

**BYLAWS
OF
EL ENCANTO ESTATES
HOMEOWNERS ASSOCIATION, INC.**

ARTICLE I.

Name and Place of Business

§ 1. Name. The name of the corporation is EL ENCANTO ESTATES HOMEOWNERS ASSOCIATION, INC., hereinafter referred to as the "Association".

§ 2. Place of Business. The principal office shall be located in Tucson, Arizona, at the home of the president of the Association or at such other location as may be designated by the board of directors from time to time, but meetings of members and directors may be held at such places within Pima County, Arizona as may be designated by the board of directors.

ARTICLE II.

Scope and Purposes of Association

§ 1. General Purposes. The general purpose of the Association, as successor of the El Encanto Estates Neighborhood Association, Inc., an Arizona corporation, is to promote the general welfare of El Encanto Estates, a legal subdivision of Pima County, Arizona, according to the map or plat thereof recorded in Book 5 of Maps and Plats at page 35 in the Pima County Recorder's Office, Arizona, hereinafter referred to as "El Encanto Estates", and its environs.

§ 2. Specific Purposes. The specific purposes of this Association shall include, without limitation, the following:

- (a) to promote the social welfare of El Encanto Estates and its environs;
- (b) to receive, own and administer Association property, including easements and rights of way;
- (c) to provide for the acquisition, construction, management and maintenance of Association property;
- (d) to encourage the residents of El Encanto Estates to maintain buildings, grounds and properties to the standards appropriate to a high quality residential area;

- (e) to enforce any and all restrictions as to the use of lots and improvements situated thereon within El Encanto Estates as set forth in any Declaration of Establishment of Conditions and Restrictions or similar instrument which is in effect or as may be adopted pertaining to El Encanto Estates, or as set forth in Code of Ordinances of the City of Tucson, Arizona; and
- (f) to carry on and maintain any and all services which shall be desired by the members of the Association.

ARTICLE III.

Membership; Voting; Meetings of Members

§ 1. Membership Qualification. All owners and part owners of record title (including contract purchasers under a recorded contract for sale but excluding contract sellers) of one or more lots in El Encanto Estates shall qualify for the number of memberships as the number of lots so owned. The board of directors shall be empowered to determine all issues relating to membership in the Association in any manner consistent with the Articles of Incorporation and the Bylaws. For these Bylaws, the definition of a "lot" is a parcel listed in the Pima County Assessor property data.

§ 2. Membership. All persons who qualify for membership and whose dues are currently paid shall be members. Only members shall have the right to vote. Those persons holding more than one membership by virtue of ownership of more than one lot shall be entitled to vote for the number of lots owned and for which dues are currently paid. Memberships are not transferable and may not be pledged or alienated in any way. Upon the sale of a lot, the seller shall cease to be a member, unless the seller shall own another lot in El Encanto Estates for which dues are currently paid.

§ 3. Dues. Dues shall be Fifty Dollars (\$50.00) per year per lot, or such other amount as the board of directors may from time to time determine.

§ 4. Voting. Except as otherwise prescribed for electing members of the board of directors, members shall be entitled to cast one vote for each lot in El Encanto Estates owned and for which dues are currently paid; provided, however, if a lot is owned by two or more persons, or entities, they shall designate one among their number to exercise voting rights and, if requested by the secretary of the Association, shall make such designation in a writing delivered to the secretary of the Association.

§ 5. Meetings.

- (a) *Annual Meeting.* The annual meetings of the members of the Association for the election of officers and directors and the transaction of such other business of the Association as may be brought before it shall be held in October of each year at such place as the board of directors may designate.

- (b) *Special Meetings.* Special meetings of the Association may be called at any time by the president or by the board of directors or upon written request of one-fourth (1/4) of the members. Special meetings shall be held at such time and at such place as may be designated in the notice thereof.
- (c) *Meetings Notices.* Notices of each meeting of the members of the Association, whether annual or special, shall be given by the secretary of the Association or such person authorized to call the meeting, orally or mailed to each member at such member's last known post office address, or the address supplied by such member to the Association for the purpose of notice, or if none, to the address of the member's lot, not fewer than seven (7) days prior to the date of the meeting. The notice of each special meeting shall contain the purpose for which it is to be conducted. Any member may waive notice to any meeting.
- (d) *Quorum.* The presence at the meeting in person or by proxy of one-tenth (1/10) of the members shall constitute a quorum for any action unless otherwise provided in the Articles of Incorporation or these Bylaws. If, however, such quorum shall not be present or represented by proxy at any meeting, the members who are present shall have the power to adjourn the meeting from time to time, without notice other than announcement at such meeting, until a quorum shall be present or represented.
- (e) *Proxies.* 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 cease automatically upon disqualification of the member.

