

APACHE WELLS HOMEOWNERS ASSOCIATION, INC. BYLAWS

Approved March 3, 1987
Amended March 8, 1988
Amended January 17, 1995
Amended January 13, 1998
Amended April 12, 2007

ARTICLE I NAME, OFFICE AND SEAL

Section 1. Name

The name of this association shall be "APACHE WELLS HOMEOWNERS ASSOCIATION, INC."

Section 2. Office

The principal place of business shall be located in the Apache Wells Subdivision, Mesa Arizona 85215.

Section 3. Seal

The seal of the Association shall be circular in form having within its circumference the name of the corporation, the year it was organized and the word "Arizona".

ARTICLE II PURPOSES

Section 1. The specific purpose of the Association shall be:

- A. To operate as a non-profit corporation under the laws of the state of Arizona;
- B. To improve the social, ecological and property values of the Apache Wells community;
- C. To own, buy, sell, lease, rent, manage, repair or otherwise have property, both real and personal, for the use, benefit and mutual enjoyment, of the property owners/or residents of the Apache Wells community;
- D. To assess members when necessary to carry out the foregoing purposes, including, but not limited to the acquisition of property and improvements to existing property;
- E. To enforce the collection of assessments by any legal means including liens on real property and improvements to existing property, and,
- F. To enforce the terms and conditions of any Declarations, Covenants and Conditions and Restrictions of the Apache Wells subdivision.

ARTICLE III DEFINITIONS

Section 1. "Association" shall mean and refer to the APACHE WELLS HOMEOWNERS ASSOCIATION, INC.

Section 2. "Owner" shall mean and refer to the record owner, whether one or more persons or entities of any lot or residential unit.

Section 3. "Residential Unit" shall mean and refer to a lot, or a lot and residential unit situated within the confines of the Apache Wells subdivision or described and recorded in the records of the Maricopa County Recorder.

When one residence occupies more than one lot, the Association has the authority to determine whether or not that constitutes more than one "residential unit".

Section 4. "Common Area" shall mean and refer to all property owned or used by the Association for the common use and enjoyment of the members.

Section 5. "Member" shall mean and refer to every person(s) or entity who hold a membership in the Association by virtue of being an owner, spouse of an owner or joint owner of a Residential Unit.

Section 6. "Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Apache Wells subdivision recorded in the office of the County Recorder of Maricopa County, Arizona.

ARTICLE IV MEMBERSHIP

Section 1. Members of the Association

A. Individuals, as defined in Article III, Section 5, are automatically and irrevocable members of the Apache Wells Homeowners Association, Inc.

B. Membership shall be appurtenant to and may not be separated from ownership of any residential unit which is subject to assessment by the Association.

Section 2. Responsibility of Members

A. The act of becoming the owner(s) of a residential unit subject to the Declaration of Covenants and Deed Restrictions, shall be construed as evidence that said owner(s) does acknowledge, consent and pledge to support the enforcement of said Covenants and Deed Restrictions, and in consequence thereof, to personally abide by the terms and conditions set forth therein.

(1) When selling or renting a residential unit, whether by owner in person or by an agent of such owner, the owner or agent shall acquaint the successor-in-ownership or the renter with the existence of, and conditions set forth in the Declaration applicable to said property.

(2) When an owner rents his or her residential unit, it shall only be rented to one single family unit at one time. The renters shall be subject to the provisions of the CC&R's 3. Maintenance, Alterations and Improvements Paragraph K.

(3) To comply with the over-lay zoning restrictions persons eighteen (18) years of age or under shall not reside in any residential unit for a period of time exceeding ninety (90) days out of three hundred sixty five (365) consecutive days.

(4) Nor the pretense of ignorance by said successor regarding the existence of said Declarations shall constitute a valid exemption, or release, or avenue of escape from application and enforcement of said Declaration by the Apache Wells Homeowners Association, Inc.

B. Members shall keep the office of the Association informed of their current mailing address.

C. The members shall have the sole responsibility of the right to transfer the rights and obligations of the Association as stated in the Declaration, page 14 paragraph 9. Such transfer shall be approved by a two-third (2/3) vote of the Board of Directors and a majority vote of the owners at an election called specifically for that purpose.

