

Esperanza
Estates
Homeowners'
Association, inc.

amended and restated

bylaws

april 2001

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AMENDED AND RESTATED BYLAWS
OF
ESPERANZA ESTATES HOMEOWNERS ASSOCIATION, INC.

Article I
DEFINITIONS

The definitions in these Bylaws are the same as the definitions set forth in the Amended and Restated Declaration of Covenants, Conditions and Restrictions for GREEN VALLEY ESPERANZA ESTATES ("the Declaration") recorded on MAY 11th, 2001 at Docket 11547 at Page 1857, et. seq.

Article II
NAME, LOCATION AND RULES OF ORDER

Section 2.1 Name and Location: The name of the corporation is ESPERANZA ESTATES HOMEOWNERS ASSOCIATION, INC. ["Association"]. The principal office of the corporation is located at Green Valley, Pima County, Arizona, but meetings of the members and directors may be held at such places within the State of Arizona, County of Pima, as designated by the Board .

Section 2.2 Rules for Governing Meetings: The most current "Robert's Rules of Order" shall govern the regular or special meetings of the Board, the regular or special meetings of the members and the committee meetings of the Association.

Article III
MEETINGS OF MEMBERS

Section 3.1 Annual Meeting: The annual meeting of the members shall be held during the month of January of each year.

Section 3.2 Special Meetings: Special meetings of the members may be called at any time by the President or by a majority of the Board of Directors, or upon written request of one-fourth of the members who are entitled to vote.

Section 3.3 Notice of Meetings: The Secretary shall mail notice of the meetings of the members to each member entitled to vote at least fifteen (15) days prior to a meeting. The Notice shall be addressed to the member's latest address as shown in the books of the Association, or to an address supplied by the member for the purpose of receiving notice. The Notice shall specify the place, date, and time of the meeting; and, in the case of a special meeting the purpose of that meeting. The failure of any member to receive actual notice of a meeting of the members does not affect the validity of any action taken at that meeting.

Section 3.4 Quorum: Except as otherwise provided in the Governing Documents, a quorum exists at any meeting of the members if twenty percent of the Members entitled

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to vote, in person or by proxy, are present. If a quorum is not present at any meeting, the members entitled to vote have the power to adjourn the meeting from time to time, without notice other than an announcement at the meeting, until a quorum is present.

**AMENDED
2013** Section 3.5 Proxies: At all meeting of members, each member may vote in person or by proxy. All proxies shall be in writing and filed with the Secretary at least 24 hours prior to the meeting at which the proxy is to be used. Every proxy is revocable and automatically ceases upon the Member's conveyance of the Lot.

Article IV

BOARD OF DIRECTORS, SELECTION, TERM OF OFFICE

Section 4.1 Number: The affairs of this Association shall be managed by a Board of nine (9) Directors, who shall be members of the Association.

Section 4.2 Term of Office: The terms of the Directors are staggered so that three Directors are elected for a term of three (3) years at each annual meeting of the members.

**AMENDED
2013** Section 4.3 Removal: Any Director may be removed from the Board by a majority vote of the Members of the Association who are in attendance at any meeting of the Association held for that purpose, provided that a quorum is present at that meeting. The vote may be in person or by proxy. The members requesting the removal of a Director must submit a petition to the Secretary which has been signed by the Owners of at least 20% of the Lots. The Secretary [or any designee of the Secretary] is responsible for determining the date and time of any special meeting [which must be scheduled not later than 30 days after receipt of the petition] and for sending notices of the meeting to the Members. Any Director whose removal has been proposed shall be given notice of the petition calling for his/her removal and shall be given the opportunity to submit a written response to the petition, to be mailed to the Members by the Secretary with the Notice of the meeting. At the meeting, the Director whose removal has been proposed shall be entitled to address the Members prior to the vote on the removal. In the event of the removal of a Director, his/her successor shall be selected by the vote of the Members at the meeting and such successor shall be elected to fill the unexpired term of the Director who was removed.

Section 4.4 Vacancy: Any vacancy on the Board shall be filled by the remaining members of the Board selecting a successor who shall serve for the remaining term of the predecessor.

Section 4.5 Compensation: No director shall receive compensation for any service he/she may render to the Association. However, any director may be reimbursed for

his/her actual expenses incurred in the performance of his/her duties upon presentation of appropriate evidence of the expense.

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Section 4.6 Action Taken Without a Meeting: The Directors have the right to take any action in the absence of a meeting by obtaining the approval of a quorum of the Directors. Any such approved action has the same effect as though taken at a meeting of the Directors. Any action taken under this Section 4.6 shall be confirmed at the next regular Board meeting.

