

MARKUP #1 ->

Section 2: 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 ten (10) 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, or by hand delivery to one of the homeowners. 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 3: Special meetings of the members may be called at any time by the President or by the Board of Directors, or upon written request of twenty-five percent (25%) of the members who are entitled to vote.

Section 4: The presence at the meeting in person or by proxy of one-tenth (1/10th) of the members who are entitled to vote 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 be represented.

Section 5: 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.

Section 6: Voting rights shall be determined as provided in Paragraph 19 of the Declaration.

Section 7: A resolution in writing, signed by all of the members of the Board of Directors, shall be deemed to be action by such Board of Directors to the effect therein expressed with the same force and effect as if the same had been duly passed by the same vote at a duly convened meeting, and it shall be the duty of the Secretary of the Association to record such resolution in the Minute Book of the Association under its proper date.

ARTICLE - IV

BOARD OF DIRECTORS: SELECTION AND TERM OF OFFICE

Section 1: The affairs of this Association shall be managed by a Board of Directors consisting of five (5) members, each serving a three-year term. Directors will be elected at each annual meeting thereafter to fill the vacancies occurring due to completion of terms of office.

Section 2: Any Director 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 Director, his successor shall be selected by the remaining members of the Board, and shall serve for the unexpired term of his predecessor.

Section 3: No Director shall receive compensation for any service he may render to the Association. However, any Director may be reimbursed for his actual expenses incurred in the performance of his duties.

Section 4: 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.

ISSUE #1

MARKUP #1 · CONFLICTS WITH MANDATORY STATE STATUTE

BOARD & COUNSEL REVIEW

Sec. 4 (p. 2): Open Board Meeting, Action Without Meeting, or Member Governance Defect: Clause authorizes unnotified board meetings or unilateral board action by written/email consent outside open noticed meetings, or unlawfully restricts member governance rights under AZ law.

Statutory / Legal Reference: A.R.S. Title 10, Ch. 24 - 40 (Arizona Nonprofit Corporation Act); A.R.S. §§ 33-1801 to 33-1819 (Arizona Planned Communities Act)

Statutory Comparison: Under A.R.S. Title 10, Ch. 24 - 40 (Arizona Nonprofit Corporation Act); A.R.S. §§ 33-1801 to 33-1819 (Arizona Planned Communities Act), association boards must conduct business in open meetings noticed to the membership and may not dispense with notice or take substantive policy, budget, assessment, or enforcement action by written/email consent outside an open meeting, nor expel members from an appurtenant real-property association or count unreturned proxies as affirmative votes.

CURRENT WORDING IN DOCUMENT:

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. This file: Desert Ridge HOA By-Laws 2-99 OCR edit & proofed 4-1-23

SAMPLE DISCUSSION WORDING (FOR HOA ATTORNEY REVIEW):

Amend Section 4 to require open noticed board meetings and prohibit board action without a meeting on substantive matters as mandated by A.R.S. Title 10, Ch. 24 - 40 (Arizona Nonprofit Corporation Act); A.R.S. §§ 33-1801 to 33-1819 (Arizona Planned Communities Act).