

BY-LAWS OF
KENSINGTON DOWNS COMMUNITY ASSOCIATION, INC.
AS OF DECEMBER 06,2006 (proposed as of December 2009)
A NOT-FOR-PROFIT CORPORATION DESIGNED TO FACILITATE
THE MANAGEMENT OF MAINTENANCE, ACTIVITIES
AND USE OF COMMON AREAS IN KENSINGTON DOWNS, AND IT'S
VARIOUS SECTIONS,
A SUBDIVISION IN ST. JOSEPH TOWNSHIP, ALLEN COUNTY, INDIANA

ARTICLE I

Name and Address
(amended 8-94)

Section 1. The name of the Corporation shall be "Kensington Downs Community Association, Inc.," (hereinafter referred to as the "Association").

Section 2 (amended 3-05): The post office address of the Association is: P. O. Box 15431, Fort Wayne, Indiana, 46885.

ARTICLE II

Purpose and Powers

The purposes and powers of the Association and the limitations thereon shall be those expressed in Article II of the Articles of Incorporation.

ARTICLE III

Membership

(amended 8-94)

Section 1. Members. The members of the Association shall be the owners of lots within Kensington Downs, and its various section, who shall hold their memberships as provided in Article V of the Articles of Incorporation.

Section 2. Annual Meeting. ~~(amended 9/04)(amended 8/05)(amended 12/06)~~ The Annual Meeting of the members of the Association shall be held at the principal office of the Association during the 4th quarter of the calendar year, at 7:00 p.m., or at such place (within Allen County, Indiana, reasonably convenient for members to attend) and time as may be fixed by the Board of Directors and designated in the Notice of Waiver of Notice of such meeting. At the Annual Meeting, the Directors whose terms have expired, for the ensuing year shall be elected. The officers of the Association shall present their annual reports. ~~The Annual budget for the Association shall be adopted, by majority vote of the members present at the meeting, or represented by proxy, thereby approving the amount of the next year's annual assessment. Any and all proposed changes to the by-laws shall be presented to the entire membership, thirty days prior to the annual meeting. The proposed by-law changes will be reviewed, discussed, and approved or disapproved by the majority vote of the members present at the Annual meeting including all proxy votes properly registered. As provided in Article X, the Board will adopt the changes, but only as directed by the membership decision made at the annual meeting. All other business shall be transacted as may properly come before the meeting.~~ ~~(the Annual budget for the Association shall be adopted, and all such other business shall be transacted as may properly come before the meeting.~~ Notice of such meeting is to be well publicized by the

posting of sign at the entrance to the subdivision (30) or more days before such meeting or by any other means that includes notice to all members 30 days before such meeting.

Section 3. Special Meetings. (amended 8-05) Special meetings of the members may be held at the principal office of the Association, or at such other place within Allen County, Indiana, reasonably convenient for members to attend, as may be designated pursuant to the Articles of Incorporation in the Notice or Waiver of Notice of such meeting. Special meetings may be called in writing by the President, by a majority of the Board of Directors or by written petition signed by the holders of not less than ten percent (10%) of the memberships entitled to vote. Notice of such meeting is to be well publicized by the posting of sign at the entrance to the subdivision (30) or more days before such meeting or by any other means that includes notice to all members (30) days before such meeting.

Section 4. Addresses of Members. The address of each member appearing upon the records of the Association shall be deemed to be the latest address which has been furnished in writing to the Association by such member

Section 5. Waiver of Notice. Notice of any meeting of members may be waived in writing by any member if the waiver sets forth in reasonable detail the purpose or purposes for which the meeting is called and the time and place thereof. Attendance at any meeting in person, or by proxy, when the instrument of proxy sets forth in reasonable detail the

purpose or purposes for which the meeting is called, shall constitute a waiver of notice of such meeting. Each member who has, in the manner provided above waived notice of a member's meeting, or who personally attends a member's meeting or is represented thereat by a proxy authorized to appear by an instrument of proxy complying with the requirements set forth above, shall be conclusively presumed to have given due notice of such meeting. When all members shall meet in person, such meeting shall be valid for all purposes and at such meeting any corporate action may be taken.