Article V
NOMINATION AND ELECTION OF DIRECTORS

Section 5.1 Nominations: At least three months prior to the annual meeting, the Board shall appoint a Nominating Committee consisting of one member of the Board who shall be the Chair and at least two (2) members of the Association at large. The Nominating Committee shall make as many nominations for election to the Board as it determines but not less than the number of vacancies to be filled. Nominees must be members of the Association. Nominations may also be made from the floor at the annual meeting.

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Section 5.2 Election: Election shall take place at the annual meeting and shall be by secret written ballot. The ballot shall contain the names of those nominated by the Committee, specific instructions on the number of candidates to be elected, and spaces for write-in candidates. For each vacancy, the members or their proxies may cast as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes are elected. Cumulative voting is not permitted.

Article VI
MEETINGS OF BOARD OF DIRECTORS

Section 6.1 Regular Meetings: Regular meetings of the Board shall be held monthly (except for July and August) at a place and time set by the Board.

Section 6.2 Special Meetings: Special meetings of the Board shall be held when called by the President of the Association, or by any two Directors.

Section 6.3 Notice of Board Meetings. Notice of meetings of the Board shall be provided to the Members in the newsletter, by conspicuous posting or by any other means reasonably determined by the Board to provide notice to the members. This does not apply to emergency circumstances where action by the Board is required.

Section 6.4 Quorum: A majority of Directors constitutes a quorum for the transaction of business. Every decision made by a majority of the Directors present at a duly called meeting at which a quorum is present shall be an act of the Board.

Section 6.5 Member Attendance: Members of the Association may attend regular and special meetings of the Board.

Article VII
POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section 7.1 Powers: The Board has the power to:

- 7.1.1 exercise for the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by the Governing Documents;
- 7.1.2 employ a manager, independent contractor, or any employees as it deems necessary, and to prescribe their duties and compensation;
- 7.1.3 promulgate rules and regulations consistent with the terms of the Governing Documents.
- 7.1.4 establish fees for the disclosure of information to potential purchasers of Lots, as provided for in the Planned Communities Act, as amended from time to time, and to charge and collect such fees from the Seller of any such Lot.

Section 7.2 Duties: It is the duty of the Board to:

- 7.2.1 keep a complete record of all its actions and financial affairs and present a statement thereof to the members at the annual meeting or any special meeting when such statement is requested in writing by one-fourth of the members entitled to vote;
- 7.2.2 declare the office of a member of the Board to be vacant in the event such member shall be absent without good cause from three consecutive regular meetings of the Board;
- 7.2.3 supervise all officers, agents and employees of this Association and to see that their duties are properly performed;
- 7.2.4 as more fully provided in the Declaration, to:
 - 7.2.4.1 determine the amount of the annual assessment against each Lot at least thirty days prior to annual assessment period;

- 7.2.4.2 provide written notice of the amount of the annual assessment to every Owner at least thirty days prior to each annual assessment period;
- 7.2.4.3 collect assessments as provided in the Declaration.
- 7.2.5 issue, or cause an appropriate officer to issue, upon demand by any person, a certificate setting forth whether or not any assessment has been paid. A reasonable charge may be made by the Board for the issuing these certificates. If the certificate states an assessment has been paid, that certificate is conclusive evidence of payment;
- 7.2.6 procure and maintain adequate liability and hazard insurance on property owned by the Association and obtain the insurance required in the Declaration;
- 7.2.7 obtain fidelity insurance on all officers or employees having fiscal responsibilities;
- 7.2.8 cause an annual review of the Association's books to be made by an accountant at the completion of each fiscal year;
- 7.2.9 comply with the provisions of the Planned Communities Act, A.R.S. §33-1801 *et. seq.*, as amended from time to time; and
- 7.2.10 approve the annual budget at the November Board meeting.

Section 7.3 Authorized Payments by the Association. The Board has the exclusive authority to make payments out of the Association's operating and reserve accounts to cover the services being provided to the Owners, the enforcement of the Governing Documents, and for any and all purposes set forth in such Governing Documents.

Section 7.4 Liability of Board Members. No Member of the Board shall be personally liable to any Member or his/her assigns for any damage, loss or prejudice suffered or claimed on account of any act or omission of the Association, its representatives or employees, provided that such Board Member has, upon the basis of such information as may be possessed by him/her, acted in good faith.

