

**BYLAWS  
OF  
KYLEMONT HOMEOWNERS ASSOCIATION, INC.**  
A Florida corporation not for profit

**ARTICLE 1**

**Identity**

Section 1.1 General. These are the Bylaws of Kylemont Homeowners Association, Inc., referred to hereinafter as the Association. The Association is incorporated as a corporation not for profit under the laws of the State of Florida, Chapter 617, Florida Statutes, the original Articles of Incorporation (the Articles") of which have been filed in the office of the Secretary of State of the State of Florida. The Association has been organized for the purpose of administering a development known as Kylemont Pinellas County, Florida, in accordance with that certain Declaration of Covenants, Conditions, Restrictions and Easements for Kylemont Lansbrook Declaration dated the 21<sup>st</sup> day of July, 1995 and recorded on July 27, 1995 in Official Records Book 9061 at Page 1781, et seq. of the Public Records of Pinellas County, Florida.

Section 1.2 Fiscal Year. The Association shall operate on a calendar year basis, beginning the 1st day of January and ending on the 31st day of December of each year.

Section 1.3 Seal. The seal of the Association shall bear the name of the Association, the word "Florida," and the words "Corporation not for profit" and the year of incorporation.

Section 1.4 Name. The name of the Association is Kylemont Homeowners Association, Inc.

Section 1.5 Principal Office. Initially, the principal office of the Association shall be located at 465 Village Center Drive, Palm Harbor, Florida 34685. However, the Board of Directors, at any time and from time to time, may change the principal office of the Association to any other location in Pinellas County, Florida as the Board of Directors may, in their sole discretion, select.

**ARTICLE 2**

**Definitions**

The definition of words, phrases, names and terms as contained in the Articles, to the extent used in these Bylaws, are automatically and specifically incorporated herein by this reference the same as if they were fully set forth herein. All words, phrases, names and terms used in these Bylaws, which are defined in the Articles, shall have the same meaning and be used and defined the same herein as they are in the Articles.

## **ARTICLE 3**

### **Objects and Purposes**

The Association has been created and established for the objects and purposes of, and shall have exclusive jurisdiction over and sole responsibility for, the ownership, leasing, administration, management, operation, regulation, care, maintenance, repair, restoration, replacement, preservation and protection of the Common Property; the establishment, levy, imposition, enforcement and collection of all Assessments for which provision is made in the Declaration; the payment of all Common Expenses and other expenses and expenditures as provided in the Declaration; the administration and enforcement of the covenants, conditions, restrictions, easements, reservations, terms and provisions of the Declaration (except to the extent, if any, that the administration and enforcement of any of same may be vested exclusively in the Developer or the Architectural Control Committee), and the promotion and advancement of the health, safety and general welfare of the Members of the Association; all as more particularly provided in the Declaration, these Bylaws, the Articles and the Rules and Regulations of the Association, and all having to do with or being related to Kylemont

## **ARTICLE 4**

### **Powers and Duties**

The powers and duties of the Association shall be as set forth in the Declaration and the Articles, which are automatically and specifically, incorporated herein by this reference the same as if they were fully set forth herein. Each amendment, if any, to the powers or duties of the Association as specified in the Declaration or the Articles shall be, by this reference, automatically incorporated herein the same as if fully set forth herein regardless of when the same may be adopted and made effective, including, without limitation, each amendment, if any, adopted at any time after the adoption of these Bylaws.

## **ARTICLE 5**

### **Membership and Voting Rights**

The qualifications for membership in the Association, the manner of admission to membership in the Association, the voting rights of members in the Association, and the limitations on such membership and voting rights shall be as set forth in the Declaration and the Articles, which, by this reference, are automatically and specifically incorporated into these Bylaws the same as if they were fully set forth herein. Each amendment, if any, to the Declaration and to the Articles having to do with membership or voting rights in the Association shall be, by this reference, automatically incorporated herein the same as if fully set forth herein, regardless of when the same may be adopted and made effective, including, without limitation, each amendment, if any, adopted at any time after the adoption of these Bylaws.

## **ARTICLE 6**

### **Members and Meetings of Members**

Section 6.1 Members. The Members of the Association shall be those parties as set forth in the Declaration. A Member's undivided share or interest in the Association and its assets shall not and cannot be transferred or hypothecated except as an appurtenance to his or her Lot and cannot be partitioned or subdivided or separated from the Lot to which it is appurtenant.

Section 6.2 Place of Meeting. Meetings of the Members shall be held at such suitable place in Pinellas County, Florida, convenient to the Members as may be designated by the Board of Directors. Specific actions of the Members may be taken by referendum of the Members conducted by mail, without a meeting, provided that such referendum is administered in accordance with the requirements of the Declaration and Section 6.9 of these Bylaws.

Section 6.3 Annual Meetings. The first annual meeting of the Members of the Association shall be held within one year of the date of incorporation of the Association, and the subsequent regular annual meetings of the Members of the Association shall be held each year thereafter in the month of November. At the annual meeting, the Members shall elect Directors and may transact such business of the Association as may properly come before them. The time, place, and date of all meetings shall be set by the Directors, and the Directors, by majority vote, may change the month of the annual meeting.

Section 6.4 Special Meetings. Special meetings of the Members may be called by the President of the Association, and the President of the Association must call a special meeting of the Members upon the request in writing of a majority of the Board of Directors or at the request in writing of the Class B Member or, after Turnover, at the request in writing of one-fourth (1/4) of the total votes of the Class A Members. Such requests shall state the purpose or purposes of the proposed meeting. No business shall be transacted at a special meeting except as stated in the Notice.

Section 6.5 Notice of Meetings. It shall be the duty of the Secretary to give notice of each meeting of the Members, stating the purpose thereof as well as the time and place where it is to be held, to each Member of record, at his or her address as it appears in the membership book of the Association, or if no such address appears, at his or her address as last specified for such Member, at least fourteen (14) days, but not more than forty-five (45) days, prior to such meeting. Such notice shall be given by United States mail, postage prepaid, or by receipted hand delivery. The date of mailing of a notice in the manner provided in this Section shall be considered the date of notice for purposes of the foregoing period.

