

**By-Laws of  
Kingsgate Highlands, Division Number Five  
Homes Association**

Article I (\*)  
**Name and Location**

The name of the corporation is KINGSGATE HIGHLANDS, DIVISION NUMBER FIVE, HOMES ASSOCIATION, hereinafter referred to as the "Association". The principle place of the corporation shall be located at 14241 – 128th Ave. NE, Kirkland, WA 98034, but meetings of members and trustees may be held at such places within the State of Washington as may be designated by the Board of Trustees. The current mailing address shall be conveyed to homeowners through billings, periodic mailings, and other correspondence sent directly from the Board of Trustees.

Article II  
**Definitions**

- Section 1. "Association" shall mean and refer to KINGSGATE HIGHLANDS, DIVISION NUMBER FIVE, HOMES ASSOCIATION, its successors and assigns.
- Section 2. "Properties" shall mean and refer to the real property described in the Articles of Incorporation and such additions thereto as may hereafter be brought within the jurisdiction of the Association.
- Section 3. "Common Area" shall mean Tract E of Kingsgate Highlands, Division Number Five, per plat of record in King County, Washington.
- Section 4. "Lot" shall mean and refer to any plot of land shown upon any recorded subdivision maps of the Properties with the exception of said Tract E.
- Section 5. "Member" shall mean and refer to every person or entity who holds a membership in the Association.
- Section 6. "Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance on an obligation.
- Section 7. "Declarant" shall mean and refer to Kingsgate Highlands, Division Number Five, Homes Association, its successors and assigns.
- Section 8. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the office of the Auditor of King County, Washington.

Article III  
**Membership**

- Section 1. *Membership.* Every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the Association, including contract sellers, shall be a member of the Association. The foregoing is not intended to include persons or entities who hold an interest merely as security for the performance of an obligation. Membership shall be appurtenant to and may not be separated from ownership of any Lot which is subject to assessment by the Association. Ownership of such Lot shall be the sole qualification for membership.
- Section 2. *Suspension of Membership.* During any period in which a member shall be in default in the payment of any annual or special assessment levied by the Association, the voting rights and right to use of the recreational facilities of such member may be suspended by the Board of Trustees until such assessment has been paid. Such rights of a member may also be suspended, after notice and hearing, for a period not to exceed 180 days, for any and or each violation of any rules and regulations established by the Board of Trustees governing the use of the Common Area and facilities.

Article IV  
**Property Rights: Rights of Enjoyment**

Section 1. Each member shall be entitled to the use and enjoyment of the Common Area and facilities as provided in the Declaration. Any member may delegate his rights of enjoyment of the Common Area and facilities to the members of his family, his tenants or contract purchasers, who reside on the property. Such member shall notify the Secretary in writing of the name of any such delegee. The rights and privileges of such delegee are subject to suspension to the same extent as those of the member.

Section 2. Irrespective of the fact that Section 1 (b) of Article V of the Declaration gives the Association the right to charge reasonable admission and other fees for the use of any recreational facilities situated upon the Common Area, this right shall not be exercised as to members for a period of five years from the date of the recordation of the Declaration, and after this period, only upon written approval of two-thirds (2/3) of the entire Class A membership.

Article V  
**Board of Trustees: Selection: Term of Office**

Section 1. *Number.* The affairs of this Association shall be managed by a Board of nine trustees, who need not be members of the Association.

Section 2. *Election.* At the first annual meeting the members shall elect three trustees for a term of one year, three trustees for a term of two years and three trustees for a term of three years; and at each annual meeting thereafter the members shall elect three trustees for a term of three years. The term of a trustee shall continue until his successor shall have been elected and qualified.

Section 3. *Removal.* Any trustee may be removed from the Board, with or without cause, by a majority vote of the members of the Association. In the event of death, resignation or removal of a trustee, his successor shall be selected by the remaining members of the Board and shall serve for the unexpired term of his predecessor.

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

Section 5. *Action Taken Without a Meeting.* The trustees shall have the right to take any action in the absence of a meeting which they could take at a meeting by obtaining the written approval of all the trustees. Any action so approved shall have the same effect as though taken at a meeting of the trustees.

Article VI  
**Meetings of Trustees**

Section 1. *Regular Meetings.* Regular meetings of the Board of Trustees shall be held monthly without notice at such place and hour as may be fixed from time to time by resolution of the Board. Should said meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.

Section 2. *Special Meetings.* Special meetings of the Board of Trustees shall be held when called by the president of the Association or by any two trustees, after not less than three days notice to each trustee.

Section 3. *Quorum.* A majority of the number of trustees shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the trustees present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Article VII  
**Nomination and Election of Trustees**

Section 1. *Nomination.* Nomination for election to the Board of Trustees shall be made by a Nominating Committee. Nominations may also be made from the floor at the annual meeting. The Nominating

Committee shall consist of a Chairman, who shall be a member of the Board of Trustees, and two or more members of the Association. The Nominating Committee shall be appointed by the Board of Trustees prior to each annual meeting of the members to serve from the close of such annual meeting until the close of the next annual meeting. The Nominating Committee shall make as many nominations for election to the Board of Trustees as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Such nominations may be made from among members or non-members.

Section 2. *Election.* Election to the Board of Trustees shall be by secret written ballot. At such election the members or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. There shall be only one vote for each Lot held in a Class A membership. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.