Section 6. Quorum. (Amended 8-05) At any meeting of the members, the members entitled to vote who are present in person or represented by proxy shall constitute a quorum for the transaction of business.

Section 7. Voting. No membership shall be voted at any time when any assessment with respect to the lot for which such membership is held is past due and unpaid. At each meeting of the members, every member shall have the right to one (1) vote for each membership held by him/her which is entitled to be voted at such meeting. Such member shall vote either in person or by proxy appointed in writing and subscribed by such member or his/her duly authorized attorney-in-fact, or appointed by telegram sent by such member or attorney-in-fact, and delivered to the secretary of the Association at or before the time of the holding of such meeting. No such proxy shall be valid after eleven (11) months from the date of its execution unless a longer time is expressly provided therein. Memberships held by fiduciaries may be voted by the fiduciary in such manner as the instrument or order appointing such fiduciary may direct. If all persons who are together entitled to one (1)

membership do not agree upon the exercise of voting rights, the following provision shall apply:

1. Where a membership is held jointly by three (3) or more persons, such as membership shall be voted in accordance with the will of the majority; and
2. where such persons or a majority of them cannot agree, or where they are equally divided upon the question of voting such membership, such membership shall be voted as may be directed by any court of general equity jurisdiction, as such court may deem for the best interests of the membership, upon petition filed by such person or any party in interest.

Section 8. Voting List. The Secretary of the Association shall keep at all times a complete and accurate list of the members entitled by the Articles of Incorporation to vote at such election, arranged in alphabetical order, with the address and number of the memberships entitled to vote held by each. ~~The which~~ list shall be on file at the principal office of the Association and subject to inspection by any member. ~~The Such~~ list may be inspected by any member for any proper purpose at any reasonable time.

Section 9. Member by Consent in Lieu of Meeting. Any action required or permitted to be taken at any meeting of members may be taken without a meeting, if prior to such action a consent in writing setting forth the action to be taken is signed by all members entitled to vote and such written consent is filed with the minutes of the proceedings of the members.

ARTICLE IV.

Directors

(Amended 8/94) (Amended 9/04) (Amended 3-05) (Amended 8-05)

Section 1. Number. The present maximum number of Directors of the Association is (15). The number of Directors of the Association may be increased or decreased to any number not less than three (3) nor more than fifteen (15) by amendment of this section, which amendment shall state the new number of Directors, but no decrease shall shorten the term of an incumbent Director. Directors shall be members of the Association with the exception that the original Board of Directors as designated in the Articles of Incorporation need not be members. Directors shall be elected at the annual meeting of the members or at a special meeting called for that purpose. Subject to termination and removal as permitted by law, each Director elected at an annual meeting shall be elected to serve for three (3) years and until his/her successor shall be elected and qualified and each Director elected at a special meeting shall be elected for the period ending with the next annual meeting and until his/her successor shall be elected and qualified.

No more than two voting members from any one of the nine covenant sections may hold positions on the Board at one time.

Section 2. Vacancies. Any Director may resign his/her office at any time by delivering his/her resignation in writing to the Association, and the acceptance of such resignation, unless required by the terms thereof, shall not be necessary to make such resignation effective. Any vacancy occurring in the Board of Directors caused by resignation, death, or other incapacity, or increase in the number of Directors, shall be filled by a majority vote of the remaining members

of the Board until the next annual meeting of the members or, in the discretion of the Board, such vacancy may be filled by the vote of the members at a special meeting for that purpose.

Section 3. Removal of Directors. A Director may be removed with or without cause by the vote of the holders of a majority of the memberships entitled to vote at a special meeting of members called for that purpose. **Any director, serving as a Board officer (President, Vice President, Treasurer, or Secretary) removed at a special meeting, may never again be elected or appointed to the position of any Board officer.**

Section 4. Regular Meetings. A regular meeting of the Board of Directors shall be held within one month of the annual meeting. Other regular meetings may be held at the principal office of the Association or any other place reasonably convenient for Directors to attend at such times and places as the Board of Directors may fix from time to time.