Section 6.6 Waiver of Notice. Before or after any meeting any Member may waive notice of the meeting in writing and such waiver shall be deemed the equivalent of such notice. Attendance of a Member at a meeting shall constitute a waiver of notice of such meeting, except when the member specifically objects at the beginning of the meeting to the transaction of any business because the meeting is not lawfully called or convened.

Section 6.7 Quorum. Except as otherwise provided in the Declaration and these Bylaws, the presence in person or by proxy of the Members representing one-third (1/3) of the total vote of the Association shall constitute a quorum.

Section 6.8 Adjourned Meetings. If any meeting of Members cannot be organized because a quorum has not attended, the Members who are present, either in person, or by proxy, may adjourn the meeting to a time not later than ten (1) days from the time the original meeting was called, and hold the meeting so adjourned, without additional notice, provided that a quorum can be obtained for such meeting.

Section 6.9 Voting. There may be multiple classes of voting membership as set forth in the Declaration. At every meeting of the Members, the Members present, either in person or by proxy, shall have the right to vote as set forth in the Declaration and the Articles (except for the right of any Member or Members present in person or by proxy who has been suspended as provided in the Declaration, the Articles, these Bylaws or the Rules and Regulations). The provisions of the Declaration regarding the classes and regarding the votes appurtenant to each class are, by this reference, automatically and specifically incorporated herein the same as if they were fully set forth herein. Each amendment, if any, to the Declaration having to do with the classes of Members or the votes appurtenant to each class of Member shall be, by this reference, automatically incorporated herein the same as if fully set forth herein regardless of when the same may be adopted and made effective, including, without limitation, each amendment, if any, adopted at any time after the adoption of these Bylaws. The vote of the majority of those votes present, in person or by proxy (including, in the aggregate, the votes of the Class A Members and the Class B Member; provided, however, that after Turnover, the same shall include only the votes of

the Class A Members), shall decide any question brought before a meeting at which a quorum is present and shall constitute official action by the Members of the Association, or the vote of the majority of those Members (including, in the aggregate, Class A Members and, until Turnover, the Class B Member) responding to a mail referendum administered in accordance with the requirements of Section 6.5 hereof shall decide any question presented to the Members by such mail referendum and shall constitute official action by the Members of the Association, unless, the foregoing provisions for meetings or mail referenda notwithstanding, the question is one upon which, by express provisions of statute, or of the Declaration or of the Articles, or of these Bylaws, a different vote is required, in which case such express provision shall govern and control. Nothing contained herein shall be construed in derogation of the rights of the Class B Member, including but not limited to the right of the Class B Member to approve, in its sole discretion, amendments to the Declaration and the Articles.

Section 6.10 Proxies. A Member may appoint any person as a proxy. All proxies shall be in writing, signed by the Member voting by proxy and filed with the Secretary at least twenty-four (24) hours before any meeting or meetings for which the proxy was given before the proxy may vote. Proxies shall be valid only for the particular meeting or meetings specified therein. If a Lot is owned jointly by two or more co-owners, and if the said co-owners have not designated one (1) of them as the voting Member, then a proxy, to be valid, must be signed by all such co-owners. Anything herein to the contrary notwithstanding, every proxy shall automatically cease upon sale, transfer, demise, or other disposition by the Member of such Member's Lot.

Section 6.11 Conduct of Meetings. The President shall preside over all meetings of the Association, and the Secretary shall keep the minutes of the meeting and record in a minute book all resolutions adopted at the meeting, as well as all transactions occurring at the meeting. The order of business at all annual or special meetings of the Members shall be as follows:

- <!--[if !supportLists]-->a) <!--[endif]-->Roll call.
- <!--[if !supportLists]-->b) <!--[endif]-->Proof of notice of meeting or waiver of notice.
- <!--[if !supportLists]-->c) <!--[endif]-->Reading of the minutes of preceding meeting.
- <!--[if !supportLists]-->d) <!--[endif]-->Reports of officers.
- <!--[if !supportLists]-->e) <!--[endif]-->Reports of committees.
- <!--[if !supportLists]-->f) <!--[endif]-->Election of directors (if election to be held).
- <!--[if !supportLists]-->g) <!--[endif]-->Unfinished business.
- <!--[if !supportLists]-->h) <!--[endif]-->New business.

Roberts' Rules of Order (latest edition) shall govern Members meetings when not in conflict with the Declaration or the Articles and these Bylaws of the Association.

Section 6.12 Action Without a Meeting. Any action required by law to be taken at a meeting of Members, or any action which may be taken at a meeting of Members, may be taken without a meeting if a consent in writing setting forth the action so taken shall be signed by all of the Members, and such consent shall have the same force and effect as a unanimous vote of the Members.

## **ARTICLE 7**

### **Termination of Membership**

Subject to the provisions of Section 1.4 of the Articles, the termination of membership in the Association shall not relieve or release any such former member from any liability or obligations incurred pursuant to or in accordance with the provisions of the Declaration, the Articles, these Bylaws or the Rules and Regulations or arising as a result of membership in the Association or ownership of a Lot during the period of such membership in the Association. Further, the termination of membership in the Association shall not impair any rights or remedies which the Association may have against such former Member

arising out of or in any way connected with membership in the Association (or the duties and obligations arising from such membership) prior to termination.

## **ARTICLE 8**

### **Board of Directors**

Section 8.1 Number and Qualification. The affairs of the Association shall be governed and managed by a Board of Directors. The number of directors, which shall constitute the Board of Directors, shall not be less than three (3) nor more than nine (9). The exact number of directors shall be determined by vote of the Board of Directors, provided, however, it must be an odd number. Directors need not be Members of the Association.

