

Whispering Creek

BY-LAWS

DECLARATION OF COVENANTS,
CONDITIONS, AND RESTRICTIONS

SITE PLAN EXAMPLE

DESIGN
AND
CONSTRUCTION GUIDELINES

**BY-LAWS
OF
WHISPERING CREEK COMMUNITY ASSOCIATION,
INC.**

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BY-LAWS
OF
WHISPERING CREEK COMMUNITY ASSOCIATION, INC.

ARTICLE 1: NAME, PRINCIPAL OFFICE, AND DEFINITIONS

1.1. Name. The name of the corporation is Whispering Creek Community Association, Inc. (the "Association"), a Georgia nonprofit corporation.

1.2. Principal Office. The principal office of the Association shall be located in the State of Georgia. The Association may have such other offices, either within or outside the State of Georgia, as the Board of Directors may determine or as the affairs of the Association may require.

1.3. Definitions. The words used in these By-Laws shall be given their normal, commonly understood definitions. Capitalized terms shall have the same meaning as set forth in that Declaration of Covenants, Conditions, and Restrictions for Whispering Creek filed in the Public Records, as it may be amended (the "Declaration"), unless the context indicates otherwise.

ARTICLE 2: ASSOCIATION: MEMBERSHIP, MEETINGS, QUORUM, VOTING, PROXIES

2.1. Membership. The Association shall have two (2) classes of membership, Class "A" and Class "B," as more fully set forth in the Declaration, the terms of which pertaining to membership are incorporated by this reference.

2.2. Place of Meetings. Meetings of the Association shall be held at the principal office of the Association or at such other suitable place convenient to the Members as the Board may designate, either within the Properties or as convenient as is possible and practical.

2.3. Annual Meetings. The first meeting of the Association, whether a regular or special meeting, shall be held within one (1) year from the date of incorporation of the Association. Meetings shall be of the Members. Subsequent meetings shall be held annually on a date and at a time set by the Board.

2.4. Special Meetings. The president may call special meetings. In addition, it shall be the duty of the president to call a special meeting within thirty (30) days if so directed by resolution of the Board or upon a petition signed by Members representing at least twenty percent (20%) of the total Class "A" votes in the Association or upon written request of the Declarant.

2.5. Notice of Meetings. Written notice stating the place, day, and time of any meeting of the Members shall be delivered to each Member not less than ten (10) nor more than thirty (30) days before the date of such meeting, by or at the direction of the president or the secretary or the officers or persons calling the meeting. If mailed, the notice of meeting shall be deemed delivered when deposited in the United States mail, addressed to the Member at the address appearing on the records of the Association.

In the case of a special meeting or when otherwise required by statute or these By-Laws, the purpose or purposes for which the meeting is called shall be stated in the notice. No business shall be transacted at a special meeting except as stated in the notice.

2.6. Waiver of Notice. Waiver of notice of a meeting of the Members shall be deemed the equivalent of proper notice. Any Member may, in writing, waive notice of any meeting of the Members, either before or after such meeting. Attendance at a meeting by a Member shall be deemed a waiver by such Member of any objection as to notice of the time, date, and place thereof, unless such Member specifically objects to lack of proper notice at the time the meeting is called to order. Attendance at a special meeting also shall be deemed a waiver of notice of all business transacted at such meeting unless an objection on the basis of lack of proper notice is raised before the business is put to a vote.

2.7. Adjournment of Meetings. If any meeting of the Association cannot be held because a quorum is not present, Members representing a Majority of the votes represented at such meeting may adjourn the meeting to a time not less than five (5) nor more than thirty (30) days from the time the original meeting was called. At the reconvened meeting, if a quorum is present, any business may be transacted which might have been transacted at the meeting originally called. If a time and place for reconvening the meeting is not set by those in attendance at the original meeting or if for any reason a new date is set for reconvening the meeting after adjournment, notice of the time and place for reconvening the meeting shall be given to Members in the manner prescribed for regular meetings.

2.8. Voting. The voting rights of the Members shall be as set forth in the Declaration and in these By-Laws, and such voting rights provisions are specifically incorporated by this reference. The Board may adopt policies and procedures regarding the methods of casting votes, such as written ballots, secret ballots or computer access.

2.9. List for Voting. After setting a record date for notice of a meeting, the Board shall prepare an alphabetical list of the names of the Members. The list shall show the address of the Member and the number of votes each is entitled to vote at the meeting. The list for voting shall be made available for inspection in accordance with Georgia law.

2.10. Proxies. Any Member who is entitled to cast only the vote(s) for such Member's Unit(s) pursuant to the Declaration may cast such vote in person or by proxy. Such vote may be cast in person (if a corporation, partnership, limited liability company, or trust, through any officer, director, partner, member, manager or fiduciary duly authorized to act on behalf of the Member) or by proxy, subject to the limitations of Georgia law relating to use of general proxies and subject to any specific provision to the contrary in the Declaration or these By-Laws. Every proxy shall be in writing specifying the Unit(s) for which it is given, signed by the Member or such Member's duly authorized attorney-in-fact, dated, and filed with the secretary of the Association prior to the meeting for which it is to be effective. Unless otherwise specifically provided in the proxy, a proxy shall be presumed to cover all votes which the Member giving such proxy is entitled to cast, and in the event of any conflict between two (2) or more proxies purporting to cover the same voting rights, the later dated proxy shall prevail, or if dated as of the same date, both shall be deemed invalid. Every proxy shall be revocable and shall automatically cease upon conveyance of any Unit for which it was given; upon receipt of notice by the secretary of the death or judicially declared incompetence of a Member who is a natural person: upon written revocation; or eleven (11) months from the date of the proxy, unless a shorter period is specified in the proxy.