## Article VIII Powers and Duties of the Board of Trustees

Section 1. *Powers.* The Board of Trustees shall have the power to:

- (a) adopt and publish rules and regulations governing the use of the Common Area and facilities and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;
- (c) declare the office of a member of the Board of Trustees to be vacant in the event such member shall be absent from three consecutive regular meetings of the Board of Trustees; and
- (d) employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties.

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

- (a) cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to its members at the annual meeting of the members or at any special meeting when such statement is requested in writing by one-fourth (1/4) of the Class A members who are entitled to vote;
- (b) supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;
- (c) as more fully provided herein, and in the Declaration, to:
  - (1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period as hereinafter provided in Article XII, and
  - (2) send written notice of each assessment to every owner subject thereto at least thirty (30) days in advance of each annual assessment period;
- (d) issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;
- (e) procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (f) cause all officers or employees having fiscal responsibilities to be bonded as it may deem appropriate; and

(g) cause the Common Area to be maintained.

## Article IX (\*\*\*) Committees

Section 1. The Board of Trustees shall appoint an *Architectural Control Committee* (or *Restrictions Committee*) as provided in the Declaration, and a *Nominating Committee* as provided in these By-Laws. In addition, the Board of Trustees may appoint other committees as deemed appropriate in carrying out its purposes, such as:

(a) A *Recreation Committee* which shall advise the Board of Trustees on all matters pertaining to the recreational program and activities of the Association and shall perform such other functions as the Board, in its discretion, determines;

(b) A *Maintenance Committee* which shall advise the Board of Trustees on all matters pertaining to the maintenance, repair or improvement of the Properties, and shall perform such other functions as the Board in its discretion determines;

(c) A *Publicity Committee* which shall inform the members of all activities and functions of the Association, and shall, after consulting with the Board of Trustees, make such public releases and announcements as are in the best interests of the Association; and

(d) An *Audit Committee* which shall supervise the annual audit of the Association's books and approve the annual budget and statement of income and expenditures to be presented to the membership at its regular annual meeting as provided in Article XI, Section 8(d). The Treasurer shall be an ex officio member of the committee.

(e) A *Kingsgate Gators Swim Team Committee* which shall manage the swim team and advise the Board of Trustees on all matters pertaining to the swim team program and shall perform such other functions as the Board, in its discretion, determines. It shall present an annual report to the membership at its regular annual meeting as provided in Article XI, Section 8(d). The Treasurer shall be an ex officio member of the committee.

Section 2. It shall be the duty of each committee to receive complaints from members on any matter involving Association functions, duties, and activities within its field of responsibility. It shall dispose of such complaints as it deems appropriate or refer them to such other committee, trustee or officer of the Association as is further concerned with the matter presented.

## Article X (\*\*) Meetings of Members

Section 1. *Annual Meetings.* The first annual meeting of the members shall be held within one year from the date of incorporation of the Association, and each subsequent regular annual meeting of the members shall be held on the same day of the same month of each year thereafter, at the hour of 7:00 o'clock, P.M. If the day for the annual meeting of the members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday.

Section 2. *Special Meetings.* Special meetings of the members may be called at any time by the president or by the Board of Trustees, or upon written request of the members who are entitled to vote one-fourth (1/4) of all of the votes of the entire membership or who are entitled to vote one-fourth (1/4) of the votes of the Class A membership.

Section 3. *Notice of Meetings.* Written notice of each meeting of the members shall be given by or at the direction of the secretary or person authorized to call the meeting, by mailing a copy of such notice, postage prepaid, at least 15 days before such meeting to each member entitled to vote thereat, addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special meeting, the purpose of the meeting.

Section 4. *Quorum.* The presence at the meeting of members entitled to cast or of proxies entitled to cast one tenth (1/10) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these By-Laws. If, however, such quorum shall not be present or represented at any meeting, the members entitled to vote thereat shall have power to adjourn the meeting from time to time, without notice other than announcement at the meeting, until a quorum as aforesaid shall be present or represented.

Section 5. *Proxies.* At all meetings of members, each member may vote in person or by proxy. All proxies shall be in writing, and filed with the secretary. Every proxy shall be revocable and shall automatically cease upon conveyance by the member of his Lot. All proxies must state the specific purpose for the proxy i.e. dissolution, election of officers, motions, proposals, etc. No individual can cast more than ten proxies.

## Article XI Officers and Their Duties

Section 1. *Enumeration of Officers.* The officers of this Association shall be a president and vice-president, who shall at all times be members of the Board of Trustees, a secretary and a treasurer, and such other officers as the Board may from time to time by resolution create.

Section 2. *Election of Officers.* The election of officers shall take place at the first meeting of the Board of Trustees following each annual meeting of the members.

Section 3. *Term.* The officers of this Association shall be elected annually by the Board and each shall hold office for one year and until their successors respectively are elected and qualified, unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4. *Special Appointments.* The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5. *Resignation and Removal.* Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time by giving written notice to the Board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. *Vacancies.* A vacancy in any office may be filled in the manner prescribed for regular election. The officer elected to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. *Multiple Offices.* The offices of secretary and treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. *Duties.* The duties of the officers are as follows:

### President

(a) The president shall preside at all meetings of the Board of Trustees; shall see that orders and resolutions of the Board are carried out; shall sign all leases, mortgages, deeds and other written instruments and shall co-sign all checks and promissory notes.

### Vice-President

(b) The vice-president shall act in the place and stead of the president in the event of his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

### Secretary

(c) The secretary shall record the votes and keep the minutes of all meetings and proceedings of the Board and of the members; keep the corporate seal of the Association and affix it on all papers requiring said seal; serve notice of meetings of the Board and of the members; keep appropriate current records showing the members of the Association together with their addresses, and shall perform such other duties as required by the Board.