Section 8.2 Term of Office of Directors. The directors shall serve for terms of three (3) years, except initially after Turnover in order to stagger the terms, some directors will serve for one (1) year, others for two (2) years and still others for three (3) years. Whenever the number of directors is increased or decreased, the terms of additional directors will be established so as to maintain as balanced staggering of terms as possible and the terms of existing directors will be adjusted if necessary to the same end. The foregoing notwithstanding, the term of each director shall extend until (i) his or her successor is duly elected and qualified or (ii) such director resigns as a director by written notice of resignation to the President of the Association, or (iii) he or she is removed in the manner hereinafter provided, whichever event occurs first.

Section 8.3 Removal of Directors. Any director may be removed with or without cause by (a) prior to Turnover, by the Class B Member, and (b) after Turnover, by a majority of the votes, in the aggregate, of the Class A Members cast at a valid meeting of the Members. A special meeting of the Members may be called for that purpose by the Class B Member prior to Turnover or, after Turnover, by one-fourth (1/4) of the Class A Members by notice stating the purpose of the special meeting. The vacancy in the Board of Directors so created shall be filled by the Class B Member, prior to Turnover, and thereafter by majority vote, in the aggregate, of the Class A Members present at the meeting at which the vacancy was created or at the annual meeting of the Members or at a special meeting called for such purpose.

Section 8.4 Filling of Vacancies. Except as to vacancies caused by removal of directors as hereinabove provided, vacancies in the Board of Directors occurring between annual meetings of Members shall be filled by majority vote of the remaining directors.

Section 8.5 Past President as Ex-Officio Member of the Board of Directors. In addition to the directors of this Association, as set forth in Section 8.1 of these Bylaws, the immediate past President of the Association shall become an ex-officio member of the Board of Directors for the year immediately following his term of office as President, but he or she shall not be entitled to vote, unless said immediate past President remains on the Board of Directors by virtue of his or her unexpired term as a director or re-election to the Board of Directors.

Section 8.6 Compensation. Subject to the provisions of the Articles, no compensation shall be paid to directors for their services as directors. However, a director may be reimbursed for his or her actual expenses incurred in the performance of his or her duties as a director.

## ARTICLE 9

### Election of Directors; Nominations Committee

#### Section 9.1 Election of Directors

9.1.1 Directors - Election Prior to Turnover. Notwithstanding any provision to the contrary herein contained, until Turnover, the Developer, as the Class B Member, shall have the sole right to nominate, vote upon and elect or remove the members of the Board of Directors. The balance of the provisions in this Article 9 shall apply only subsequent to Turnover and not prior to Turnover.

9.1.2 Directors - Election Subsequent to Turnover. Subsequent to Turnover, i.e., at such time as the Class B Member is converted to a Class A Member, the directors or the Board of Directors shall thereafter be elected by a plurality of the votes cast by written ballot of the Class A Members present in person or by proxy at an annual meeting of the Members, or a special meeting of the Members called for that purpose. After Turnover, directors shall be elected by written ballot (as provided in Section 9.6 hereof) at the annual meeting (unless written ballot is waived by unanimous consent of the Members attending) and by a plurality of the votes cast at, or presented to, the meeting of the Association. Unless suspended from voting privileges in accordance with the provisions of the Declaration or the Articles, each Member shall be entitled to vote in any election of directors subsequent to Turnover as provided in Section 9.6 hereof. Each Member, unless suspended as Herein above provided, shall be entitled to vote for as many nominees as there are vacancies to be filled.

Section 9.2 Nominations Committee. Nominations for election to the Board of Directors may be made by a Nominations Committee which may be one of the standing committees of the Association, as set forth in Article 14 of these Bylaws, and such committee shall have those duties and functions set forth in this Article 9; subject, however, to the right of the Members to nominate persons for membership on the Board of Directors at the meeting at which such election of directors is held.

Section 9.3 Nominations by Nominations Committee. Nominations Committee shall make as many nominations for election to the Board of Directors as it shall, in its discretion, determine, but not less than the number of vacancies on the Board of Directors that are to be filled at the ensuing election. Nominations shall be placed on written ballots as provided in Section 9.5 of these Bylaws prepared by the Nominations Committee and shall be delivered to the Secretary of the Association at least twenty-one (21) days in advance of the date of the meeting of the Members of the Association at which directors are to be elected. Such ballots shall thereafter be sent by the Secretary of the Association to all the Members in accordance with the notice provisions of the Declaration at least fourteen (14) days in advance of the date of the meeting of the Members of the Association at which directors are to be elected.

Section 9.4 Nominations at Meeting. Notwithstanding that nominations for election to the Board of Directors shall be made by the nominations Committee as set forth in Section 9.3 of these Bylaws, at the meeting of the Members of the Association at which directors are to be elected, the Members present at such meeting shall be entitled to nominate any Members of the Association for election to the Board of Directors in addition to those persons who have been nominated by the Nominations Committee. No such nominations made by Members at such meeting shall be effective unless seconded by another Member present at such meeting.

Section 9.5 Ballots. All elections to the Board of Directors shall be made on written ballots which shall: (a) describe the vacancies to be filled; (b) set forth the names of those nominated by the Nominations Committee for such vacancies; and (c) contain a space for a write-in vote by the Members for each vacancy. Each Member shall receive as many ballots as such Member has votes. Notwithstanding that a Member may be entitled to several votes, such Member shall exercise on any one ballot only one vote for each vacancy shown thereon.

Section 9.6 Vote at Meeting. All voting for directors of the Association shall be by written ballot and may be as follows:

9.6.1 In Person or By Proxy at Meeting. All Members of the Association and their proxies, present and entitled to vote at the meeting at which such election of directors is held shall be entitled to vote at such meeting by delivery to the Secretary of the Association, of either (i) the completed written ballot delivered to each Member in accordance with Section 9.3 of these Bylaws or (ii) a completed substitute ballot provided by the Secretary of the Association at the meeting at which such election of directors is held.