Section 5. Special Meetings (amended 8/05) Special meetings of the Board of Directors shall be held at the principal office of the Association or at any other place within Allen County, Indiana, reasonably convenient for Directors to attend whenever called by the President or the Secretary of the Association or by any two (2) of the members of the Board. At least seventy-two (72) hours notice of such meeting specifying the time, place and purpose thereof, shall be given to each Director either personally, by written notice deposited in the United States mail, postage prepaid in an envelope to such Director or by telephone, e-mail or telegram. Notice of the time, place and purpose of the holding of any such special meeting may be waived in writing by any Director if the waiver sets forth in reasonable detail the purpose or purposes for which the meeting is called and the time and place thereof.

Attendance at any meeting in person by any Director shall constitute a waiver of the notice of such meeting. Whenever all of the Directors shall meet, such meeting shall be valid for all purposes and at such meeting any corporate action may be taken.

Section 6. Quorum and Voting. A majority of the actual number of Directors elected and qualified from time to time shall be necessary to constitute a quorum for the transaction of any business (excepting the filling of vacancies, in which case a quorum shall be a majority of the remaining directors) and the act of a majority of the Directors present at a meeting at which a quorum is present shall be the act of the Board of Directors, unless the act of a greater number is required by the Indiana Not-For-Profit Corporation Act of 1971, the Articles of Incorporation or other provisions of these By-Laws.

Section 7. Directors' or Committee Action by Consent in Lieu of Meeting. Any action required or permitted to be taken at any meeting of the Board of Directors or any committee thereof may be taken without a meeting if prior to such action a written consent to such action is signed by all members of the Board of Directors or of such committee and such written consent is filed with the minutes of the proceedings of the Board of Directors or committee.

ARTICLE V.

Officers

Section 1. Officers. The officers of the Association shall consist of a President, a Treasurer, and a Secretary, and if desired by the Board of Directors, one or more Vice-Presidents, and one or more Assistant-Secretaries and Assistant-Treasurers, all of whom shall

be elected by the Board of Directors of the Association at the first meeting thereof immediately following the annual meeting of the members; and they shall hold office, subject to removal as provided by law, until their successors are elected and qualified. One person may hold more than one (1) office, except that of the offices of the President and Secretary shall not be held by the same person. The officers shall be chosen from among the Directors of the Association.

Section 2. Removal. Any officer of the Association may be removed by the Board of Directors whenever the Board of Directors in its judgment believes that the best interest of the Association will be served by such removal. Such removal will be without prejudice to the contract rights, if any, of the persons removed. Election or appointment of an officer does not of itself create contract rights.

Section 3. Compensation. Officers shall not be entitled to compensation for the services.

Section 4. Duties.

(A) President. The President shall be the chief executive officer of the Association and shall have the powers to perform the duties usually incident to that office. The President shall preside at all meetings of the members of the Board of Directors. The President shall submit to the Board of Directors, at least ten (10) days prior to the annual meeting of the members, an annual report of operation of the Association during the preceding fiscal year, complete detailed statements of all income and expenditures and a balance sheet showing the financial

condition of the Association at the close of the fiscal year. The President is authorized to sign, on behalf of the Association, contracts and other instruments in writing. The Secretary shall thereupon attest any such document requiring such attestation under the corporate seal of the Association.

(B) Vice-President. In the absence or inability of the President to act, his/her duties shall be performed and his/her powers may be exercised by the Vice-President. The Vice-President shall perform such other duties as shall be delegated to him/her by the Board of Directors.

(C) Secretary. The Secretary shall keep or cause to be kept a full, true and complete record of all of the meetings of the members and of the Board of Directors and shall have charge of the Minute Book of the Association and of all of its other books and documents (except the books of account). The Secretary shall have custody of the Corporate Seal, and the secretary shall affix the same to and countersign papers requiring such acts, but only upon the order of the Board of Directors or the President, and shall perform such other duties as may be required by the Board of Directors or the President.