### Treasurer

(d) The treasurer shall receive and deposit in appropriate bank accounts all monies of the Association and shall disburse such funds as directed by resolution of the Board of Trustees; shall sign all checks and promissory notes of the Association; keep proper books of account; cause an annual audit of the Association books to be made by a public accountant at the completion of each fiscal year; and shall prepare an annual budget and a statement of income and expenditures to be presented to the membership at its regular annual meeting, and deliver a copy of each to the members.

## Article XII Assessments

Section 1. *Creation of the Lien and Personal Obligation of Assessments.* By the Declaration each member is deemed to covenant and agree to pay to the Association: (1) annual assessments or charges, and (2) special assessments for capital improvements. The annual and special assessments, together with such interest thereon and costs of collection thereof, as hereinafter provided, shall be a charge on the land and shall be a continuing lien upon the property against which each such assessment is made. Each such assessment, together with such interest, costs and reasonable attorney's fees shall also be the personal obligation of the person who was the Owner of such property at the time when the assessment fell due and shall not pass to his successors in title unless expressly assumed by them.

Section 2. *Purpose of Assessments.* The assessments levied by the Association shall be used exclusively for the purpose of promoting the recreation, health, safety, and welfare of the residents in the Properties and in particular for the improvement and maintenance of the Properties, services and facilities devoted to this purpose and related to the use and enjoyment of the Common Area, and of the homes situated upon the Properties.

Section 3. *Basis and Maximum of Annual Assessments.* Until January 1 of the calendar year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment on all lots conveyed by Declarant to purchasers shall be Eighty-four Dollars (\$84.00) per Lot. The maximum annual assessment on all lots owned by Declarant shall be Twelve Dollars (\$12.00) per Lot.

(a) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment may be increased effective January 1 of each year without a vote of the membership in conformance with the rise, if any, of the Consumer Price Index (published by the Department of Labor, Washington D.C.) for the preceding month of July.

(b) From and after January 1 of the year immediately following the conveyance of the first Lot to an owner, the maximum annual assessment may be increased above that established by the Consumer Price Index formula by a vote of the members for the next succeeding two years, and at the end of each such period of two years, for each succeeding period of two years, provided that any such change shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy, at a meeting duly called for this purpose, written notice of which shall be sent to all members not less than thirty days nor more than sixty days in advance of the meeting setting forth the purpose of the meeting. The limitations hereof shall not apply to any change in the maximum and basis of the assessments undertaken as an incident to a merger or consolidation in which the Association is authorized to participate under its Articles of Incorporation.

(c) After consideration of current maintenance costs and future needs of the Association, the Board of Trustees may fix the annual assessment at an amount not in excess of the maximum.

Section 4. *Special Assessments for Capital Improvements.* In addition to the annual assessments authorized above, the Association may levy in any assessment year, a special assessment applicable to that year

only, for the purpose of defraying, in whole or in part, the cost of any construction or reconstruction, unexpected repair or replacement of a described capital improvement upon the Common Area, including the necessary fixtures and personal property related thereof, provided that any such assessment shall have the assent of two-thirds (2/3) of the votes of each class of members who are voting in person or by proxy at a meeting duly called for such purpose, written notice of which shall be sent to all members not less than thirty days nor more than sixty days in advance of the meeting setting forth the purpose of the meeting.

Section 5. *Uniform Rates.* Both annual and special assessments must be fixed at a uniform rate for all Lots and may be collected on a monthly basis, except as provided in Section 3 above for lots owned by or in which Declarant has an interest.

Section 6. *Quorum for any Action Authorized Under Sections 3 and 5.* At the first meeting called, as provided in sections 3 and 5 hereof, the presence at the meeting of members or of proxies entitled to cast sixty per cent of all the votes of both classes of membership shall constitute a quorum. If the required quorum is not forthcoming at any meeting, another meeting may be called, subject to the notice requirement set forth in sections 3 and 5, and the required quorum at any such subsequent meeting shall be one-half of the required quorum at the preceding meeting. No such subsequent meeting shall be held more than sixty days following the preceding meeting.

Section 7. *Date of Commencement of Annual Assessments: Due Dates.* The annual assessment provided for herein shall commence as to all Lots, subject to assessment, on the first day of the month following the conveyance of the Common Area. The first annual assessment shall be adjusted according to the number of months remaining in the calendar year. The Board of Trustees shall fix the amount of the annual assessment against each Lot at least thirty days in advance of each annual assessment period. Written notice of the annual assessment shall be sent to every Owner subject thereto. The due dates shall be established by the Board of Trustees. The Association shall upon demand at any time furnish a certificate in writing, signed by an officer of the Association, setting forth whether the assessments on a specified Lot have been paid. A reasonable charge may be made by the Board for the issuance of these certificates. Such certificate shall be conclusive evidence of payment of any assessment therein stated to have been paid.

Section 8. *Effect of Non-Payment of Assessments: Remedies of the Association.* Any assessments which are not paid when due shall be delinquent. If the assessment is not paid within thirty days after the due date, the assessment shall bear interest from the date of delinquency at the rate of ten per cent per annum, and the Association may bring an action at law against the Owner personally obligated to pay the same or foreclose the lien against the property, and interest, costs, and reasonable attorney's fees of any such action shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by nonuse of the Common Area or abandonment of his Lot.