Article VIII OFFICERS AND THEIR DUTIES

Section 8.1 Enumeration of Officers: The officers of this Association are a President, Vice President, Secretary and Treasurer.

- Section 8.2 Election of Officers: The officers shall be elected by the Board from among the Directors elected by the members. The election of officers shall take place at the first meeting of the Board following each annual meeting of the members.
- Section 8.3 Term: The officers of this Association shall be elected annually and each shall hold office for one (1) year unless he/she resigns, is removed, or is otherwise disqualified to serve.
- Section 8.4 Special Appointment: The Board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.
- Section 8.5 Resignation and Removal: Any officer may be removed from office with or without cause by a majority of a quorum of the Board. Any officer may resign at any time, by giving written notice to the Board. Such resignation takes effect on the date of receipt of such notice or at any later time specified therein. The acceptance of any resignation is not necessary to make it effective.
- Section 8.6 Vacancies: A vacancy in any office may be filled by appointment by the Board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer replaced.
- Section 8.7 Multiple Offices: The offices of Secretary and Treasurer may be held by the same person. No person shall simultaneously hold more than one of any of the other offices, except in the case of special offices created pursuant to Section 4 of this Article.
- Section 8.8 Duties: The duties of the officers are as follows:
- 8.8.1 President: The President shall: preside at all meetings of the Board and of members; see that orders and resolutions are carried out; sign all leases, mortgages, deeds and other written instruments; and co-sign checks and promissory notes.
- 8.8.2 Vice President: The Vice President shall act in the place of the President in the event of his/her absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him/her by the Board.
- 8.8.3 Secretary: The Secretary shall:
- 8.8.3.1 Record votes;
- 8.8.3.2 Keep minutes of all Board and membership meetings;

- 8.8.3.3 Keep the corporate seal and affix it on all papers requiring said seal;
- 8.8.3.4 Send notice of Board and membership meetings;
- 8.8.3.5 Keep current records of names and addresses of members;
- 8.8.3.6 Keep records regarding transfers of ownership of Lots;
- 8.8.3.7 Maintain a file of copies of the Articles of Incorporation, Bylaws and the Declaration;
- 8.8.3.8 Perform such other duties as required by the Board.

8.8.4 Treasurer: The Treasurer shall:

- 8.8.4.1 Receive and deposit all funds belonging to the Association in appropriate bank accounts;
- 8.8.4.2 Disburse funds as directed by resolution of the Board;
- 8.8.4.3 Co-sign all checks and promissory notes of the Association;
- 8.8.4.4 Keep proper books of account and record of paid assessments;
- 8.8.4.5 Prepare a proposed annual budget to submit to the Board for consideration at the November Board meeting;
- 8.8.4.6 Present to the membership at the annual meeting in January the budget approved by the Board and a statement of income and expenditures;
- 8.8.4.7 Prepare a written report, which is available to each member, to include:
 - 8.8.4.7.1 The approved budget for the next year;
 - 8.8.4.7.2 Income and expenditures of the current year;
 - 8.8.4.7.3 A statement of the year end assets and liabilities;
- 8.8.4.8 Send written notice of all general and/or special assessments to members of the Association in accordance with the Declaration.

Section 8.9 Delegation of Duties: The Board may delegate the duties and responsibilities of the Officers as it deems appropriate to a manager or employee hired for that purpose.

Article IX
COMMITTEES

The Board shall appoint an Architectural Control Committee as provided for in the Declaration and a Nominating Committee as provided for in these Bylaws. In addition, the Board shall appoint any other committees which it deems appropriate.

Article X
BOOKS AND RECORDS

The books, records and papers of the Association are available for inspection by any Member. In accordance with A.R.S. §10-11602, any Member desiring to review such books and records must provide a written request setting forth the proper purpose for the inspection. Upon receipt of the request, the Member shall be entitled to inspect such records during reasonable business hours and to have copies made of any documents, at the Member's expense. The Insurance Policy, Articles of Incorporation and the Bylaws of the Association are available for inspection by any Member at the principal office of the Association, where copies may be purchased at reasonable cost.

Article XI
ASSESSMENTS

As more fully provided in the Declaration, each Member is obligated to pay to the Association Annual Assessments, Special Assessments and Reimbursement Assessments which are secured by a lien upon the Lot against which the assessment is made.

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Article XII
AMENDMENTS

These Bylaws may be amended at the annual meeting or any special meeting of the Association by a vote of the Owners of fifty-one percent (51%) of the Lots who are present in person or by proxy at such meeting. Notice of any proposed amendment must be included in the notice of the meeting at which a vote will be taken.

