the result of the Association's failure to dispossess a Megan's Law Registrant.

**5. Protection of Individual's Rights.**

The Association recognizes that Megan's law requires that the information concerning Megan's Law Registrants is not to be misused in any way. These Regulations are created to put in place a fair process for enforcing the Child Safety Provision, while giving to any involved party, including a Megan's Law Registrant, a private hearing and determination as to whether the Child Safety Provision has been violated. The Regulations are not intended to permit any personal vendetta against anyone accused of being a Megan's Law Registrant, or to permit any other resident of the Community from harassing or intimidating anyone else. ANY PERSON WHO USES ANY INFORMATION COLLECTED IN THE PROCESS OF ENFORCING THESE REGULATIONS TO THREATEN, INTIMIDATE, OR HARASS THE REGISTRANT OR THEIR FAMILY, OR WHO OTHERWISE MISUSES THIS INFORMATION, MAY BE SUBJECT TO CRIMINAL PROSECUTION OR *CNIL* LIABILITY.

**6. Amendments to Sex Offender Rules and Regulations.**

The Rules and Regulations of this section, regarding the Prohibition of Sex Offenders in the Community, may be amended by a simple majority vote of either a quorum of the Executive Board, or of a quorum of Owners at a meeting duly called for that purpose. The purpose of having a simple majority vote to amend these Rules and Regulations is that regulations in this area are a relatively new concept, and therefore the Executive Board and the Association should have the flexibility to be able amend the Rules and Regulations when necessary or desirable to reflect the changing state of the law in this area. However, it is recommended (though not required) that no amendment should be made except upon consultation with legal counsel concerning the proposed amendment.