Section 9. *Subordination of the Lien to Mortgages.* The lien of the assessments provided for herein shall be subordinate to the lien of any mortgage or mortgages or deeds of trust. Sale or transfer of any Lot shall not affect the assessment lien. However, the sale or transfer of any Lot which is subject to any mortgage or deed of trust, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien of such assessments as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any assessment as to payments thereafter becoming due or from the lien thereof.

Section 10. *Exempt Property.* The following property subject to the Declaration shall be exempt from the assessment created therein:

(a) all properties dedicated to and accepted by a local public authority,

(b) the Common Area, and

(c) all properties owned by a charitable or nonprofit organization exempt from taxation by the laws of the State of Washington.

## Article XIII (\*) Enforcement

Section 1. *Authority.* Article VIII, Section 1 of these Bylaws and Article XII, Section 4 of the Declaration grant the Association the authority to enforce the restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration. RCW § 64.38.020(14) authorizes the Association, through the Board of Trustees, to exercise those powers necessary and proper for the governance and operation of the association.

Section 2. *Purpose.* The Association has identified certain restrictions set forth in the Declaration that should not be enforced and has determined that other restrictions may be waived or varied in certain cases. The purpose of this Article is to specify those restrictions set forth in the Declaration that the Association will no longer enforce and to set forth the procedures under which variances will be considered with respect to other restrictions.

Section 3. *Election.* The Association will not enforce the following restrictions:

(a) *Vehicles.* The keeping or storing of vehicles (as that term is commonly understood) on a Lot (Article X, Section 4), PROVIDED THAT such vehicles meet all of the following conditions:

- (1) is properly licensed; and
- (2) is in good operating condition; and
- (3) is not dismantled; and
- (4) is parked in accordance with all public laws and ordinances; and
- (5) if it is a passenger car, van, minivan, pickup or light truck, sport utility vehicle, or motorcycle, is parked in the paved driveway, shall not exceed 22 feet in length and 8 feet in height, and at no time may more than four vehicles of any type be parked in a driveway; or
- (6) if it is a recreational vehicle, motor home, or camper, is parked behind a 6 foot fence, shall not exceed 40 feet in length and 12 feet in height, all adjacent neighbors have been consulted and have expressed no objection to the parking of such vehicle, and no more than 1 such vehicle may be parked on a Lot at any one time; or
- (7) if it is a boat-on-trailer, is parked in an enclosed area of a side or rear yard, is parked behind a 6 foot fence, shall not exceed 30 combined feet in length and 12 combined feet in height, all adjacent neighbors have been consulted and have expressed no objection to the parking of such vehicle, and no more than 1 such vehicle may be parked on a Lot at any one time.

(b) *Signs.* The Board of Trustees shall not enforce the restriction contained within Article X, Section 11, of the Declaration, which prohibits the erection or maintenance of any sign on any lot except for bona fide FOR SALE or FOR RENT signs, PROVIDED THAT such signs meet all of the following conditions:

- (1) the sign advocates the election of a candidate for public office, or advocates or opposes the adoption of any initiative, levy, or other measure appearing on a public election ballot, PROVIDED THAT said sign:
  - (i) is posted no more than 60 days prior to the election it is intended to influence; and
  - (ii) is removed no more than 10 days after the election it was intended to influence; and
  - (iii) is no more than 6 square feet in size; or

(2) the sign advertises a garage sale, yard sale, or similar infrequent, non-commercial event to be held at the residence at which the sign is displayed, PROVIDED THAT said sign:

- (i) is posted no more than 3 days prior to the beginning of such sale; and
- (ii) is removed no later than 10:00 p.m. of the last day of such sale; and
- (iii) is no more than 6 square feet in size; and
- (iv) is posted at a residence which has had no more than two (2) such sales within the preceding twelve (12) months; and
- (v) advertises a sale which is no more than three consecutive days in duration.

(3) the sign indicates the presence of a security system, PROVIDED THAT said sign shall not exceed 12 inches in width and 12 inches in height.

(c) *Occupation.* The Board of Trustees shall not enforce the restriction contained within Article X, Section 4, of the Declaration, which prohibits the conducting or carrying on of any trade, craft, business, profession, commercial or manufacturing enterprise, or business or commercial activity of any kind upon any residential lot or within any building located in this subdivision, when such trade, craft, business, profession, enterprise, or activity (hereinafter known as "occupation") which would otherwise be in violation of the restriction meets all of the following conditions:

- (1) the occupation is operated in accordance with section 21.08.030 (L) of the Code of King County; and
- (2) the occupation is properly licensed by King County and all other applicable government agencies; and
- (3) to the extent required by the Code of King County, necessary zoning variances are obtained and maintained; and
- (4) the occupation involves only persons who reside in the residence, and no non-resident employees come to the residence; and
- (5) the occupation does not involve selling or promoting any items to persons who come to the residence; and
- (6) the occupation does not involve group instruction or group assembly of people in the residence or on the residential lot; and
- (7) the occupation is conducted entirely within the enclosed living area of the residence; and
- (8) any products, materials, or machinery used in the occupation, and the business activities of occupation itself, are not visible to casual observers outside the residence; and
- (9) the occupation does not increase the number of vehicles which drive on subdivision streets or park either on the street or off the street; and,
- (10) the occupation does not require delivery or pickup of materials using vehicles larger than a passenger car, van, minivan, or pickup truck; and,
- (11) the equipment used in the occupation is of the kind normally used in private homes, is not special commercial equipment or large power tools, nor requires special power sources; and,
- (12) no signs are posted on the lot to advertise the presence of the occupation; and,
- (13) no more than twenty per-cent (20%) of the interior heated square footage of the residence is used for the occupation; and,

(14) the occupation does not generate noise, vibrations, smoke, dust, odors, heat, light, or other annoyances or disturbances beyond what is normally and customarily found in a residential area; and,

(15) no more than one vehicle used in the business is parked at the residence, and such vehicle is subject to Section 3(a) above; and

(16) the occupation does not involve the breeding of animals of any kind; and,

(17) if the occupation involves child or senior day care, it is operated in accordance with section 21.08.030 (K) of the Code of King County.