Section 3. Suspension of Membership

Suspension of membership shall be imposed under the following conditions and circumstances:

A. During any period in which a member shall be in default in the payment of any compensation or special assessment levied by the Association, or shall be in default in the performance of, or in breach of any of the terms of the Declaration of Restrictions, the voting rights and right to use of the recreational facilities of such member shall be suspended by the Board of Directors, and if suspended, shall remain suspended until such assessment has been paid and all defaults and breaches remedied.

B. Membership rights of a member may also be suspended after notice and hearing for a period not to exceed sixty (60) days for violation of any rules and regulations established by the Board of Directors governing the use of the Common Areas.

ARTICLE V BOARD OF DIRECTORS

Section 1. Board of Directors

A. The business of the Association shall be managed by a Board of Directors, subject to the Bylaws of the Association and such mandates as may be expressed at the Annual Meeting of the members or any special meeting of the members

(1) Number

The Board of Directors shall consist of nine (9) members who shall be elected from the membership of the Association and of which three shall be elected annually each to serve a three (3) year term.

(a) At the initial election, three (3) Directors shall be elected to serve a one (1) year term; three Directors shall be elected to serve a two (2) year term; and three (3) Directors shall be elected to serve a three (3) year term.

(2) Term of Office

(a) The term of office shall begin at the close of the Annual Membership Meeting at which time they are declared elected, and they shall ((continue)) serve for a three (3) year term.

(b) Directors shall be eligible to serve only two (2) consecutive terms.

(3) Compensation

Board members shall receive no compensation fee for their services.

(4) Vacancy or Resignation

The Board shall fill any vacancies of over ninety (90) days by appointment. The appointment shall serve only until the next election.

(a) Any Board member absent three consecutive regular meetings without valid reason shall be deemed to have vacated that office.

Section 2. Nominations for the Board of Directors

A. Nominating Committee

(1) Appointment

Not less than sixty (60) days preceding the election the President shall appoint a Nominating Committee of five (5) members, which are subject to the approval of the Board. The committee shall include at least three (3) members who are not members of the Board.

(2) Duties of the Nominating Committee

(a) The nominating committee shall provide names of at least three (3) nominees to each serve a three (3) year term, pursuant to Section 1, A of this Article.

(b) The committee shall provide nominees for any vacancies to serve the unexpired term of any members.

(c) The names shall be presented to the Board at least forty (40) days before the annual election and posted in the Association office.

B. Nomination by petition

Nominations from the membership may be presented over the signatures of thirty-five (35) voting members per nominee. The petitions shall be in the hands of the Secretary of the Board at least thirty (30) days prior to the annual election and the names of these nominees shall be posted on the official bulletin board at least twenty (20) days prior to the annual election and in such publications or other postings which make information available to the members.

Section 3. Election of the Board of Directors

A. Time

The election of the Board of Director shall be held in January.

B. Voting Method

The voting shall be by ballot with plurality vote determining the election.

Section 4. Meetings of the Board of Directors

A. Regular Meetings

The Board of Directors shall provide by resolution the time and place for holding regular monthly meetings, October through April and notice shall be publicized.

B. Post-election Meeting

A meeting of the newly-elected Board Members and the continuing Board Members shall be held following the election, for the purpose of electing officers; however this meeting shall be held prior to the Annual Meeting of the membership.

C. Special Meetings of the Board of Directors

(1) A special meeting of the Board may be called by the President or at the request of any three (3) Directors.

(2) Notice of a special meeting, together with the items of business to be acted upon, shall be given by personal notice or by mail to each Director at his address of record.

(3) Any Director may waive notice of the meeting.

(4) Attendance of a Director at a meeting shall constitute a waiver of notice of such meeting.

D. Quorum for the Board of Directors

A majority of the Directors shall constitute a quorum for the transaction of business.

E. Executive Committee

An executive committee shall be appointed by the Board of Directors to have full power and responsibility during the months of May through September. Any action of this committee shall be ratified by the full Board at the first meeting in October.

F. Rules of Order

The Board of Directors shall establish its own rules, order of business and method of procedure, except as these bylaws specify otherwise.

Section 5. Powers and Duties

A. The Board of Directors shall have the power to: (1) Adopt and publish rules and regulations governing the use of the Common Areas and the facilities, and the personal conduct of the members and their guests, and to establish penalties for the infraction thereof;

(2) Exercise, for the Association, all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these By-laws, the Articles of Incorporation or the Declaration;

(3) Suspend the voting rights of a member and right to use recreational facilities pursuant to Article IV, Section 3;

(4) Employ a manager, an independent contractor or such employees as they deem necessary and to prescribe their duties.