9.6.2 Return of Ballot by Members Only. All Members, but not their proxies, not present at such meeting at which directors are elected shall be entitled to vote by return of the written ballot delivered to such Members by the Secretary of the Association in accordance with these Bylaws. The returned ballot must be received by the Secretary of the Association not later than 5p.m. on the day that is two (2) days prior to the date of the meeting at which such election is to take place.

9.6.3 No Double Voting. Notwithstanding that each Member shall have two (2) methods by which to vote for directors, as set forth in Sections 9.6.1 and 9.6.2 of these Bylaws, each Member or proxy shall only be entitled to vote under one (1) of the methods of voting, as aforesaid, and shall not be entitled to vote more than the number of votes such Member has for each vacancy in the Board of Directors to be filled at such election.

Section 9.7 Election Procedure. All voting procedures and the vote tabulation in connection with the election of directors shall be administered by an Election Committee, if established by the Board, or by the Secretary of the Association.

Section 9.8 Election; Vote Tabulation. Upon receipt of the written ballots from the Members or their proxies present at the meeting at which directors are to be elected, the Secretary of the Association shall do the following:

9.8.1 Tabulate Votes. Tabulate all of the votes of the Members and proxies present at the meeting and entitled to vote, and all of the votes received by the Secretary of the Association pursuant to Section 9.6.2 of these Bylaws.

9.8.2 Announce Directors. Announce the names of the directors elected by the membership of the Association.

Section 9.9 Secrecy. The aforesaid election and vote tabulation procedures shall be undertaken by the Secretary of the Association in such a manner that the vote of any Member or proxy shall not be disclosed to any person.

## **ARTICLE 10**

### **Powers and Duties of the Board of Directors**

Section 10.1 Powers and Duties, Generally. All of the powers and duties of the Association as are, respectively, conferred and imposed upon it pursuant to Chapter 617 of the Florida Statutes, the Declaration, the Articles and these Bylaws shall be exercised by and through the Board of Directors.

Section 10.2 Specific Powers and Duties. The Board of Directors shall, in addition to those general and specific powers and duties as are, respectively, conferred and imposed upon the Association as set forth in Article 4 of these Bylaws, have the following specific powers and duties:

10.2.1 Call Meetings. To call special meetings of the Members whenever it deems necessary.

10.2.2 Keep Records. To cause to be kept a complete record of all of its acts and all affairs of the Association, including specifically, but without limitation, financial records and accounts in accordance with Article 16 of these Bylaws.

10.2.3 Elect Officers, Etc. In accordance with Section 13.2 of these Bylaws, to elect all officers of the Association, and with respect to such officers prescribe such duties as the Board of Directors may deem expedient.

10.2.4 Hire and Fire Employees, Agents and Contractors. To hire and fire such employees, agents and contractors of the Association, as it deems necessary to carry out and discharge the duties and responsibilities of the Association including, without limitation, a manager or executive director of the Association who may not be an elected officer or director of the Association, in accordance with the terms and provisions of any contracts of employment or agency between the Association and such employees or agents, and with respect to such employees and agents to prescribe their duties and fix their compensation as the Board of Directors may deem expedient; all subject, however, to the provisions of the Articles.

10.2.5 Supervise Officers, Etc. To supervise and direct all officers, employees and agents of the Association, and to see that their duties are properly performed.

10.2.6 Approve Budget. To cause to be prepared, and to receive, review and approve budgets for costs and expenses incurred, or to be incurred, (a) in connection with the upkeep and maintenance of the Common Property and (b) in connection with the performance of all other duties of the Association as set forth in the Declaration, the Articles and these Bylaws.

10.2.7 Prepare Membership Roster. To prepare a roster of all Members and their Lots and the status of all assessments applicable thereto, which shall be kept at the offices of the Association and be open to inspection by any Member in the presence of an officer or other employee of the Association designated by the Board of Directors at any reasonable time during normal business hours.

10.2.8 Adopt Rules and Regulations. To adopt, publish and enforce the Rules and Regulations governing the use of the Common Property and the facilities incident thereto and the personal conduct of the Members and their guests thereon, as more particularly set forth in the Declaration.

10.2.9 Require Bonding. To require and cause, at the expense of the Association, all or any officers or employees or contractors of the Association having fiscal responsibilities for the Association to be bonded, as the Board of Directors may deem appropriate.

10.2.10 Exercise Powers and Discharge Duties. To generally exercise all powers, rights and privileges of the Association and to generally discharge all duties, obligations and responsibilities of the Association, as the same are conferred by and imposed in the Declaration, the Articles or these Bylaws, and to take any action which it deems necessary or advisable in connection therewith.

10.2.11 Prepare Financial Reports. To prepare a detailed report of the acts, accounts and statements of income and expense for the previous year, and present same in accordance with Section 16.7 hereafter.

10.2.12 Pay Taxes. To pay taxes or assessments or other charges against the property of the Association.

10.2.13 Handle Deposits. To determine the depositories for the funds of the Association.

10.2.14 Assess and Collect Assessments. Assess and collect all assessments pursuant to the Declaration to defray expenses of operating and maintaining the Common Property.



10.2.15 Exercise Enforcement Authority. Suspend the voting rights of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Board of Directors. Such rights may also be suspended after notice and hearing for infraction or violation of any of the covenants, conditions, restrictions, easements, reservations, terms or provisions of the Declaration, the Articles, these Bylaws or the published Rules and Regulations of the Association for the period of such infraction or violation plus an additional period not to exceed sixty (6) days after the termination of such infraction or violation.

## ARTICLE 11

### Meetings of the Board of Directors

Section 11.1 All Business. The business and affairs of the Association may be transacted by the Board of Directors at any regular or special meeting.