2.11. Quorum. The presence of twenty percent (20%) of the Class "A" votes entitled to be cast shall constitute a quorum at all meetings of the Association.

The Members present at a duly called or held meeting at which a quorum is present may continue to do business until adjournment, notwithstanding the withdrawal of enough Members to leave less than

a quorum, provided that any action taken is approved by at least a Majority of the votes required to constitute a quorum.

2.12. Conduct of Meetings. The president shall preside over all meetings of the Association, and the secretary shall keep the minutes of the meetings and record in a minute book all resolutions adopted and all other transactions occurring at such meetings.

2.13. Action Without a Meeting. Any action required or permitted by law to be taken at a meeting of the Members may be taken without a meeting, without prior notice and without a vote if written consent specifically authorizing the proposed action is signed by all Members entitled to vote on such matter. Such consents shall be signed within sixty (60) days after receipt of the earliest dated consent, dated and delivered to the Association at its principal place of business in the State of Georgia. Such consents shall be filed with the minutes of the Association and shall have the same force and effect as a vote of the Members at a meeting. Within ten (10) days after receiving authorization for any action by written consent, the secretary shall give written notice to all Members summarizing the material features of the authorized action.

ARTICLE 3: BOARD OF DIRECTORS: NUMBER, POWERS, MEETINGS A.

Composition and Selection.

3.1. Governing Body: Composition. The affairs of the Association shall be governed by a Board of Directors. Each director shall have one (1) equal vote. Except with respect to directors appointed by the Class "B" Member or serving as a representative of the Declarant, the directors shall be eligible Members or residents; provided however, no Owner and resident representing the same Unit may serve on the Board at the same time. No Owner or resident shall be eligible to serve as a director if any assessment for such Owner's or resident's Unit is delinquent. A "resident" shall be any natural person eighteen (18) years of age or older whose principal place of residence is a Unit within the Properties. In the case of a Member which is not a natural person, any officer, director, partner, member, manager, employee, or fiduciary of such Member shall be eligible to serve as a director unless otherwise specified by written notice to the Association signed by such Member, provided that no Member may have more than one (1) such representative on the Board at a time, except in the case of directors appointed by or serving as a representative of the Class "B" Member or the Declarant.

3.2. Number of Directors. The Board shall consist of two (2) directors, as provided in Sections 3.3 and 3.5 below. The initial Board shall be appointed by the Class "B" Member as provided in Section 3.3.

3.3. Directors During Class "B" Control Period. Subject to the provisions of Section 3.5. the directors shall be selected by the Class "B" Member acting in its sole discretion and shall serve at the pleasure of the Class "B" Member during the Class "B" Control Period. Directors appointed by or serving as a representative of the Class "B" Member or the Declarant shall not be subject to the qualifications for directors set forth in Section 3.1.

3.4. Nomination and Election Procedures.

(a) Nomination of Directors. The Board may establish a nominating committee consisting of a chairperson, who shall be a member of the Board, and three (3) or more Members or representatives of Members. If established, the nominating committee shall be appointed by the Board not less than thirty

(30) days prior to each election to serve a term of one (1) year or until their successors are appointed, and such appointment shall be announced at each such election. A nominating committee shall make as many nominations for election to the Board as it shall in its discretion determine, but in no event less than the number of positions to be filled as provided in Section 3.5 below. The nominating committee shall nominate separate slates for the directors, if any, to be elected at large by all Members. In making its nominations, a nominating committee shall use reasonable efforts to nominate candidates representing the diversity which exists within the pool of potential candidates.

Nominations shall also be permitted from the floor at a meeting of the Members. All candidates shall have a reasonable opportunity to communicate their qualifications to the Members and to solicit votes. Directors appointed by or serving as a representative of the Class "B" Member or the Declarant shall not be subject to these nomination requirements.

(b) Election Procedures. Each member entitled to vote shall cast one (1) vote for each Director position up for election. There shall be no cumulative voting. The number of candidates equal to the number of positions to be filled receiving the greatest number of votes shall be elected. Directors may be elected to serve any number of consecutive terms.

3.5. Election and Term of Office. Notwithstanding any other provision of these By-Laws:

(a) Within ninety (90) days after Class "A" Members, other than Builders, own seventy-five percent (75%) of the Units permitted by the Master Plan for the property described in Exhibits "A" and "B" of the Declaration and certificates of occupancy have been issued thereon, or whenever the Class "B" Member earlier determines, the number of the Board of Directors shall be increased to three (3). The Association shall hold an election at which the Members shall be entitled to elect one (1) of the three (3) directors, who shall be an at-large director and shall serve a term of two (2). The remaining two (2) directors shall be appointees of the Class "B" Member.

(b) Not later than the first annual meeting after the termination of the Class "B" Control Period, the Association shall hold an election at which the Members shall be entitled to elect the remaining two (2) of the three (3) directors.

(c) All directors elected by the Members shall be elected for terms of two (2) years. The directors shall hold office until their respective successors have been elected.

3.6. Removal of Directors and Vacancies. Any director elected by the Members may be removed, with or without cause, by Members representing a majority of the votes. Any director whose removal is sought shall be given notice prior to any meeting called for that purpose. Upon removal of a director, a successor shall be elected by the Members to fill the vacancy for the remainder of the term of such director.

Any director elected by the Members who has three (3) or more consecutive unexcused absences from Board meetings, or who is more than thirty (30) days delinquent (or is the resident of a Unit that is delinquent or is an officer, director, partner, member, employee, or trust officer of a Member who is delinquent) in the payment of any assessment or other charge due the Association, may be removed by a Majority of the directors, and the Board may appoint a successor to fill the vacancy until the next annual meeting, at which time the Members may elect a successor for the remainder of the term.