B. The Board of Directors shall have the duty to:

- (1) Cause to be kept a complete record of all its acts and corporate affairs and to present a statement thereof to the members at the annual meeting of the members or at any special meeting;
- (2) Prepare an annual budget.
- (3) Supervise all officers, agents or employees of this Association, and to see that their duties are properly performed;
- (4) As provided herein and in the Declaration,
 - (a) Establish and collect the general assessments on the basis described and on the authority provided in Sections 3M and 3N of the Declaration.
 - (b) Establish and collect special assessments when approved by the owners on the basis described and on the authority provided in Sections 4A, 4B, 4C, 4D, and 4E of the Declaration.
- (5) Procure and maintain adequate liability and hazard insurance on property owned by the Association;
- (6) Cause the Common Areas to be maintained, including the aesthetic improvement of the Apache Wells Sub-division and surrounding areas, such as the entrance, fountain and other such areas.

ARTICLE VI OFFICERS

Section 1. Officers of the Association

A. The officers of this Association shall be President, First and Second Vice-Presidents, a Secretary and a Treasurer, each of whom shall be elected by the Board of Directors from the membership of the Board at their first meeting following the annual election.

Section 2. Terms of Office

A. Officers shall serve for a one (1) year term or until their successors have been duly elected or appointed.

B. Officers may be re-elected or re-appointed.

Section 3. Removal of Officers

Any officer elected or appointed with the approval of the Board may be removed by the Board whenever, in its judgment, the best interests of the Association will be served.

Section 4. Vacancies in Office

Any vacancy in any office may be filled by the Board of Directors for the unexpired portion of the term.

Section 5. Bonding of Officers

Bonds shall be required by the Board in such amounts as they shall fix from time to time, for such officers, agents or employees of the Association as they shall deem advisable. Costs of such bonds shall be borne by the Association.

Section 6. Duties of Officers

A. The President shall:

- (1) Preside at all meetings of the Membership and of the Board.
- (2) Appoint all committees, unless otherwise provided for in these bylaws, with the approval of the Board.
- (3) Make an annual report to the Members on behalf of the Board.
- (4) Sign all contracts and evidences of indebtedness in the name of the Association with the approval of the Board.
- (5) Perform such other duties as may pertain to the office.

B. A Vice-President shall:

- (1) Preside at meetings in the absence of the President.
- (2) Perform the duties of the President, at the request of the President, or in the case of his absence or inability to act, and when so acting, shall have all the powers of, and be subject to all the restrictions upon the office of President.

C. The Secretary shall be responsible for:

- (1) Recording and maintaining the proceedings of all meetings of the members and of the Board.
- (2) Preserving all important papers and documents of the Association.
- (3) Conducting the correspondence of the Association other than appropriately handled by other officers.
- (4) Having charge of the Corporate Seal.
- (5) Signing, countersigning, or attesting such instruments as may be required by virtue of the office.
- (6) Maintaining an official roster of the members, showing their names, addresses, lot numbers, telephone numbers and alternate addresses.
- (7) Performing such other duties as the Board may assign to the office.

D. The Treasurer shall be responsible for:

- (1) Maintaining adequate records of all monies received or disbursed by the Association.
- (2) Making the financial report at the Board Meetings.
- (3) Assisting the Board in preparing the budget.
- (4) Making recommendations for the improvement in accounting and financial procedures.
- (5) Preparing the annual financial report of the corporate year for the annual meeting.
- (6) Submitting the annual IRS reports and any state or federal reports as required.
- (7) Submitting all financial records necessary for an independent review.
- (8) Performing such other duties as the Board may assign.

ARTICLE VII

INDEMNIFICATION

To the full extent permitted by Arizona law, each member, each director, each member of a corporation or director's committee, each agent, employee, incorporator, officer and the managing agent, if any,

shall be indemnified by the corporation against all expenses and liabilities, including attorney's fees, reasonably incurred by or imposed in connection with any proceeding to which he or she may be a party, or in which he or she may become involved, by reason of holding or having held such position, or any settlement thereof, whether or not he or she holds such position at the time such expenses or liabilities are incurred, except to the extent such expense and liabilities are covered by insurance and except in such cases wherein such person is adjudged guilty of willful misfeasance in the performance of his or her duties; provided, that in the event of a settlement, the indemnification shall apply only when the Board of Directors approves such settlement and reimbursement as being for the best interest of the corporation.