Section 11.2 Regular Meeting. A regular meeting of the Board of Directors shall be held in the month of November each year immediately following and at the same place as the annual meeting of the Members of the Association; provided, however, that the Board of Directors may, by resolution, change the day, date, hour and frequency of holding such regular meeting from time to time as the business of the Association may require. Once established by resolution, notice of any such regular meeting shall not be required. If the day for any regular meeting shall fall upon a Saturday, Sunday or a holiday, the meeting shall be held at the same hour on the first day following which is not a Saturday, Sunday or a holiday, and no notice thereof need be given.

Section 11.3 Special Meeting. Special meetings of the Board of Directors shall be held when called by the President or by a majority of directors after not less than three (3) days' notice to each director, except that such notice requirement may be waived as provided in Section 11.5 hereof.

Section 11.4 Majority Vote. Matters approved by a majority vote of the directors present at a meeting of the Board of Directors at which a quorum is present shall constitute official action of the Board of Directors, except as may be otherwise specifically provided or required by the terms and provisions of the Declaration, the Articles or these Bylaws.

Section 11.5 Waiver of Notice and Consent. The transaction of any business at any meeting of the Board of Directors, however called and noticed, or wherever held, shall be as valid as though made at a meeting duly held after regular call and notice if a quorum is present and, if either before or after the meeting, each of the directors not present signs a written waiver of notice, or a consent to the holding of such meeting, or an approval of the minutes thereof. All such waivers, consents or approvals shall be filed by the Secretary of the Association with the corporate records of the Association and made a part of the minutes of the meeting. Attendance by a director at any meeting of the Board of Directors shall be a waiver of notice by him or her of the meeting and consent to the meeting, unless he or she objects at the beginning of the meeting to the lack of notice.

Section 11.6 Action Taken Without a Meeting. The directors 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 directors. Any action so approved shall have the same effect as though taken at a meeting of the directors.

Section 11.7 Quorum. A majority of the members of the Board of Directors from time to time shall constitute a quorum thereof. If at any meeting of the Board of Directors there shall be less than a quorum present, the majority of those directors present may adjourn the meeting from time-to-time until a quorum is present. In the case of the adjournment of a meeting, no further notice of the adjourned meeting need be given unless otherwise determined by a majority of those directors present at the time of adjournment.

Section 11.8 Open Meeting. Any meeting of the Board of Directors of the Association shall be open to all Members of the Association for purposes of observation. The Secretary or the Secretary's designee shall give notice of each Board of Directors meeting to each Member of record at his or her address as it appears on the membership book of the Association, or if no such address appears at his or her address as last specified by such Member, prior to any such meeting. Such notice shall be given by United States mail, pre-paid, or by hand-delivery. Such notice shall be deemed given and received three (3) days after deposit in United States mail in accordance with the foregoing sentence or the day of hand-delivery to the residence of the Member. Member participation at Board of Directors meeting may or may not be permitted within the sole and absolute discretion of the Board of Directors.

Section 11.9 Minutes. Except as otherwise provided in these Bylaws, minutes of all meetings of the Board of Directors and any committee thereof shall be kept in a business-like manner and shall be available for inspection by any director or Member of the Association at any reasonable time during normal business hours. The Secretary of the Association shall keep the minutes of all meetings of the Board of Directors.

Section 11.10 Presiding Officer. The presiding officer at all meetings of the Board of Directors shall be the President of the Association and in his or her absence the Vice President shall preside. In the absence of the President or Vice President, the directors present at such meeting shall designate a presiding officer from among themselves.

## **ARTICLE 12**

### **Parliamentary Rules**

All meetings of the Members of the Association and all meetings of the Board of Directors of the Association shall be governed by the latest edition of Roberts' Rules of Order ; provided, however, that if such rules of order are in conflict with any terms or provisions of the Declaration, the Articles or these Bylaws, then the applicable terms and provisions of the Declaration, the Articles or these Bylaws shall control.

## **ARTICLE 13**

### **Officers**

Section 13.1 Officers. The day-to-day business and affairs of the Association shall be administered by a President, Vice President, Secretary, Treasurer, and such other officers as the Board of Directors may from time to time by resolution determine. The offices of Vice President, Secretary and Treasurer, or any other offices may be combined from time to time by the Board of Directors in its discretion, except that the office of President shall not be combined with any other office. All officers of the Association must be members of the Board of Directors.

Section 13.2 Election. Except as provided in Article 8 of the Articles with respect to the designation of the initial officers of the Association, the officers shall be elected by the directors of the Association from among themselves by majority vote at a meeting of the directors held immediately following the termination of the annual meeting of the Members at which the directors are elected.

Section 13.3 Term. All officers shall hold office for a term of one (1) year or until their successors are elected, but may be removed from office by the Board of Directors, with or without cause, at any time.

Section 13.4 President. The President of the Association shall preside at all meetings of the Board of Directors, shall see that orders and resolutions of the Board of Directors are carried out, and shall sign all

notes, contracts, leases, mortgages, deeds and all other written instruments required to be executed by or on behalf of the Association.

Section 13.5 Vice President. The Vice President of the Association shall perform all the duties of the President in the absence of the President and shall have such other duties as may from time to time be imposed upon him by the Board of Directors.

Section 13.6 Secretary. The Secretary of the Association shall be the Secretary of the Board of Directors. The Secretary shall record the votes and keep or cause to be kept the minutes of all meetings of the Board of Directors and Members of the Association in a minute book or books to be kept for that purpose; shall keep all other records of the Association; shall see that all notices are duly given as required by law and as provided in accordance with the Declaration, the Articles, these Bylaws or the Rules and Regulations of the Association; shall record in a book kept for that purpose the names of all Members of the Association together with their addresses as filed by such Members; shall together with the President or Vice President sign all notes, contracts, leases, mortgages, deeds and all other written instruments (other than checks) executed by or on behalf of the Association; and shall, in general, perform all duties incident to the office of Secretary and such duties as from time to time may be assigned by the President or imposed by the Board of Directors.