(D) Treasurer. The Treasurer shall have custody of the funds and other personal property of the Association and shall keep, or cause to be kept, correct and accurate books of account and shall also deposit, or see to the deposit of, the funds of the association in a depository to be approved by the Board of Directors. The Treasurer shall keep full and accurate accounts of all assets, liabilities, commitments, receipts, disbursements and other financial transactions of the Association in books belonging to the

Association; ~~shall (if directed by the Board of Directors) cause regular audits of such books and records to be made;~~ shall see that all expenditures are made in accordance with procedures duly established, from time to time, by the Association; shall render financial statements at all regular meetings of the Board of Directors, and a full financial report at the annual meeting of members, if called upon to so do; and, shall perform such other duties as may, from time to time, be delegated to him/her by the Board of Directors or the President.

(E) Assistant-Secretaries. An Assistant-Secretary shall assist the Secretary of the Association and shall perform such other duties as are delegated to him/her by the Board of Directors.

(F) Assistant-Treasurers. An Assistant-Treasurer shall assist the Treasurer of the Association and shall perform such other duties as are delegated to him/her by the Board of Directors

ARTICLE VI.
Assessments

(amended 8-94)(amended 8-05)

Section 1. The annual assessment provided for in the Restrictive Covenants of Kensington Downs shall be set by the Board of Directors, by resolution, no later than December 31st, of each year, for the following calendar year. As required by the Covenants, written notice of the annual assessment shall be sent to every owner. Annual and special assessments become liens against the real estate assessed from the date of the assessment by the Board of Directors.

No assessment is due from the developer and a lot's first assessment, after being deeded from the developer, shall be adjusted according to the number of months remaining in the calendar year. The Board, at the time it sets the assessment, shall also set the date that assessment shall be due. In the absence of a specific date, the assessment shall be due the 31st day of January of the following year.

Section 2. Assessments levied by the Association shall be used exclusively to promote the recreation, health and welfare of the owners of lots in Kensington Downs, including, but not limited to, the improvement and maintenance of Common Areas, maintenance of street lighting, maintenance of sprinkling systems situated on the Common Areas, removal of snow and ice from the streets, the purchase of liability insurance for the Association and the payment of real estate taxes for real estate owned by the Association.

Section 2 (a). No expenditure of association funds in excess of \$7,500 may be made without first notifying all association members and holding a special meeting with 75% of those present voting in favor of such expenditure. This prohibition will include multiple purchases of the same or similar type items at various times or years. The exceptions are cost of incremental nature such as snow removal, mowing and emergency repairs.

Section 3. Any assessment not paid within thirty (30) days after the due date, shall bear interest from the due date at the rate of eight percent (8%) per annum and a \$25 dollar late charge. The Association may bring an action at law against the owner personally

obligated to pay the dues, or foreclose the lien against the lot. No owner may waive or otherwise escape liability for the assessment by non-use of the common areas or abandonment of his or her lot.

Section 4. Any assessment proposing to increase the prior year's assessment by more than eight percent (8%) requires the notice by the corporation to the members and action by the membership as set forth in the Restrictive Covenants of Kensington Downs.

Section 5. Special assessments for capital improvements are authorized when established in accordance with the Restrictive Covenants.

Section 6. Each lot owner is personally liable for the payment of all assessments. Where the member constitutes more than one person, the liability for such persons shall be joint and several.

(A) If any member shall fail or refuse to make any such payment of an assessment when due, after the recording of a Notice of Lien and forwarding that lien to the lot owner or owners, the lien of the Association may be foreclosed upon such member's lot and that lien shall be prior to any and all other liens and encumbrances, recorded or unrecorded, excepting real estate taxes or special assessments by a governmental agency, which, by law, creates a lien and is prior in right.

(B) The lien provided for in this section shall be in favor of the Association and shall be for the benefit of all other members, and may be foreclosed by an action brought in the name of the Association in a like manner as a mortgage upon real property. The Association, acting

on behalf of the members, shall have the power to bid on the interest so foreclosed at foreclosure sale and to acquire, hold, lease, mortgage and convey the same; and to subrogate so much of its right to such lien as may be necessary to satisfy an insurance company which will continue to

give total coverage in spite of nonpayment of such defaulting member's portion of the premium.