ARTICLE VIII MEETINGS

Section 1. Annual Meeting of the Membership

A. Date

The annual meeting of the membership of the Association shall be held in January after the election of officers.

B. Place

The place of the annual meeting shall be determined by the Board of Directors.

C. Purpose

The business of the annual meeting shall be to install the members of the Board of Directors and for the transaction of such other business as may come before the meeting.

Section 2. Regular Meetings

Regular meetings of the membership will be held monthly from October through April.

Section 3. Special Meetings of the Membership

A. Special meetings of the membership may be called upon resolution of the Board of Directors.

B. Special meetings of the membership shall be called by the President upon written request of at least one hundred (100) of the members.

C. The business conducted at the special meeting shall be limited to that stated in the notice.

Section 4. Notice of Meetings of the Membership

A. Notice of each meeting of the membership shall be posted on the official bulletin board of the Association and in publications or other postings which would reasonably be expected to make that information available to the members.

B. Notice of meetings shall be posted and publicized at least fifteen (15) days in advance.

C. 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 5. Voting Rights

A. When more than one individual owns a unit, all such individuals shall be members, but only one vote shall be cast in respect to any residential unit.

B. Eligibility to vote shall be certified according to the membership roster maintained by the Association.

C. Membership meetings shall require no stated quorum providing the meeting was regularly noticed.

ARTICLES IX COMMITTEES

Section 1. Standing Committees

The following standing committees, each consisting of not less than three (3) individuals, shall be appointed by the President with the approval of the Board of Directors, and shall serve until the following annual meeting of the membership, or until their successors have been appointed.

A. Architectural Control Committee

B. Recreation Committee

C. Membership Committee

D. Maintenance Committee

E. Publicity Committee

F. Internal Review Committee

G. Nominating Committee

H. Arbitration Committee

Section 2. Duties of the Standing Committees

A. The Standing Committees shall promulgate such rules and regulations in their respective areas of responsibility as are necessary or prudent to fulfill the orderly conduct of activities and to promote maximum benefits to the members.

(1) Such rules and regulations shall not be in conflict with the Declaration or with the Bylaws.

(2) Such rules and regulations must have the approval of the Board of Directors before implementation.

B. The Standing Committees shall receive complaints from the members on any matter involving Association functions, duties and activities within its field of responsibility.

C. The Standing Committee shall dispose of such complaints as it deems appropriate or refer them to such other committee, Director or officer of the Association as is further concerned with the matter presented.

D. The Standing Committee shall advise the Board of Directors of their activities by reporting to the Board as frequently as the Board shall require or to the President if so directed by the Board.

E. The Standing Committee shall perform such other functions as the Board, in its discretion, determines.

F. Each Standing Committee's specific duties shall be:

(1) Architectural Control Committee

(a) This committee shall receive and either approve or disapprove, based on the Declaration and City of Mesa Ordinances, all requests from residential unit owners for installation of homes. Such requests must provide in writing a detailed description of the unit, and sketch showing the exact manner of situating it on the property. In addition, a sketch must be provided to show improvements such as patios, fences, awnings, storage building, etc.

(b) The committee shall receive and either approve or disapprove, based on the Declaration and City of Mesa Ordinances, all requests by any member desiring to modify, rebuild or make any additions to his own residence or any structure on his lot in any manner which requires the extension, alteration or modification of any part of an exterior wall. Such requests must be submitted in writing and approval by the committee must be obtained before proceeding with the modification.

(2) Recreation Committee

This committee shall be responsible for all matters pertaining to the recreational programs and activities of the Association.

(3) Membership Committee

This committee shall assist the secretary and treasurer in maintaining the roster and collection of fees.

(4) Maintenance Committee

This committee shall be responsible for matters pertaining to the maintenance, repair or improvement of the common area and facilities of the Association.

(5) Publicity Committee

(a) This committee shall inform the members of the activities and functions of the Association, and shall, after consulting with the Board of Directors, make such public releases and announcements as are in the best interest of the Association.

(b) This committee shall publish a yearly Directory of the members.

