

EXHIBIT A

AMENDED AND RESTATED BY-LAWS
Sunrise Mountain View Estates Homeowners Association, Inc.

ARTICLE I: NAME AND LOCATION

The name of the corporation is Sunrise Mountain View Estates Homeowners Association, Inc., hereinafter referred to as the "Association." The principal office of the corporation shall be located at ~~5550 N Paseo Otono, Tucson~~4708 W. Cactus Bluff Drive, Marana, Arizona, but meetings of Members and ~~directors~~the Board may be held at such places within the State of Arizona, County of Pima, as may be designated by the Board ~~of Directors.~~

ARTICLE II: DEFINITIONS

Section 1: Association

"Association" shall mean and refer to Sunrise Mountain View Estates Homeowners Association, Inc., its successors and assigns.
~~Association, Inc., its successors and assigns.~~

Section 2: ~~Properties~~Board

~~"PropertiesBoard"~~ shall mean ~~and refer to that certain real property described in the Declaration and such additions thereto as may hereafter be brought within the jurisdiction~~Board of Directors of the Association.

Section 3: Common Areas

"Common Areas" shall mean all real property owned by the Association as provided in the Declaration.
~~the Declaration.~~

~~Section 4:~~

Section 4: Declaration

"Declaration" shall mean and refer to the Declaration of Establishment of Conditions, Covenants and Restrictions applicable to the Properties recorded in the office of the Recorder of Pima County, Arizona at Docket 7852 at Page 1223 as same may be amended from time to time.

Section 5: Lot

"Lot" shall mean and refer to the numbered plot of land shown upon the recorded subdivision map of the Properties, with the exception of the Common Area.

Section 56: Member

"Member" shall mean and refer to those persons entitled to membership as provided in the Declaration.

Section 7: Owner

"Owner" shall mean and refer to the record owner, whether one or more persons or entities, of the fee simple title to any Lot which is a part of the Properties, including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.

Section 6: Declarant

~~"Declarant Properties" shall mean and refer to Lawyers Title of Arizona as Trustee under Trust 7243-T, that certain real property described in the Declaration and its successors and assigns, if such successors or assigns should acquire more than one undeveloped lot from the Declarant for additions thereto as may hereafter be brought within the purpose jurisdiction of development~~

Section 7: Declaration

~~"Declaration" shall mean and refer to the Declaration of Covenants, Conditions and Restrictions applicable to the Properties recorded in the office of the Recorder of Pima County, Arizona at Book 40, Pages 1223 through 1279 Association.~~

Section 8: Member

~~"Member" shall mean and refer to those Persons entitled to membership as provided in the Declaration.~~

ARTICLE III: MEETING OF MEMBERS

Section 1: Annual Meetings

The annual meeting of the Members shall be held ~~on the third Monday of each February. If the day for the annual meeting of the Members is a legal holiday, the meeting will be held at the same hour on the first day following which is not a legal holiday in February of each year at such date and time as determined by the Board.~~

Section 2: Notice of Meetings

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 10 days and not more than 50 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. 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

Special meetings of the Members may be called at any time by the ~~Declarant or by the President or~~ by the Board of any two directors, or upon written request of one-fourth (1/4) of the Members who are entitled to vote.

Section 4: Quorum

The presence at the meeting, in person or by ~~proxy absentee ballot~~, of one-tenth (1/10) of the Members who are entitled to vote thereat shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration, or these Amended and Restated 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: Proxies Voting

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~~

~~absentee ballot.~~ Voting rights shall be determined as provided in Article IV of the Declaration ~~which provides, among other things, for exclusive voting rights of the Declarant for stated periods of time.~~

ARTICLE IV - BOARD OF DIRECTORS: SELECTION: TERM OF OFFICE: POWERS AND DUTIES

Section 1: Number of Directors

The affairs of ~~this~~the Association shall be managed by a Board ~~of seven (7) Directors, consisting of not less than five (5) nor more than nine (9) directors~~ who shall be Members in good standing ~~of the Association.~~