Article XIII
GENERAL

Section 13.1 The fiscal year of the Association begins on the first day of January and ends on the thirty-first day of December of each year.

Section 13.2 This Amended and Restated Bylaws supersedes and revokes all previously adopted Bylaws and all supplements and amendments thereto.

Adopted on April 26, 2001

ESPERANZA ESTATES HOMEOWNERS
ASSOCIATION, INC

By: *A. David Lantz*
President

ATTEST:

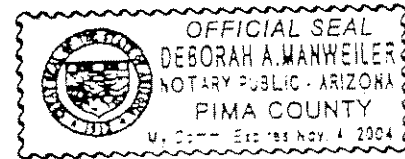
Ben D. Sheffield
Secretary

STATE OF ARIZONA)
) ss:
COUNTY OF PIMA)

SUBSCRIBED, SWORN TO AND ACKNOWLEDGED before me this 15th day of MAY, 2001, by A. David Lantz, Jrand Ben D. Sheffield, President and Secretary, respectively, of ESPERANZA ESTATES HOMEOWNERS ASSOCIATION, INC.

Deborah A. Manweiler
Notary Public

My Commission Expires: 11-4-2004



AMENDMENTS TO BYLAWS
ESPERANZA ESTATES HOMEOWNERS ASSOCIATION

The following amendment to the Bylaws was approved by a vote of the Owners of at least 51% of the Lots voting in person or by absentee ballot at the meeting of the Association held on January 21, 2013:

Section 4.6 Action Taken Without a Meeting, is deleted in its entirety and the following new Section 4.6 is substituted in its place:

Section 4.6 Action Taken Without a Meeting. The Directors have the right to take action in the absence of a meeting by obtaining the written approval of a quorum of the Directors. Any such action taken in lieu of a meeting is limited to emergency actions required to maintain the infrastructure of the property owned by the Association, or to undertake any matter requiring immediate action. Action taken in lieu of a meeting has the same effect as though taken at a meeting of the Directors. The written consent of the Directors will be attached to the minutes of the next meeting of the Board

Pursuant to Section 7.2.9 of the Bylaws of Esperanza Estates Homeowners Association, adopted in April, 2001, the Board of Directors of the Association is obligated to comply with the Arizona Planned Communities Act (the "Act", A.R.S. §33-1801, *et. seq.*). As such, various amendments to the Act modify by legislative action, the terms and provisions of such Bylaws. At its meeting held on November 19, 2012, with the approval of 2/3 of the Directors voting at that meeting, the following Sections of te Bylaws were modified to reflect the changes to the Act.

1. Section 3.4. Quorum. is revised to comply with A.R.S. §33-1812 B, which permits absentee ballots to be counted in determining whether a quorum is present at any meeting of the Association.
2. Section 3.5., pertaining to the use of Proxies was invalidated by the provisions of A.R.S. §33-1812. It is now replaced with the following statutory requirements:

Section 3.5. Voting.

- a. Proxy voting is not permitted. The Association will provide for votes to be cast by the members in person, by absentee ballot, or with the consent of the members without a meeting as provided in A.R.S. §10-3704.
- b. Any action taken at an annual or special meeting of the Members must comply with all of the following:
 - i. The absentee ballot must set forth each proposed action.
 - ii. The absentee ballot must give the Member the opportunity to vote for or against each proposed action.
 - iii. The absentee ballot is valid for only one specified election or meeting of the members and expires automatically after the completion of the election or meeting.
 - iv. The absentee ballot must specify the time and date by which the ballot must be delivered to the board of directors in order to be counted, which must be at least seven days after the date that the board delivers the absentee ballot to the member.
 - v. The absentee ballot cannot authorize another person to cast votes on behalf

of the member.

3. Section 4.3, Removal is modified to reflect that voting on the removal of any Director may be in done in person at the meeting or by absentee ballot.
4. Section 5.2, Election of Directors, is modified to reflect that a vote cast by a Member to elect the Directors can be cast in person or by absentee ballot.
5. ARTICLE XII pertaining to Amendments to the Bylaws is modified to delete references to voting by proxy and to provide that the Bylaws can be amended at any annual or special meeting of the Association by a vote of the Owners of 51% of the Lots who are present *in person* or who have cast an *absentee ballot*.

All other terms and conditions in the April 2001 Bylaws remain in effect.

Dated: May 8, 2013

Esperanza Estates Homeowners Association

By: Eric Ellington
Eric Ellington, President

Attest:

Joe McCalpin
Joe McCalpin, Secretary