Section 13.7 Treasurer. The Treasurer of the Association shall receive and deposit in appropriate bank accounts of the Association all monies of the Association and shall disburse such funds as directed by resolution of the Board of Directors; provided, however, that a resolution of the Board of Directors shall not be necessary for disbursements of funds made in the ordinary course of business of the Association conducted within the limits of the budget adopted by the Board of Directors. Further, the Treasurer shall sign all checks of the Association along with either the President, Vice President, or Secretary; provided that in the Treasurer's absence any two of the other officers may sign checks. Additionally, the Treasurer shall keep or cause to be kept proper books of account of the Association; shall supervise and assist in the preparation of an annual budget and other financial statements of the Association; shall establish adequate reserves in accordance with the Declaration and as required by law; may select and utilize, with the approval of the Board of Directors a Certified Public Accountant for the Association; and shall, in general, perform all duties incident to the financial affairs of the Association, and such other duties as may from time to time be assigned by the President or imposed by the Board of Directors.

## **ARTICLE 14**

### **Committees**

Section 14.1 Standing Committees. The only standing committee of the Association required to be established shall be the Architectural Control Committee established pursuant to the Declaration. The Board of Directors may also in its discretion establish and make appointments to other committees of the Association, which may include a Budget Committee, Nominations Committee, Maintenance Committee, and such other committees as it deems necessary or desirable in order to facilitate the operation of the Association and to fulfill the duties and functions of the Association.

Section 14.2 Appointment of Committee Chairpersons and Members. If the Board of Directors elects to establish a committee, the Chairpersons and members of each standing committee of the Association shall be appointed by the Board of Directors at each annual meeting to serve (unless earlier terminated by action of the Board of Directors) from the close of such annual meeting until the close of the next annual meeting, and such appointments shall be announced at each such annual meeting.

Section 14.3 Subcommittees. Unless otherwise required by the Board of Directors, any committee of the Association shall have power to appoint one or more subcommittees from among its membership and may delegate to any such subcommittee any of such committee's powers, duties and functions.

Section 14.4 Receipt of Complaints. In addition to the duties prescribed for each of the standing committees of the Association, it shall be the duty of each of the standing committees to receive complaints from Members of the Association on any matter involving Association functions, duties and activities within such committee's area of responsibility. Each standing committee shall dispose of complaints as it deems appropriate or refer any complaint to such other committee, director or officer of the Association as is further concerned with the matter presented in any such complaint.

Section 14.5 Architectural Control Committee. Notwithstanding anything to the contrary set forth in or otherwise implied or inferred from the Declaration, the Articles or these Bylaws, the Architectural Control Committee created and established pursuant to Article 4 of the Declaration shall not be a committee of the Association nor shall it be in any manner whatsoever affiliated with or responsible to the Association, except upon Turnover, as set forth in the Declaration, or earlier at the option of the Developer, at which time, and only at which time, the architectural control functions reserved to the Developer in the Declaration shall be delegated and assigned by the Developer to the Association and thereafter, the Association, acting by and through the Board of Directors, shall appoint and replace from time to time all members of the Architectural Control Committee in accordance with the terms and provisions of the Declaration. Members of the Architectural Control Committee shall not be required to be Owners or Members.

## **ARTICLE 15**

### **Transactions in Which Directors or Officers are Interested**

Section 15.1 Validity of Contracts. No contract or other transaction between the Association and one or more of its directors or any other corporation, firm, association or entity in which one or more of its directors are directors or officers or are financially interested (including, without limitation, the Developer and any affiliate of the Developer) shall be either void or voidable because of such relationship or interest, because such director or directors are present at the meeting of the Board of Directors or a committee thereof which authorizes, approves, or ratifies such contract or transaction, or because of his or their votes are counted for such purpose, if: (i) the fact of such relationship or interest is disclosed or known to the Board of Directors or committee which authorizes, approves or ratifies the contract or transaction by a vote or consent sufficient for the purposes without counting the votes or consents of such interested directors; (ii) the fact of such relationship or interest is disclosed or known to the Members entitled to vote on such contract or transaction (if any) and they authorize, approve or ratify such contract or transaction by vote or written consent; or (iii) the contract or transaction is fair and reasonable as to the Association at the time it is authorized by the Board of Directors, a committee, or the Members.

Section 15.2 Interested Directors Counted in Quorum. Common or interested directors may be counted in determining the presence of a quorum at a meeting of the Board of Directors or committee thereof which authorizes, approves or ratifies a contract or transaction of the type referred to in Section 15.1 of these Bylaws.

Section 15.3 Duty to Disclose. Notwithstanding the foregoing, any officer or director of the Association shall have a duty to disclose to the Board of Directors of the Association that such officer or director is also an officer or director of or otherwise has a financial interest, direct or indirect, in any individual or business organization or entity (other than the Developer) with which the Association proposes to contract or otherwise transact business. Such disclosure shall be reflected in the minutes of the meeting at which any vote is taken on a proposed contract or business transaction with any individual or business organization or entity in which an officer or director of the Association has any interest.

## **ARTICLE 16**

## **Fiscal Management**

**Section 16.1 Fiscal Year.** The fiscal year of the Association shall be the calendar year.

**Section 16.2 Accounting Methods.** The Association shall use the accrual basis method of accounting and shall maintain accounting records in accordance with good accounting practices, which shall be open to inspection in accordance with Section 17.1 of these Bylaws. Written summaries of the accounting records shall be prepared by the Treasurer and shall be made available at least annually to the Members of the Association. Such records shall include, but not be limited to, a record of all receipts and expenditures, and an accurate account for each Lot which shall designate the name and address of the owner thereof, the amount of the Regular Assessments and all other assessments, if any, assessed against or charged to such Lot the amounts and due dates for payment of same, and the amounts paid upon the account and the balance due thereunder.

**Section 16.3 Assessments.** All assessments, regardless of type shall be fixed, assessed, levied, enforced and collected in accordance with, and pursuant to, the terms and provisions of the Declaration.

**Section 16.4 Budget.** The Board of Directors shall adopt an annual budget for the Association and establish assessments based on such budget as provided herein, in the Declaration, and in the Articles.

