

Apache Wells Homeowners, Inc. Bylaws

Present:

Article V, Section 4, Paragraph 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.

Proposed:

Article V, Section 4, Paragraph 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. *The executive committee will be made up of the current board with a limit of five (5) directors being available. The other four (4) will be used to rotate duties among each other for someone wanting to leave for a period of time. This executive board will meet once a month to discuss business. Any action of this Committee will have full authority to approve or disapprove any Board of Directors decisions.*

Reason:

1. Board members are elected by the residential unit owners to serve three (3) years to govern our facilities. The responsibility lies with each board member to fulfill their duties that they were elected to perform. Permanent residents are growing and the association should be governed year round.
2. The original bylaws does not state who shall be appointed to the Executive Committee. Appointed non-board members are now being discouraged.
3. This revised bylaw shall have the Executive Committee of only elected board members (at a reduced number) maintaining operations during the months of May through September. Elected board members did accept this responsibility when they accepted to run for the Board of Director's election.
4. In the last sentence of the present bylaw after Committee (shall be ratified by ratify by the full board at the first meeting in October) is being deleted and full authority is being given to the five-member Executive Board. This will make our organization run smoothly.

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Present: **Article V, Section 5, Powers and Duties, Paragraph A (4) Employ a manager, an independent contractor or such employees as they deem necessary and to prescribe their duties.**

Proposed: **Article V, Section 5, Powers and Duties, Paragraph A (4) Employ an independent contractor (*excluding any managerial contractor*) or such employees as they deem necessary and to prescribe their duties.**

Reason:

1. After Employ “a manager” is being deleted from this current by-law. It is being added as a new by-law, by itself, following number (4) in this Section. This is being done because of its importance to the residential unit owners.
2. Purpose for the removal and setting up employing a manager will let the residential unit owners make a final decision on the hiring of a manager.
3. This is a major decision in the hiring of a manager and all residential unit owners should have their say.
4. Added “excluding any managerial contractor” to exclude from this particular by-law any managerial contractor which is included in Paragraph A (5).

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Present: **This is a new by-law being created.**

Proposed: **Article V, Section 5, Powers and Duties, Paragraph A (5) Solicit the duties of a manager as deemed necessary and to prescribe the duties. Hiring shall be approved by a two-thirds (2/3) vote board at a duly called meeting at which a quorum is present, and by the majority vote of the residential unit owners at a special election called and publicized for that purpose.**

Reason:

1. Because of the severity of hiring a “Manager”, it is felt that this should be separated from the original by-law. It is too big of an item and all involved should have their vote and be heard. This is a major decision.
2. With this item being settled by a vote of all residential unit owners, all residential unit owners are being recognized for the change and aware of money to be spent.
3. With this new by-law both the Board of Directors and residential unit owners will be making the decision.

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Present: **Article V, Section 5, Paragraph B (2)** Prepare an annual budget.

Proposed: **Article V, Section 5, Paragraph B (2)** Prepare an annual budget.
Copies of final stages of the annual budget will be made by November 15th and shall be presented to the residential unit owners for final approval. The Board of Directors will call a special meeting for this purpose and will notify each residential unit owner at least 15 days in advance of the time, date and place of this meeting by U.S. Mail. Approval of the budget will be by a yea/nay vote at the General Homeowners meeting in December.

Reason:

1. Goal is to keep the residential unit owners informed on where and how their general assessment funds are being used and to raise questions of concern before the budget is approved.
2. Accomplishment will keep those interested residential unit owners well informed on the operations of the Apache Wells Home Owners Association's financial situation.

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Present:

Article X, Section 2, Paragraph 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 units owners of any change in the general assessment rate.

Proposed:

Article X, Section 2, Paragraph 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. General assessment funds will be used solely for budgeted projections on monthly expenses to common areas. Thirty (30) days advance notice shall be given to the residential unit owners of any change in the general assessment rate. The general assessment rate cannot exceed eight percent (8%) in any one (1) year with a maximum cap on the general assessment rate of \$ 50.00 per month. After the \$50.00 cap is reached and additional general assessment funds are needed, the Board of Directors must present their financial shortage not to exceed 8% of the monthly rate to the residential unit owners at a special meeting called and voted for approval by the majority vote of the residential unit owners. This increase will be a one-time charge paid monthly and not carried over to the following year.