ARTICLE IV.

Board of Directors; Selection; Term of Office

§ 1. Number. The number of directors of the Association shall be determined, from time to time, by the board of directors, but in no event shall there be fewer than five (5) directors.

§ 2. Qualification. Only members who are natural persons may be elected or appointed to the board of directors. Any person whose membership terminates or lapses may not remain a member of the board of directors and shall be deemed to have resigned as of the time the membership terminates or lapses.

§ 3. Election and Term of Office. The members of the board of directors shall be elected at the annual meeting of the membership by the members. At least twenty (20) days prior to the annual meeting the existing board of directors shall select a nominating committee comprised of such number as it shall designate. The nominating committee shall make nominations for vacancies on the board of directors. The nominating committee shall present to the secretary of the Association at least ten (10) days before the annual meeting the nominees for the

board of directors. The secretary of the Association shall include the names of the nominees with the notice of the meeting. Nominations for directors may be made by any member from the floor of the meeting. Members may vote for directors in person or by proxy with votes to be cast in the manner set forth in Article III, Section 4, above, but shall be entitled to cast as many votes as there are number of directors to be elected, one vote per nominee. Each director duly elected shall serve until the earlier of the next annual meeting of the members and the time at which his/her successor shall have qualified. Any director may serve one or more terms, whether or not in succession.

§ 4. Removal; Resignation; Vacancies; Leave of Absence. Any director may be removed from the board, with or without cause, by the majority vote of the other directors present personally or voting by proxy, at a regular meeting, or a special meeting called for such purpose. Further, any director, at any time, may resign from the board by giving written notice to the board, the president or the secretary. Such resignation shall take effect on the date of receipt of such notice, or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Failure to be a member or lapse of membership shall be deemed to be a resignation from the board. In the event of death, resignation, removal or disqualification of a director, his/her successor shall be selected and appointed by the remaining directors and shall serve the unexpired term of the director so replaced. Any director may take leave of absence from the board by giving notice to the board, the president or the secretary.

§ 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 duty.

§ 6. Meetings.

- (a) *Annual Meeting.* The annual meeting of the board of directors shall be held in Tucson, Arizona, immediately following the annual meeting of the members.
- (b) *Regular Meetings.* Regular meetings of the board of directors of the Association shall be held in Tucson, Arizona, at such times as the board of directors shall determine.
- (c) *Special Meetings.* Special meetings of the board of directors shall be held when called by the president or by fifty percent (50%) or more of the directors. Said meetings shall be held in Pima County, Arizona.

§ 7. Notice/Waiver of Notice. A notice of the time and place of the annual, regular or special meetings (including, in the case of special meetings, the purpose or purposes for which the meeting is called) shall be made by the secretary or such person calling the meeting, orally or in writing, at least three days prior to the meeting. Any members of the board of directors may waive notice of any meeting. Attendance at a meeting by a director shall be deemed

waiver of notice to the meeting unless the director's attendance is to object to the holding of the meeting without proper notice.

§ 8. Quorum. A majority of the directors shall constitute a quorum for the transaction of business by the board of directors. Any meeting at which a quorum is not present may be adjourned from time to time until the meeting shall be regularly constituted, at which time any business may be transacted which might have been transacted at the meeting as originally noticed. The directors present at a duly organized meeting may continue to transact business until adjournment, even if a quorum is no longer remaining due to the withdrawal of directors from such meeting. A director on leave of absence shall not be counted among the directors in determining a quorum.

§ 9. Manner of Acting. The act of the majority of the directors present at a meeting at which a quorum is present shall be the act of the board of directors. 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 a majority of the directors. Any action so approved shall have the same effect as if so taken at a meeting of the directors.

ARTICLE V.

Powers and Duties of the Board of Directors

§ 1. Powers and Authority of the Board. The board of directors shall have all the powers of an Arizona non-profit corporation, subject only to such limitations upon the exercise of such powers as are expressly set forth in the Association's Articles of Incorporation and these Bylaws and to perform any and all acts which may be necessary or proper for or incidental to the exercise of any of the expressed powers of the Association. Without in any way limiting the generality of any of the foregoing provisions, the board of directors shall have the power and authority at any time to do the following:

- (a) Delegate specific powers to any committees, including an executive committee, designated by the board of directors;
- (b) Adopt and publish rules and regulations governing the maintenance and control of the Association's property, including, without limitation, the easements and rights of way;
- (c) Suspend the voting rights of a member during any period in which such member shall be in breach of the provisions of these Bylaws and/or any rules and regulations promulgated by the board of directors until such default or breach is cured;
- (d) Encumber the property of the Association up to the amount of \$5,000.00, unless a greater amount is approved by the membership;

- (e) Exercise for the Association all powers, duties and authority vested in or delegated to the Association and/or any declaration of establishment of covenants, conditions and restrictions or similar instrument as may be in effect with respect to El Encanto Estates;
- (f) Declare the office of a director of the board of directors to be vacant in the event such director shall be absent from three (3) consecutive regular meetings; and
- (g) Employ managers, independent contractors, or such other employees or agents as the board deems necessary, and to prescribe their duties.