~~Section 2: Term of Office.~~

~~At the first annual meeting on February 18, 1992, the members shall elect four (4) bringing the total to seven (7) Directors, who shall be members in good standing of the Association.~~

~~At the first meeting of the new enlarged. The Board of Directors, the Board shall designate three members to serve for three (3) years, two (2) members to serve for two (2) two (2) members to serve for one (1) year. At each regular annual p meeting thereafter, the members shall elect may increase or decrease the number of directors fill the vacant positions for a consistent with this subsection; provided, however, that no decrease in the number of directors may result in shortening the term of three (3) years. any director then in office.~~

Section 2: Election of Directors.

Election to the Board shall be by secret written ballot. The persons receiving the largest number of votes shall be elected.

Section 3: Term of Directors

The term of office of each director shall be three (3) years and until his successor is elected and qualified. The terms of directors shall be staggered and the Board may select which directors shall serve for one-year, two-year or three-year terms in order to re-establish such staggered terms.

Section 34: Removal and Resignation

Any director may be removed from the Board, with or without cause ~~by a majority vote of the members of the Association, in conformance with the procedures set forth in A.R.S.~~

§33-1813. 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 5: ~~Action Taken Without a Meeting~~Duties

~~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.~~

ARTICLE V: ~~ELECTION OF DIRECTORS~~

Section 1: ~~Election~~

~~Election of the Board of Directors shall, except in the case of appointment by Declarant pursuant to its exclusive voting rights, be by secret written ballot. At such election the member or their proxies may cast, in respect to each vacancy, as many votes as they are entitled to exercise under the provisions of the Declaration. The persons receiving the largest number of votes shall be elected. Cumulative voting is not permitted.~~

ARTICLE VI: ~~MEETINGS OF DIRECTORS~~

Section 1: ~~Regular Meetings~~

~~Regular meetings of the Board of Directors shall be held monthly at such place and hour as may be fixed from time to time by resolution of the Board. Should a meeting fall upon a legal holiday, then that meeting shall be held at the same time on the next day which is not a legal holiday.~~

Section 2: ~~Special Meetings~~

~~Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two Directors, after not less than three (3) days notice to each Director. Notice may be waived at any time by the person entitled to such notice.~~

Section 3: ~~Quorum~~

~~A majority of the number of Directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the Directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.~~

Section 4: ~~Notice of Meetings~~

~~All meetings of the Board of Directors shall be held on the third Monday of each month at the Clubhouse. If the Board of Directors shall decide to cancel a monthly meeting notice of such cancellation shall be posted on the pool bulletin boards.~~

Section 5: ~~Member participation~~

~~All meetings of the Board of Directors shall be open to all members. All members may participate in the deliberations and/or discussions conducted at such meetings. Such participation shall be governed by the Open Meetings Law of Arizona, as amended ARS 33-1248) and Robert's Rules of Order and does not confer upon such member(s) any rights to vote as a Director. provided however, that for regular and special meetings of~~

~~the board, association members who are not board members may not participate in any deliberation or discussion unless expressly so authorized by a vote of the majority of a quorum of the board. Added in compliance with ARS 33-1804~~

~~Section 6: Closed meetings~~

~~A meeting may be closed only if the closed portion of the meeting is limited to consideration of one or more of the following:~~

- ~~• Employment or personnel matters for employees of the Board or the Association~~
- ~~• Legal advice from an attorney for the board or the association~~
- ~~• Pending or contemplated litigation~~
- ~~• Pending or contemplated matters relating to enforcement of the association's documents or rules.~~

~~{Added in compliance with ARS 33-1804}~~

~~Section 2: Duties~~

It shall be the duty of the Board ~~of Directors~~ to:

(a) Cause to be kept a complete record of all of its acts and corporate affairs, and to present a written statement thereof to the Members at the annual meeting of the Members, at which a quorum is present;

(b) Supervise all officers, agents and employees of this Association, and to see that their duties are properly performed;

(c) As more fully provided in the Declaration, to:

(1) fix the amount of the annual assessment against each Lot at least thirty (30) days in advance of each annual assessment period;

(2) send written notice of each assessment to every Owner subject thereto at least thirty (30) days in advance of each annual assessment period; and

(3) foreclose the lien against any property for which assessments are not paid ~~within three (3) years~~ in conformity with A.R.S. §ARS 33-1256 after due date 1807 or to bring an action at law against the Owner personally obligated to pay the same.