**Section 16.5 No Deficit Spending.** The Board of Directors shall not be required to anticipate revenue from any assessments nor to expend funds to pay any expense of the Association not budgeted or which shall exceed budgeted items, and further the Board of Directors shall not be required to engage in any deficit spending. Should there exist any deficiency as a result of Association expenses exceeding monies received from assessments for such expenses, and then such deficits shall be carried into the Association's next succeeding year's budget as a deficiency or shall be the subject of a Special Assessment, but only in accordance with and pursuant to the Declaration.

**Section 16.6 Deposit of Funds.** The monies of the Association, whether collected by assessments or otherwise, shall be deposited in accounts in such bank or banks as shall be designated from time to time by the Board of Directors. Withdrawal of monies from such accounts shall be only by checks signed by such officers as are authorized pursuant to Article 13 of these Bylaws. All sums collected by the Association from assessments or any other source may be commingled in a single fund or divided into more than one fund, as determined by the Board of Directors; provided, however, that all reserve funds shall be maintained as, and deposited in, a separate bank account, and shall be used only for the purpose or purposes for which such reserve fund is created and maintained.

**Section 16.7 Financial Statements.** Financial statements of the Association, including, without limitation, a statement of income and expenses and a balance sheet shall be made annually by the Treasurer or by an auditor, accountant or Certified Public Accountant selected by the Treasurer and approved by the Board of Directors in accordance with Section 13.7 of these Bylaws, and a copy thereof shall be made available to each Member of the Association not later than the first day of April of the year following the year for which the statements are prepared.

## **ARTICLE 17**

### **Books and Records**

**Section 17.1 Accounting Records.** All accounting records of the Association shall be open to inspection by Members of the Association or their respective authorized representatives at reasonable times in the presence of an officer of the Association designated by the Board of Directors. Such authorization as a representative of a Member must be in writing and signed by the person giving such authorization and dated not more than sixty (60) days prior to such inspection.

**Section 17.2 Other Books, Etc.** Subject to the discretion of the Board of Directors to have any of such

records of the Association kept, temporarily or permanently, at the offices of accountants and/or attorneys representing the Association from time to time; all books, records, minutes and papers of the Association shall be kept by the Association at the offices of the Association and shall at all times, during reasonable business hours, be subject to the inspection of any Member in the presence of an officer of the Association designed by the Board of Directors.

## **ARTICLE 18**

### **Compliance and Default**

Section 18.1 Violations. In the event of a violation (other than the non-payment of an assessment or a violation specified in the Declaration as not requiring notice or requiring a specified shorter period of notice) by a Member of any of the provisions of the Declaration or of the Articles, these Bylaws, or the Rules and Regulations of the Association, the Association, through its Board of Directors, may, in addition to any other remedies or sanctions provided in the Declaration, the Articles, these Bylaws or the Rules and Regulations, notify the violating Member by written notice in accordance with Article 19 of these Bylaws of such violation and demand that such violation cease and be discontinued immediately and direct that any damages or injury caused thereby be immediately repaired or corrected at the sole cost and expense of the violating Member. If such violation shall continue for a period of thirty (30) days from date of such notice as aforesaid, the Association, through its Board of Directors, shall have the right to treat such violation as an intentional, inexcusable and material breach of the Declaration, the Articles, these Bylaws or the Rules and Regulations of the Association, as appropriate, and the Association may then, at its option, elect to undertake any of the rights provided to the Association in the Declaration, the Articles or these Bylaws, including, without limitation, the following:

18.1.1 Action at Law. The Association may undertake an action at law against the violating Member to recover for damages suffered by or on the Association or its Members; and/or

18.1.2 Action in Equity; Specific Performance. The Association may undertake an action in equity against the violating Member to enforce specific performance on the part of the violating Member; and/or

18.1.3 Action in Equity; Injunctive Relief. The Association may undertake an action in equity against the violating Member for such equitable relief as may be necessary under the circumstances, including injunctive relief.

Section 18.2 Emergency Action. Notwithstanding the foregoing provisions of this Article 18, any violations which are deemed by the Board of Directors to be a hazard to public health may be corrected immediately as an emergency matter by the Association and the cost thereof shall be charged to the violating Member as a Specific Assessment in accordance with the terms and provisions of the Declaration and these Bylaws.

Section 18.3 Non-Payment of Assessments. In the event of non-payment of assessments pursuant to the Declaration, the Association, through its Board of Directors, shall be entitled to exercise all of the rights conferred upon the Association in the Declaration, including, without limitation, the right to impose, collect, enforce and foreclose any lien for assessments in accordance with the terms and provisions of the Declaration.

Section 18.4 Negligence or Carelessness of Member. Each Member shall be liable for the costs and expenses incurred by the Association for any maintenance, repair or replacement rendered necessary by said Member's acts, neglect or carelessness or by that of the Member's family, guests, employees, agents or tenants, but only to the extent that such expense is not met by the proceeds of any insurance carried by the Association. Such liability shall include, without limitation, any increase in insurance rates occasioned by the use, misuse, occupancy or abandonment of any Lot or any Common Property or the appurtenances thereto. Nothing herein contained, however, shall be construed so as to constitute any

waiver by any insurance company of its rights of subrogation. The costs and expenses for any maintenance, repair or replacement required, as provided in this Section 18.4, shall be charged to said Member as a Specific Assessment pursuant to the Declaration.

Section 18.5 Costs and Attorneys Fees. In any proceeding arising because of an alleged default by a Member under the Declaration, or the Articles, these Bylaws or the Rules and Regulations of the Association, the prevailing party shall be entitled to recover the costs of the proceeding and such reasonable attorneys' fees, including costs (including, without limitation, charges for paralegal, expert, investigative and word processing services) and reasonable attorneys' fees on appeal, as may be determined by the Court or other body having jurisdiction over the proceeding.