(C) The Board shall further have the power to suspend the voting rights and right to use of the Common Area of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association.

(D) It shall further be the obligation of any party who shall fail to pay any assessment or assessments when due to reimburse the Association for all expenses incurred as a result of such failure to pay, including all expenses incurred by the Association in the collection of the same, and including, but not limited to, reasonable attorney fees and court costs, arising out of or occasioned by said failure to pay.

(E) The obligation to pay assessments shall lie with the lot owner or owners who owned the lot on the date the assessment is due.

ARTICLE VII.
Improvement of Lots

(amended 8-94)

Section 1. Each member of the Association, by purchase of a Lot in Kensington Downs, and its various sections, agrees that no dwelling, fence or wall shall be constructed, placed or altered upon any Lot until the plans and specifications therefore have been

approved by the

Architectural Control Committee as to quality of workmanship and materials, and harmony of exterior design with other dwellings and improvements in Kensington Downs, and its various sections. The purpose of this provision is to promote high quality, design and construction in the completion and/or alterations of improvements in Kensington Downs and its various sections.

Section 2. Each member is asked that within one year after construction of their home is completed that they landscape the front exterior of said Lot. The purpose of this provision is to promote high standards of exterior landscaping within the community of Kensington Downs.

Section 3. Well presented signs may be placed in the Common Area of the Association, Fridays, Saturdays, and Sundays, subject to applicable municipal ordinances and any rules and regulations of the Association relating to signage. An individual or individuals placing the signs in the Common Area will be responsible for removing those signs.

(A) Signs may be placed in the Common Area at other times, only with the written permission of the Board of Directors or the Architectural Control Committee.

ARTICLE VIII.

Common Area

(amended 8-94)

Section 1. Certain areas have been designated in the recorded plat of Kensington Downs, and its various sections, as Common Area. Initially, the Common Area is to be developed and improved by the Developer. The Common Area may be used by any

member of the Association and by his/her family members, guests and at such times and in such manner as may be more fully outlined in specific rules and regulations for such use to be adopted by the Association.

Section 2. No motorcycle, motor bikes, mopeds, motor scooters, snowmobiles or other motorized vehicles of any sort shall be permitted in the Common Area. There shall be no obstruction of the Common Area nor shall anything be stored in the Common Area (except in areas designated for such purposes) without the prior consent of the Association. No waste shall be permitted in the Common Area. No clothes, sheets, blankets, laundry of any kind or other articles shall be hung out or exposed in any part of the Common Area.. The Common Area shall be kept free and clear of rubbish, debris and other unsightly materials which are not in receptacles provided for such purpose.

Section 3. No swimming, fishing, sailing, boating, or ice skating or any other recreational activity shall be permitted in the pond area. All provisions in Article VIII, Section 2 shall also apply.

ARTICLE IX.

Funds

Section 1. Depository. The funds of the Association shall be deposited in a depository or depositories to be selected by the Board of Directors of the Association.

Section 2. Withdrawal of Funds. The funds of the Association may be withdrawn and disbursed by such officers as may be designated by the Board of Directors.

Section 3. Audit of Funds. An independent, internal audit of Kensington Downs

Community Association financial books and records shall be conducted on an annual basis, commencing as soon as possible after the close of the target fiscal year. The Treasurer shall make available to the audit committee all financial records and any requested summary documents. The audit committee shall be comprised of at least three members of the Association approved by the Board of Directors, no more than one of whom may also be a duly elected Director of the Association. In order to preserve the independent nature of the annual audit, the current Treasurer of the Association, being the officer having custody of the funds, shall not be eligible to serve on the annual audit committee.

ARTICLE X.

Amendment

These By-Laws may be amended by the Board of Directors, by the affirmative votes of a majority of the whole Board, at any regular or special meeting notice of which contains the proposed amendment or a digest thereof, or at any meeting, regular or special, at which all Directors are present, with the exception that the provisions of Article VI , VII and X may only be amended by an affirmative vote of seventy-five (75%) of the members of the Association itself at a special meeting of the Association called for that purpose.

(Amended 8-94) (Amended 9-04) (Amended 3-05) (Amended 8-05)