(d) Issue, or to 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 issuance of these certificates. If a certificate states an assessment has been paid, such certificate shall be conclusive evidence of such payment;

(e) Procure and maintain adequate liability and hazard insurance on property owned by the Association;

(f) Cause the officers or employees having fiscal responsibilities to be bonded, as it may deem appropriate;

- (g) Cause the Common Areas to be maintained; and
- (h) Maintain all commonly used equipment.

~~ARTICLE VII: POWERS AND DUTIES OF THE BOARD OF DIRECTORS~~

Section ~~16~~: Powers

The Board ~~of Directors~~ shall have power to:

- (a) Adopt and publish rules and regulations governing the use of the Common Areas and ~~Common Local Areas, and~~ the personal conduct of the Members and their guests thereon, and to establish penalties for the infraction thereof;
- (b) Suspend the voting rights and right to use of the recreational facilities of a Member during any period in which such Member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed 60 days for infraction of ~~published~~the Declaration ~~or~~ rules and regulations;
- (c) Exercise for the Association all powers, duties and authority vested in or ~~delegated~~delegate to this Association, and not reserved to the Membership by other provisions of these Amended and Restated By-Laws, the Articles of Incorporation, or the Declaration;
- (d) Declare the office of a member of the Board ~~of Directors~~ to be vacant in the event such member shall be absent from three (3) consecutive regular meetings of the Board ~~of Directors; and,;~~
- (e) Employ a manager, an independent contractor, or such other employees as they deem necessary, and to prescribe their duties, except that an attorney or other representative may not be hired to bring an action on behalf of the Association against any person or organization in any court or administrative hearing or before any governmental body, unless at a special meeting of the members said action is approved by more than fifty percent (50%) of all disinterested members not involved in the proceedings personally.
- (f) Secure bids for, negotiate and execute an exclusive contract with a refuse removal service for the purpose of collecting and removing trash or rubbish from each Lot and the Common Area.
- (g) Adopt regulations by which each Owner is billed by the Association in proportion to its total Membership interest in the Association for the costs of satisfying the obligation incurred as a result of the contract permitted in subsection (f) above. Said billing may be enforced in the nature of an Assessment as provided in Article VIII of the ~~Declarant on of Establishment of Conditions, Covenants and Restrictions for Sunrise Mountain View Estates~~Declaration.

(h) Adopt regulations controlling and/or forbidding access to the Association's streets and rights of way to any refuse removal service other than contracted with the Association pursuant to subsection (f) above.

ARTICLE ~~VIII~~IV – MEETINGS OF THE BOARD

Section 1: Regular Meetings

Regular meetings of the Board shall be held no less than six (6) times per fiscal year at such place and hour as may be fixed from time to time by resolution of the Board.

Section 2: Special Meetings

Special meetings of the Board shall be held when called by the President of the Association or by any two directors after not less than three (3) days notice to each director. Notice may be waived at any time by the person entitled to such notice.

Section 3: Quorum

A majority of the number of directors in office shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board.

Section 4: Notice of Meetings

Notice of the date, time and place of meetings of the Board shall be given to Members at least forty-eight (48) hours in advance of such meetings by newsletter, conspicuous posting, or other reasonable means as determined by the Board unless emergency circumstances require action by the Board before notice can be given. The minutes of any emergency meeting of the Board shall state the reason(s) necessitating the meeting and shall be read and approved at the next regularly scheduled meeting of the Board.