Section 4. *Variances.* Upon application to the Board of Trustees and upon good cause shown, the Board may grant variances, either temporary or permanent, with respect to any restriction set forth in the Declaration or these Bylaws.

Section 5. *Variance Application.* Any Member or Owner wishing to apply for a variance from any restriction set forth in the Declaration or these Bylaws shall make application for said variance either:

- (a) in writing sent to the Board by U.S. mail to its designated mailing address; or
- (b) presented in person to the Board at its next regularly scheduled meeting.

Section 6. *Notice of Variance Application.* Upon receipt of said application, the Secretary shall mail a Notice of Variance Application to the applicant Owner and the Owners of those Lots of which all or a part are within 300 feet of any part of the Lot with respect to which the variance has been requested (the "Affected Owners"). Said Notice shall be mailed to the applicant and Affected Owners no less than ten (10) days prior to the date of the meeting of the Board at which the variance application will be considered. The Notice of Variance Application shall include the following information:

- (a) A copy of this Article;
- (b) The name of the applicant Owner and the address of the Lot with respect to which the variance has been requested;
- (c) The specific nature of the requested variance, including the restriction with respect to which the variance has been requested;
- (d) The date, time and location of the meeting of the Board of Trustees at which the variance application will be considered;
- (e) The address, as set forth in Section 5 of this Article, to which written comments may be sent and the date by which such comments must be received; and
- (f) Notice of the applicant Owner's right to attend and be heard at the meeting at which the requested variance will be considered and the Affected Owners' right to attend the meeting.

Section 7. *Hearing.* The agenda for each regular meeting of the Board of Trustees shall include an item for consideration of variance applications either postponed from a prior meeting or set for consideration at that meeting in Notices mailed at least ten (10) days prior to the date of the meeting. If, for good cause shown in writing to the Board, mailed and addressed as set forth in Section 5 of this Article, an applicant Owner establishes that he or she is unable to attend the meeting, the Board shall postpone consideration of the variance application to the next regularly scheduled meeting. If, for any reason, the applicant Owner fails to contact the Board prior to the meeting or fails to attend the meeting, the Board may, in its discretion, postpone consideration of the variance application to the next regularly scheduled meeting. If the Board postpones consideration of a variance application, it shall notify the applicant Owner and any Affected Owners by any means reasonably calculated to afford them notice of same. A designated representative may contact the Board and/or attend the meeting in the applicant Owner's place. At the meeting, the Board shall first consider the request as may be presented by the applicant Owner or a designated representative. The Board will, in its discretion, next hear from the Affected Owners in attendance and then from any other Owners wishing to be heard. The Board also

may consider and shall read into the record any written comments that have been received. The Board also may consider any personal observations that any Trustee may have made with respect to the requested variance. The applicant Owner shall then have a final opportunity to address the Board. The hearing, once begun, may be continued to the next regularly scheduled meeting of the Board as may be required for the gathering of additional information, or for any other purpose, at the discretion of the President.

Section 8. *Findings and Notice.* The Board, by a majority vote of those present and voting, may either grant the requested variance, deny the requested variance or grant a revised variance within the scope of that requested by the Owner. Notice of the Board's decision shall be mailed within ten (10) days of the meeting to the applicant Owner and the Affected Owners.

Section 9. *Architectural Control Committee.* Variance requests that have been conferred to the jurisdiction of the Architectural Control Committee (or Restrictions Committee) under either the Declaration or these Bylaws shall, if approved or revised by the Architectural Control Committee, be forwarded to the Board for its consideration under the procedures set forth in this Article.

Section 10. *Renewed Request.* An applicant Owner whose requested variance has either been denied or revised by the Board may not apply for the same variance for a period of twelve (12) months from the date of the original application.

Section 11. *Records.* The Association shall keep as part of the normal business records of the Association a separate record of each requested variance, regardless of whether the variance was granted, denied or revised.

## Article XIV (\*)

### Fines

Section 1. *Authority.* Article VIII, Section 1 of these Bylaws and Article XII, Section 4 of the Declaration grant the Association the authority to enforce the restrictions, conditions, covenants, reservations, liens and charges now or hereafter imposed by the provisions of the Declaration. RCW § 64.38.020(11) authorizes the Association, through the Board of Trustees, to levy fines against Owners for violations of the restrictions, conditions, covenants and reservations set forth in the Declaration.

Section 2. *Purpose.* The purpose of this Article is to set forth those restrictions, conditions, covenants and reservations to which this Article shall apply, to establish a schedule of fines to be levied for violations of those restrictions, conditions, covenants and reservations and to establish procedures for the consideration of alleged violations and the levying and collection of fines.

Section 3. *Applicability.* This Article shall apply to violations of those restrictions, conditions, covenants and reservations set forth in Article VIII, Article X and Article XI of the Declaration (the "Regulations") as may be committed by any Owner, any Member, any family member or guest of any Owner or Member, or any resident or tenant of any Lot. Fines to be levied under this Section shall be levied against the Owner of the Lot where the violation occurs.