Reason:

1. Pursuant to the Declaration, general assessment funds are to be used for the cost of maintenance of facilities and furnishings of the common areas. Also, we are adding to this bylaw a percentage maximum and a cap on the general assessment fund.
2. The general assessment fund rate is being lowered from 10% to 8% to ease the burden on the residential unit owners with fixed incomes.
3. The revised bylaw does list a maximum percentage for the general assessment fund with a cap on the total. Also, explains general assessment funds are for the use of common areas only.

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Present: **Article X, Section 2, Paragraph C General Assessment (3)** The membership must approve, by a 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.

Proposed **Article X, Section 2, Paragraph C General Assessment (3)** The membership must approve, by a 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 amount over \$50,000.00. The Board of Directors shall notify each Residential Unit Owner at least 15 days in advance of the meeting including the time, date and place by U.S. Mail.

Reason:

1. The maximum general assessment rate is being changed and established in Article X, Section 2, Paragraph C, Item 1. This article is being changed to establish a cap on general assessment fund spending. This will put more control with the residential unit owners where membership approval will be required on excess spending.
2. The original bylaw setting a maximum general assessment rate has been moved. No cap on general assessment spending had been set.
3. The revised bylaw will set a cap on general assessment spending. Above cap spending will need approval by the residential unit owners.
4. Part of the last sentence in the present bylaw (increase of over 10 percent in the general assessment rate) is moved from this bylaw as explained in reason 1.

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Present:

Article X, Section 2, Paragraph 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 the residential unit owners at a special election called and publicized for that special purpose.

Proposed:

Article X, Section 2, Paragraph D Special Assessment (1) *The Board of Directors shall have the right and power to acquire additional real and personal property, including commercial property and to provide construction, alterations, demolition or removal of recreational common and commercial facilities and to use Special Assessments to defray in whole or in part the costs thereof.* 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 special purpose. *The reserve fund available may be used to defray whole or part of the costs. Any new monies will consist in the form of a Special Assessment.*

Reason:

1. Pursuant to the CC&R's, a portion of "Special Assessment" is being added to this bylaw to clarify its use on new requirements.
2. The original bylaws are very vague in identifying its use.
3. The new bylaw identifies its use and also directs how new monies will now be acquired. This puts control into the hands of the residential unit owners.

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Present:

Article X, 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.

Proposed:

Article X, 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. *A \$300,000.00 maximum will be set for this reserve fund with any excess being rebated to the residential unit owners, by lowering their monthly general assessment rate for the following year.*

Reason:

1. A limit is being set for the reserve fund along with a rebate to the residential unit owners if excess funds accumulate beyond the limit.
2. The original bylaw has loose ends on the amount that can accumulate in the Reserve Fund.
3. The revised bylaw will set a maximum limit on the Reserve Fund with any excess returned to the residential unit owners. This does put a control on the Reserve Fund that keeps the residential unit owners aware of the financial status.

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Present:

Article XIII, Section 1 Amendment Proposals (C) The member shall be notified and have received copies of the amendment (s) at least fifteen (15) days prior to the meeting at which the proposed amendment (s) shall be presented and voted upon.

Propose:

Article XIII, Section 1 Amendment Proposals (C) The member shall be notified and have received copies of the amendment (s) at least fifteen (15) days prior to the meeting at which the proposed amendment (s) shall be presented and voted upon. *The board shall notify each residential unit owner by U.S. Mail.*

Reason:

1. The goal is to make sure each residential unit owner is notified of an amendment change.
2. The original bylaw does not specify how the residential unit owner is to be notified.
3. The revised bylaw states the residential unit owner will be notified of a bylaw change by **U.S. Mail.**