§ 2. Duties. It shall be the duties of the board of directors to:

- (a) Cause to be kept a complete record of all of its acts and corporate affairs;
- (b) Supervise all officers, agents and employees of the Association, and to see that their duties are properly performed;
- (c) Procure and maintain adequate insurance in such amounts and of such types as deemed prudent by the board;
- (d) If the board shall so determine, cause easements and/or other property within the El Encanto Estates to be maintained and to own or hire equipment for such purpose;
- (e) Carry out any other or further duty imposed on the Association or its board of directors by the Articles of Incorporation and these Bylaws.

ARTICLE VI.

Officers and their Duties

§ 1. Officers. The officers of the Association shall be a president, who shall act as chairman of the board of directors, one or more vice presidents, a secretary, and a treasurer, all of whom shall be members of the board of directors and if designated by the board of directors, an assistant secretary and assistant treasurer. The board of directors in its discretion may designate additional officers. All officers must be members. Termination of membership shall be deemed to be a resignation as an officer of the Association.

§ 2. Election and Term of Office. The officers of the Association shall be elected at the annual meeting of the board of directors, or at such other times as the directors may determine. The election of the officers shall be by majority vote of the board of directors. The term of each office shall be for one year and each officer shall hold office for the term thereof unless he/she shall sooner die, resign, become disqualified or be removed by a majority vote of the directors and until the successor of such officer is qualified.

§ 3. 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.

§ 4. Resignation and Removal. Any officer may be removed from office with or without cause by a majority vote of the board at a regular meeting, or at a special meeting called for such purpose. Any officer may resign at any time, by giving written notice to the board, the president or the secretary. Such resignation shall take effect on the and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective. Failure to be a member or lapse of membership shall be deemed to be a resignation from office.

§ 5. 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 he/she replaces.

§ 6. 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 3 of this Article.

§ 7. Duties. The duties of the officers are as follows:

- (a) *President.* The president shall be the principal officer of the Association and, subject to the control of the board of directors, shall in general, supervise and control all of the business and affairs of the Association. The president shall sign, with such other officer as the directors designate, if any, all instruments which the board of directors has authorized to be executed, except in cases where the signing and execution thereof shall be expressly delegated by the board of directors or by these Bylaws to some other officer or agent of the Association or as shall be required by law to be otherwise signed or executed.
- (b) *Vice President.* The vice president shall perform such duties as may be delegated to him/her by the board of directors. In the case of the temporary absence of the president or in the case of his/her temporary inability to act, the vice president, or if there is more than one vice president, the senior vice president, shall perform and be vested with all of the powers and duties of the president during such temporary absence or temporary inability. In the case of the permanent or extended absence or inability of the president to act, the office shall be declared vacant by the board and a successor chosen by the board.
- (c) *Secretary.* The secretary shall report the votes and keep the minutes of all meetings and proceedings of the board and of the members; if a corporate seal of the Association exists, the secretary shall keep and affix it, as required, on any papers; serve notice of the meetings of the board and of the members; keep appropriate current records showing the members of

the Association together with their addresses and voting entitlements, and shall perform such other duties as are required by the board.

- (d) *Treasurer.* The treasurer shall have charge of and custody of and be responsible for all monies, securities and property of the Association and shall keep account of all monies received and disbursed by the Association, and shall deposit all monies and valuables in the name and to the credit of the Association in such banks and depositories as the board of directors may designate.
- (e) *Assistant Secretary.* The assistant secretary, if one is so designated, shall perform such duties as may be delegated by the board of directors. In the case of the temporary absence of the secretary or in the case of his/her temporary inability to act, the assistant secretary shall perform and be vested with all of the powers and duties of the secretary during such temporary absence or temporary inability. In the case of the permanent or extended absence or inability of the secretary to act, the office shall be declared vacant by the board and a successor chosen by the board.
- (f) *Assistant Treasurer.* The assistant treasurer, if one is so designated, shall perform such duties as may be designated by the board of directors. In the case of the temporary absence of the treasurer or in the case of his/her temporary inability to act, the assistant treasurer shall perform and be vested with all of the powers and duties of the treasurer during such temporary absence or temporary inability. In the case of the permanent or extended absence or inability of the treasurer to act, the office shall be declared vacant by the board and a successor chosen by the board.