(6) Internal Review Committee

This committee shall conduct an internal review of the Association's financial records.

(7) Nominating Committee

This committee shall provide the slate of nominees for the annual election as provided in Article V, Section 2 of these Bylaws.

(8) Arbitration Committee

This committee, upon referral from a specific committee, or the Board of Directors, shall review the complaint, mediate, and, after a hearing, give a decision as an arbitrator.

Section 3. Special Committee

Special Committees shall be appointed by the President with the approval of the Board of Directors, as deemed necessary for carrying out the purposes of the Association

ARTICLE X FINANCIAL

Section 1. Fiscal Year

The fiscal year of the Apache Wells Homeowners Association, Inc. shall be the calendar year, January 1 through December 31.

Section 2. Compensation and Special Assessments

A. Obligation of Owners

As more fully provided in the Declaration, the owner of each Residential Unit shall pay to the Association the general assessment and, when approved by the owners, any special assessments. These fees are enforceable by a lien on the property against which the assessment is made.

B. Uniform Rate of Assessments

The general assessment or special assessment shall be of a uniform rate as applied to each Residential Unit and based on the Association's cost in obtaining and maintaining common areas, property, facilities and service devoted to the common usage and enjoyment of the membership at large.

C. General Assessment

(1) The general assessment rate shall be established each year by the Board of Directors consistent with the Declaration, and based on the budget projections. Thirty (30) days advance notice shall be given to the residential unit owners of any change in the general assessment rate.

(2) The Board of Directors, at their discretion, may allow owners to pay their general assessment at an annual rate of less than twelve (12) times the monthly rate. That annual rate would consider association savings in administrative and clerical costs plus the advantage of the advance use of the funds.

(3) The membership must approve, by majority vote of the Residential Unit Owners, present and voting at a notice meeting, the expansion of improvement of services to common areas that would result in an increase of over 10 percent in the general assessment rate.

D. Special Assessment

(1) Special assessments shall be approved by a two-thirds (2/3) vote of the Board at a duly called meeting at which a quorum is present, and by the majority vote of residential unit owners at a special election called and publicized for that specific purpose.

(2) Special assessments, when approved by the members, may be collected by the Association prior to the contemplated expenditure or

acquisition, if it is considered financially prudent or in the long term interest of the membership.

(3) Special assessments shall be paid in full at the time of change of ownership.

(3.1) From April 1, 2007, and on, the new owner may choose to assume the terms of the special assessment chosen by the previous owner, except for the deferred payment plan, where deferred payments are due in full at time of transfer. New owners then may elect to pay a minimum of \$50.00 per month until remaining special assessment is paid in full, or as in all cases, the right of pre-payment of any outstanding debt is an option. *Revised 4-12-07*

E. Dates Due and Procedure of Collection

(1) The Board of Directors shall establish when general and special assessments are due and shall establish collection methods, procedures and policies including but not limited to delinquent accounts and lien enforcement.

Section 3. Reserve Funds

Assessment funds may be accumulated for future costs and expenditures of the Association, when it is considered financially prudent, and to the long term advantage of the membership.

ARTICLE XI BOOKS AND RECORDS

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

ARTICLE XII PARLIAMENTARY AUTHORITY

The rules contained in the current edition of Robert's Rules of Order shall govern this Association in all cases in which they are applicable and in which they are not inconsistent with the Declaration, these Bylaws or the rules and procedures the Association adopted.

ARTICLE XIII AMENDMENTS

Section 1. Amendment Proposals

A. Proposed amendments to the bylaws may be submitted by a member or members providing:

(1) The proposal sets forth in written form the specific Article, Section and Subsection of the Bylaws to which the amendment (s) pertain.

(2) The proposal states the specific content, context to be deleted, expanded or changed, and the exact language offered in lieu thereof as a proposed amendment.

(3) The reason for and the purpose to be attained by the amendment.

B. The proposed amendment shall have been received by the Board at least thirty (30) days prior to the meeting at which the proposed amendment shall be presented.

C. The member shall be notified and have received copies of the amendments (s) at least fifteen (15) days prior to the meeting at which the proposed amendment (s) shall be presented and voted upon.

D. Approval of amendments shall require a two-third (2/3) vote of the members present and voting at an annual or special meeting. Voting shall be by ballot, prepared for the meeting by the Secretary.