Section 18.6 No Waiver of Rights. The failure of the Association or of any Member to enforce any right, provision, covenant or condition which may be granted by the Declaration, the Articles, these Bylaws or the Rules and Regulations of the Association shall not constitute a waiver of the right of the Association or any Member to enforce such right, provision, covenant or condition in the future.

Section 18.7 Election of Remedies. All rights, remedies and privileges granted to the Association or any other party pursuant to any terms, provisions, covenants, conditions, restrictions, easements, reservations or assessments of the Declaration, the Articles, these Bylaws or the Rules and Regulations of the Association, or at law or in equity, shall be deemed to be cumulative and the exercise of any one (1) or more of the same shall not be deemed to constitute an election of remedies, nor shall it preclude the party exercising the same, or any other party, from exercising such other and additional rights, remedies or privileges as may be granted by the Declaration, the Articles, these Bylaws or the Rules and Regulations of the Association, whether the exercise of any of same be at law or in equity or both.

## **ARTICLE 19**

### **Notice**

Section 19.1 Notice to Members. Except as may be specifically provided to the contrary in these Bylaws, any notice required or permitted to be given to a Member pursuant to the provisions of these Bylaws shall be deemed to have been properly delivered and given when delivered to the Owner's Lot, whether said Owner personally receives said notice or not, or on the second day after being placed in the first class United States mail, postage prepaid, or sent by commercial express courier, such as Federal Express, Purolator, Airborne, etc., to the most recent address furnished by such Owner in writing to the Association for the purpose of giving notice, or if no such address shall have been furnished, then to the street address of such Owner's Lot. In the case of co-owners, any such notice may be delivered or sent to any one of the co-owners and shall be deemed to be and constitute delivery on all such co-owners. If a Member wishes to use an address for notices and other mailings in connection with the Declaration, the Articles, these Bylaws or the Rules and Regulations other than the Member's Lot, then within fourteen (14) days after becoming a Member of the Association or at such other times as a Member shall change his address, each Member shall file with the Secretary of the Association, in writing, a statement of the mailing address to which such Member wishes all notices and other mailings, statements, or other communications sent. Such address may be changed from time to time by such Member upon a proper filing of a revised statement by such Member in accordance with this Section 19.1.

Section 19.2 Notice to Association. Any notice required or permitted to be given to the Association shall be deemed to have been properly delivered two (2) days after being placed in the first class United States mail, postage prepaid, certified mail, return receipt requested, or sent by commercial express courier, such as Federal Express, Purolator, Airborne, etc., to the address furnished by the Association or to the address of its principal place of business.

Section 19.3 Notice to the Developer. Any notice required or permitted to be given to the Developer shall be deemed to have been properly delivered two (2) days after being placed in the first class United States mail, postage prepaid, certified mail, return receipt requested, or sent by commercial express courier,

such as Federal Express, Purolator, Airborne, etc., to the address furnished by the Developer to the Association or the address of its principal place of business.

Section 19.4 Affidavit. The affidavit of an officer or authorized agent of the Association declaring under penalty or perjury that a notice has been mailed to any Member at the address shown on the records of the Association, or otherwise in accordance with these Bylaws, shall be deemed conclusive proof of the delivery of such notice, whether or not such notice is actually received.

## **ARTICLE 20**

### **Paramount Rights of Developer; Conflicts**

Section 20.1 Paramount Rights of Developer. With respect to any rights, privileges or powers reserved by, conferred upon or granted to the Developer or the Declarant pursuant to the Declaration, all of the terms and provisions of these Bylaws shall be subject thereto, and the covenants, conditions, restrictions, easements, reservations, assessments, terms and provisions of the Declaration shall be deemed to be paramount to any provisions of these Bylaws or any amendments hereto.

Section 20.2 Conflicts. In the case of any conflict between the Articles and these Bylaws, the terms and provisions of the Articles shall control; and in the case of any conflict between the Declaration and these Bylaws, the covenants, conditions, restrictions, easements, reservations, assessments, terms and provisions of the Declaration shall control.

## **ARTICLE 21**

### **Amendments**

Section 21.1 Vote of Directors. These Bylaws may be changed, amended, modified or repealed, and any new Bylaws of the Association may be adopted, only by resolution approved by at least two-thirds (2/3) of the members of the Board of Directors at a regular or special meeting of the Board of Directors duly called for such purpose or by written consent of all of the directors in accordance with Section 11.6 of these Bylaws.

Section 21.2 Limitations on Amendment. Notwithstanding anything to the contrary set forth in the Declaration, the Articles or these Bylaws of the Association, these Bylaws may not be changed, amended, modified or rescinded in any fashion or respect which would result in any change, amendment, modification, diminution or elimination of, or otherwise affect the rights, privileges or benefits accruing hereunder to the Developer or the Declarant without first receiving the prior written consent and approval of the Developer and the Declarant and such other of these parties as may be affected by any such amendment to these Bylaws or whose rights, privileges, benefits or interest may be adversely or otherwise affected by any such amendment to these Bylaws.

Section 21.3 Instrument of Amendment. Any resolution of the Board of Directors amending, modifying or repealing any provisions of, or adding any provisions to, these Bylaws shall identify the particular Articles and Sections affected and set forth the exact language of such modification, amendment, or addition, or of the provisions repealed. A copy of each such resolution, certified by the Secretary of the Association, shall be placed in the record books of the Association, and a copy thereof shall be delivered to each Member of the Association in accordance with the provisions of Section 19.1 of these Bylaws.

IN WITNESS WHEREOF , we, being all of the initial directors of KYLEMONT HOMEOWNERS ASSOCIATION, INC. , have hereunto set our hands and seals this 20<sup>th</sup> day of July, 1995, as evidence of the adoption of these Bylaws by the initial Board of Directors of KYLEMONT



HOMEOWNERS ASSOCIATION, INC.

(SEAL)  
DAVID J.  
EVANS'

(SEAL)  
FREDERICK J. BENNETT

(SEAL)  
ROBERT  
M. FRIEND