Section 4. *Notice of Alleged Violation.* An alleged violation of the Regulations may be reported to the Board of Trustees by any Owner or Member. A report of an alleged violation must be made in writing, signed by the Owner or Member, and mailed to the Board at its designated mailing address. Upon receipt of a report of an alleged violation, the Secretary shall issue written notice ("Notice") to the record Owner or Owners of the Lot or Lots where the violation is alleged to have occurred, either by personal delivery acknowledged by said Owner or Owners or by sending the Notice by prepaid United States certified mail to the record Owner or Owners of the Lot or Lots with respect to which the Notice relates and addressed to such Owner or Owners at the street address(es) of the dwelling house(s) or other structure(s) situated upon the relevant Lot(s). Notice by certified mail, addressed as set forth above, shall be deemed to have been fully communicated upon the expiration of forty-eight (48) hours after the time of mailing, and the name and address of the person or person to whom the Notice was mailed shall be conclusive, but not the exclusive means, of proof of such fact.

Section 5. *Content of Notice.* The Notice of Alleged Violation shall contain the following information:

- (a) A copy of this Article and the Fines Table;
- (b) A copy of the report of alleged violation received by the Board;
- (c) The specific Regulation alleged to have been violated;
- (d) The nature of the alleged violation;
- (e) The action to be taken by the Owner(s) to correct to the alleged violation to avoid a fine being levied;
- (f) The date by which such action must be taken to avoid a fine being levied, which date shall not be less than fourteen (14) days from the date of the Notice;
- (g) The amount of the fine to be levied if the violation is not corrected as stated in the Notice by the date stated in the Notice, including the fine to be levied if the alleged violation continues or recurs; and
- (h) An explanation of the Owner's right to a hearing and the date, time and location of the next meeting of the Board of Trustees that the Owner(s), at their election, may attend to be heard with respect to the alleged violation set forth in the Notice. The Notice shall not provide a time period of less than ten (10) days from the date of delivery or mailing within which said Board meeting will take place.

If the alleged violation was transitory and/or has been corrected prior to issuance of the Notice, the Notice shall contain the information set forth in Section 7(f) of this Article regarding a Transitory Violation or possible Repeat Violation and need not contain the information set forth in subsections (e), (f), (g) and (h) of this Section, and no hearing shall be conducted except as otherwise set forth in Section 7(f) of this Article.

Multiple alleged violations may be addressed in a single Notice of Alleged Violation.

Section 6. *Hearing.* The agenda for each regular meeting of the Board of Trustees shall include an item for consideration of alleged violations of the Regulations either postponed from a prior meeting or set for consideration at that meeting in Notices delivered or mailed at least ten (10) days prior to the date of the meeting. If, for good cause shown in writing to the Board, mailed and addressed as set forth in Section 4 of this Article, an Owner subject to fine establishes that he or she is unable to attend the meeting, the Board shall postpone consideration of the alleged violation to the next regularly scheduled meeting. An Owner will be allowed only one such continuance. If, for any reason, the Owner fails to contact the Board in writing prior to the meeting or fails to attend the meeting, the Board may, in its discretion, postpone consideration of the alleged violation to the next regularly scheduled meeting. If the Board postpones consideration of an alleged violation, it shall notify the Owner by any means reasonably calculated to afford the Owner notice of same. If the Board, however, does not postpone consideration of an alleged violation, an Owner who fails to contact the Board in writing prior to the meeting and fails to attend the meeting, shall be deemed to have waived his or her right to be heard with respect to the alleged violation. A designated representative may contact the Board in writing and/or attend the meeting in the Owner's place. At the meeting, the Board shall first consider any evidence, witnesses or statements that the Owner subject to fine may wish to present and may then consider any evidence, witnesses or statements that may be presented by other Owners or Members. Any Owner, Member or Trustee may question any witness. The Board also may consider any personal observations that any Trustee may have made of the alleged violation. The Owner subject to fine shall then have a final opportunity to address the Board. The hearing, once begun, may be continued to the next regularly scheduled meeting of the Board as may be required for the gathering of additional information, or for any other purpose, at the discretion of the President. To find that a violation, subject to a fine, has occurred, a majority of the Board of Trustees present and voting, must find that:

- (i) the violation set forth in the Notice has been committed,
- (ii) the violation was not corrected in the manner set forth in the Notice; and
- (iii) the violation was not corrected prior to the date stated in the Notice. The Board may, in its discretion, determine that the violation may be corrected in a manner other than as set forth in the

Notice or that a correction by the Owner in a manner other than as set forth in the Notice is or would be sufficient.

Section 7. *Fine Schedule.* A fine shall be levied by the Board upon a finding of violation as set forth in Section 6 of this Article, according to the following schedule. The fines levied shall be uniform regardless of the nature of the violation. The Board may not reduce any fine levied or to be levied or interest accrued under this Article except upon good cause shown.

(a) *First Offense.* A First Offense shall be deemed to have occurred as of the date of the meeting at which the Board determines that a violation has occurred. The fine for a First Offense shall be \$25.

(b) *Second Offense.* A Second Offense shall be deemed to have occurred if the Board determines that either:

(1) the Owner has failed to pay the fine set forth in the Notice of Fine by the date set forth in the Notice of Fine; or

(2) the Owner has failed to correct the violation in the manner set forth in the Notice of Alleged Violation or the Notice of Fine by the date set forth in the Notice of Fine. No hearing shall be required for the Board to levy a fine for a Second Offense. The fine for a Second Offense shall be \$50.