ARTICLE VII.

Committees

The board of directors may appoint committees as it shall deem appropriate in carrying out its purposes as provided by the Articles of Incorporation and these Bylaws, including without limitation, an executive committee. The President shall appoint the chairman of any such committee and may appoint the members thereof or authorize the chairman to do so. The chairman of each such committee shall make reports of its activity to the board of directors at such times, in such manner and in such places as the board shall direct.

ARTICLE VIII.

Finances

§ 1. Fiscal Year. The Association's fiscal year shall be October 1st through September 30th of the next year.

§ 2. Accounts. All receipts of the Association shall be deposited in accounts maintained by the treasurer and all disbursements by the Association shall be made through accounts maintained by the treasurer.

§ 3. Number of Signatures. All disbursements of funds shall be signed by the treasurer, or by one or more persons or officers as designated by the board of directors.

ARTICLE IX.

Corporate Seal

The Association, if the board of directors determines, may have a seal, which if existing, is shown to the right of this Article.

ARTICLE X.

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 who shall be provided copies of any such instruments or documents.

ARTICLE XI.

Indemnification/Insurance

To the fullest extent permitted by Arizona Revised Statutes Section 10-1005(C) and any successor provision, every director, officer or committee member of the Association who is employed, appointed or acts as such by the Association shall be indemnified by the Association, and every other person serving as a director, officer, committee member, employee, volunteer or direct agent of the Association, or otherwise acting on behalf of, and at the request of the Association, who is named as a plaintiff or defendant in threatened, pending or completed litigation, may be indemnified, in the discretion of the board, by the Association. Such indemnification shall include without limitation, all expenses and liabilities, including attorneys' fees, reasonably incurred by or imposed upon such person in connection with any proceeding to which he/she may be a party, or in which he/she may become involved, by reason of his/her being or having

served in such capacity on behalf of the Association or any settlement thereof, whether or not he/she is a director, officer or committee member or serving in such other specified capacity at the time such expenses are incurred; provided however, in the case of a proceeding threatened or brought in the right of the Association, the indemnity shall exclude judgments, fines and settlements except to the extent a court of competent jurisdiction shall determine that the indemnity is proper as to a settlement. Such indemnification shall be available only if such officer, director, member of a committee or other person acted, or failed to act, in good faith and in a manner he/she reasonably believed to be in or not opposed to the best interests of the Association and, with respect to a criminal proceeding, he/she had reasonable cause to believe his/her conduct was lawful.

The right of indemnification hereinabove provided shall not be exclusive of any rights to which any director or officer of the Association may otherwise be entitled at law.

The Association shall have the power to purchase insurance on behalf of any person who is or was a member, director, officer, employee or agent of the Association against any liability asserted against him/her or incurred by such person in any such capacity or arising out of such person's status, whether or not the Association would have the power to indemnify such person against such liabilities under this Article.

ARTICLE XII.

Dealings with Directors, Officers or Committee Members

§ 1. Permitted Dealings With Directors, Officers and Committee Members. No contract or business transaction between the Association and one or more of its directors, officers, chairman or committee members or a corporation, partnership, association or other organization in which a corporation director, officer, chairman or committee member is a director, officer or employee or in which he/she has a financial interest, shall be void or voidable solely for this reason, or solely because the director, officer, chairman or committee member is present at or participates in the meeting of the board or committee thereof which authorized the contract or business transaction or solely because his or their votes are counted for such purposes, if:

- (a) The material facts as to his/her relationship or interest in the contract or business transaction are disclosed or are known to the membership, the board or committee, and the membership, board or committee in good faith authorized the contract or business transaction by the affirmative votes of a majority of the disinterested members, directors or committee members which may be less than a quorum; or

(b) The contract or transaction is fair as to the Association as of the time it is authorized, approved or ratified by the board or committee thereof.

§ 2. Determining Quorum. Common or interested members, directors or committee members may be counted in determining the presence of a quorum at a meeting of the membership, board or of a committee which approves the contract or business transaction.

ARTICLE XIII.

Amendments

These Bylaws may be altered, amended or repealed and new bylaws may be adopted by the concurrence of two-thirds of the entire number of the board of directors of the Association at its annual meeting, any regular meeting, or at any special meeting called for that purpose, or by two-thirds vote of the membership present at the annual meeting or at a special meeting called for that purpose.

Secretary

Date

APPROVED:

President

Date

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