(c) *Ongoing Offense.* An Ongoing Offense shall be deemed to have occurred if, after the Board has found that a Second Offense has occurred and after the conclusion of each successive 30-day period following the date upon which payment of the fine was due as set forth in the Notice of Fine, the Board determines that either:

(1) the Owner has failed to pay either the fine and any interest due for the First Offense, the fine and any interest due for the Second Offense or the fine and any interest due for the Ongoing Offense; or

(2) the Owner has failed to correct the violation in the manner set forth in the Notice of Alleged Violation or the Notice of Fine.

No hearing shall be required for the Board to levy a fine for an Ongoing Offense. An Ongoing Offense shall be deemed to continue so long as the Owner has not paid all fines and interest due or has failed to correct the violation in the manner set forth in the Notice of Alleged Violation or Notice of Fine. The fine for an Ongoing Offense shall be \$100 for each thirty-day (30-day) period that the violation or failure to pay continues, not to exceed a maximum total of \$1,500, except as otherwise provided in Section 7(d) of this Article. The maximum total of fines that may be levied thus is \$1,575 for any one violation, except as otherwise provided in Sections 7(d) and 7(e) of this Article.

(d) *Persistent Offense.* A Persistent Offense shall be deemed to have occurred if the Board determines, after the maximum fine for an Ongoing Offense has been levied, that the Owner has either failed to pay the fines levied and the interest accrued or failed to correct the violation in the manner set forth in the Notice of Alleged Violation or Notice of Fine. No hearing shall be required for the Board to levy a fine for a Persistent Offense. The fine for a Persistent Offense shall be \$1,000 per 12-month period. The initial fine for a Persistent Offense shall not be levied until at least thirty (30) days after the maximum fine for an Ongoing Offense has been levied. Each successive 12-month period shall commence with the date of each notice of a Persistent Offense and each such notice shall be for the full amount of the fine for which the Owner will be fully liable regardless of when the Persistent Offense may be corrected during the subsequent 12-month period.

(e) *Subsequent Offense.* A Subsequent Offense shall be deemed to have occurred if, after correcting a violation, the same Owner is found responsible, under the procedures set forth in Sections 4, 5 and 6 of this Article, for the same violation. The fine for a Subsequent Offense shall be \$100; the fine for a second Subsequent Offense shall be \$200; the fine for a third Subsequent Offense shall be \$300, and so on. This amount shall be known as the "Base Fine." The amount of any fines levied with respect to Subsequent Offenses under either Section 7(b) or 7(c) of this Article shall be increased by the amount of the Base Fine. The maximum total of fines for each Subsequent Offense shall not exceed \$1,500, unless a Subsequent Offense becomes an Ongoing Offense under Section 7(c) of this Article. There

shall be no limit to the number of Subsequent Offenses for the same violation that can be subject to fines.

(f) *Repeat Offense.* A Repeat Offense may be determined by the Board in its discretion if it finds that an Owner has received a Notice of Alleged Violation for the same violation on three or more occasions, but has not been fined because the violation either was transitory or was corrected by the Owner each time prior to the deadline as set forth in the Notice of Alleged Violation. A Transitory Violation is one that continues for less than 24 hours before ending or being corrected by the Owner. Upon Notice to the Owner as set forth in Sections 4 and 5 of this Article and Hearing as set forth in Section 6 of this Article, the Board may, in its discretion, levy a fine of up to \$100 for a Repeat Offense. Once a fine is levied for a Repeat Offense, the matter shall progress, as applicable, through the Second Offense, Ongoing Offense and Persistent Offense stages so long as the fine(s) levied and interest accrued remain unpaid.

### Fines Table

<b>Violation</b>	<b>Fine</b>	<b>Maximum ‡</b>
First Offense	\$25	\$25
Second Offense	\$50	\$50
Ongoing Offense	\$100	\$1,500
First Subsequent Offense	\$100/\$150/\$200 *	\$1,500
Second Subsequent Offense	\$200/\$250/\$300 *	\$1,500
Third Subsequent Offense †	\$300/\$350/\$400 *	\$1,500
Persistent Offense	\$1,000	None
Repeat Offense	Up to \$100	\$1,500

\* These numbers reflect the escalation of a fine for a Subsequent Offense through the First Offense, Second Offense and Ongoing Offense stages.

† There is no limit with respect to the number of Subsequent Offenses that can occur with respect to a particular violation. Section 7(d).

‡ A single violation is subject to the maximum fines for a First Offense, Second Offense, Ongoing Offense and Persistent Offense. A Subsequent Offense that becomes an Ongoing Offense is subject to the maximum fines for a Subsequent Offense, Ongoing Offense and Persistent Offense.

Section 8. *Notice of Fine.* A Notice of Fine shall be issued by the Secretary each time the Board levies a fine for any category of offense under Section 7 of this Article. The Notice of Fine shall be provided as set forth in Section 4 of this Article within five (5) days of the Board's decision to levy the fine. The content of the Notice of Fine shall include:

- (a) Section 7 of this Article;
- (b) The specific Regulation violated;
- (c) The nature of the violation;
- (d) The finding of the Board;
- (e) The amount of the fine;
- (f) The reason a graduated fine, if any, has been levied;
- (g) The action the Owner must take, if any, to correct the violation. This action shall not differ from the required action set forth in the Notice of Alleged Violation unless the Board, in its discretion, has determined that other corrective action is appropriate;
- (h) The date by which payment of the fine must be received and the date by which the violation must be corrected to avoid levying of an additional fine for a Second Offense or other graduated offense, as set forth in Section 7 of this Article, and to avoid the declaration of a delinquency, both of which shall not be less than thirty (30) days from the date of the Board's decision finding a violation;

- (i) The address to which payment must be made;
  - (j) The manner in which payment must be made;
  - (k) The interest that will accrue on any delinquent amounts; and
- (l) Notice that the Owner will receive no further notices or hearings prior to the levying of additional fines for a Second Offense, an Ongoing Offense or a Persistent Offense as set forth in Section 7 of this Article.

Multiple violations and fines may be addressed in a single Notice of Fine. The Treasurer shall issue a monthly invoice to the Owner for any fines levied and unpaid, including any applicable interest.

Section 9. *Effect of Non-Payment of Fines: Remedies of the Association.* In addition to the fines set forth in Section 7 of this Article, delinquent fines levied under this Article shall bear interest at the rate of 10% per annum. All fines levied under this Article shall be deemed delinquent if the fine levied is not paid within thirty (30) days of the date of the Notice of Fine. All fines levied and interest accrued under this Article shall become a personal obligation of the Owner. The Association may bring an action at law against the Owner personally obligated to pay the same for failure to do so. In any such action, the prevailing party shall be awarded its allowable costs and reasonable attorney's fees. No Owner may waive or otherwise escape liability for fines provided herein by non-use of the Common Area or abandonment of his or her Lot(s). Further, any fines levied against that Owner under this Article and any interest that may accrue on delinquent amounts, along with any applicable costs and attorney's fees, shall be a continuing lien upon the property where the violation for which the initial fine was levied occurred. In addition to an action at law against the Owner, the Association may bring an action to foreclose the lien against the property, and interest, costs and reasonable attorney's fees of any such action shall be added to the amount owed.

Section 10. *Records.* The Association shall keep as part of the normal business records of the Association a separate record of each alleged violation, regardless of whether a fine was levied.

Section 11. *Subordination.* Any lien imposed or as may be recorded for failure to pay fines levied and interest accrued under this Article shall be subordinate to the lien of any mortgage(s) or deeds of trust. Sale or transfer of any Lot shall not affect the fines and interest lien. However, the sale or transfer of any Lot which is subject to any mortgage or deed of trust, pursuant to a decree of foreclosure under such mortgage or any proceeding in lieu of foreclosure thereof, shall extinguish the lien for such fines and interest as to payments thereof which became due prior to such sale or transfer. No sale or transfer shall relieve such Lot from liability for any fines thereafter levied or becoming due or from the lien thereof.

Section 12. *Reservation of Rights.* The levying of fines is in addition to, and not in replacement of, other remedies that may now or in the future be available to the Association under the Declaration, these Bylaws or by common law or statute, including, but not limited to, the commencement of legal action to enjoin further violations, to collect any unpaid fines and accrued interest or to foreclose liens, and the suspension of voting rights or right to use of common areas. Fines may continue to be levied during the pendency of such legal actions or suspensions.

Section 13. *Distribution to Owners.* A copy of this Article shall be mailed to all Owners of record within fifteen (15) days of its adoption or the adoption of any amendment to this Article by the Board of Trustees and/or the membership, and thereafter on or about January 1 of each succeeding year.

## Article XV Books and Records

The books, records and papers of the Association shall at all times during reasonable business hours be subject to inspection by any member. The Declaration, the Articles of Incorporation and the By-Laws of the Association shall be available for inspection by any member at the principle office of the Association, where copies may be purchased at a reasonable cost.

Article XVI  
**Corporate Seal**

The Association shall have a seal in circular form having within its circumference the words: KINGSGATE HIGHLANDS, DIVISION NUMBER FIVE, HOMES ASSOCIATION.

Article XVII  
**Amendments**

Section 1. These By-Laws may be amended or repealed by the board of Trustees subject to the power of the members to change or repeal such By-Laws, and these By-Laws may be amended at a regular or special meeting of the members by a majority vote of a quorum of members present in person or by proxy, except that the Federal Housing Administration or the Veterans Administration shall have the right to veto amendments while there is class B membership.

Section 2. In the case of any conflict between the Articles of Incorporation and these By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these By-Laws, the Declaration shall control.

Article XVIII  
**Miscellaneous**

The fiscal year of the Association shall begin on the first day of January and end on the 31st day of December of every year, except the first fiscal year shall begin on the date of incorporation.

**Certification**

I, the undersigned, do hereby certify:

That I am the duly elected and acting secretary of KINGSGATE HIGHLANDS, DIVISION NUMBER FIVE, HOMES ASSOCIATION, a Washington corporation, and,

THAT, the foregoing By-Laws constitute the original By-Laws of said Association as duly adopted at a meeting of the Incorporators thereof, held on the 8<sup>th</sup> day of January, 1969.

IN WITNESS WHEREOF, I have hereunto subscribed my name and affixed the seal of said Association this 8<sup>th</sup> day of January, 1969.

(signed) Richard E. Cady  
Secretary

Retyped by Richard Malsch,  
President  
December, 2005

(\*) Whole article amended in August, 2006

(\*\*) Section 5 amended in January, 1985 to only allow 10 proxies per homeowner

(\*\*\*) Section 1 amended in January, 2022 to add *Kingsgate Gators Swim Team* to the list of committees