Section 5: Open Meetings

Except for matters that the Board, at its election, may address in executive session as set forth in A.R.S. § 33-1804, Members (or any person designated by a Member in writing as the Member's representative) shall be permitted to attend regular and special meetings of the Board and speak at an appropriate time before the Board takes action on any matter.

Section 6: Action Without a Meeting

Any action that may be taken at a meeting of the Board may be taken without a meeting if emergency circumstances require immediate action by the Board, a quorum is unavailable for a meeting and all directors consent to such action in writing. Any action by unanimous written consent shall be reflected in the minutes of the next regularly scheduled Board meeting unless the action was taken in executive session.

ARTICLE VI: OFFICERS AND THEIR DUTIES

Section 1: Enumeration of Offices

The officers of this Association shall be a President and Vice-President, a Secretary, and a Treasurer, ~~and such other officers as the Board may from time to time by resolution create, all of whom shall be Members.~~

Section 2: Election of Officers

The election of officers shall take place at the first meeting of the Board ~~of Directors following each annual meeting of the Members.~~
~~following each annual meeting of the Members.~~

Section 3: Term

The officers of this Association shall be elected annually by the Board, and each shall hold office for one (1) year, unless he shall sooner resign, or shall be removed, or otherwise disqualified to serve.

Section 4: Special Appointments

The Board may ~~elect such other~~ appoint officers ~~as the affairs~~ other than those enumerated in Section 1 of the Association this Article, whom may ~~require, each of or may not be directors, and~~ whom shall hold office for such period, have such authority, and perform such duties as the Board may, from time to time, determine.

Section 5: Resignation and Removal

Any officer may be removed from office with or without cause by the Board. Any officer may resign at any time, 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.

Section 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 he replaces.

Section 7: Multiple Offices

The offices of the 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: Duties

The duties of the officers are as follows:

President

(a) The President shall preside at all meetings of the Board ~~of Directors~~; shall see that orders and resolutions of the Board are carried out; and shall sign all leases, mortgages, deeds and other written instruments, ~~and shall co-sign all checks and promissory notes.~~

Vice-President

(b) The Vice-President shall act in the place and stead of the President in the event his absence, inability or refusal to act, and shall exercise and discharge such other duties as may be required of him by the Board.

Secretary

(c) The Secretary shall record the votes and keep the Minutes of all meetings and proceedings of the Board and of the Members; ~~keep the corporate seal of the Association, and affix it on all papers requiring said seal; serve~~cause the notice of meetings of the Board and of the Members to be served; keep appropriate current records showing the Members of the Association, together with their addresses, and shall perform such other duties as required by the Board.

Treasurer

(d) The Treasurer shall ~~receive~~be responsible for overseeing the duties and ~~deposit~~responsibilities of the Association's comptroller which shall include the following: receiving and depositing in appropriate bank accounts all monies of the Association; and ~~shall disburse~~disbursing such funds as directed by resolution of the Board ~~of Directors~~; ~~shall sign all checks and promissory notes of the Association; keep;~~ keeping proper books of account; ~~cause~~and causing an annual audit, review or compilation of the Association books to be ~~made~~performed by a certified public accountant at the completion of each fiscal year; ~~and, The treasurer shall prepared~~direct the preparation of an annual budget and a statement of income and expenditures to be represented to the Membership at its regular annual meeting, and, deliver a copy of each to the members. The Treasurer, or any other officer to whom the Board may delegate such authority, shall sign all checks written on the account of the Association; provided, however, that a check in an amount greater than ten thousand dollars (\$10,000.00) shall be co-signed by the President.

ARTICLE ~~IX~~VII: COMMITTEES

Section 1: General

The Board ~~of Directors~~ shall appoint a Nominating Committee, and such other committees as deemed appropriate in carrying out its purpose, as provided in these Amended and Restated By-Laws and prescribe their duties.

Section 2: Architectural Committee

The Board ~~of Directors~~, at its annual meeting, shall appoint an Architectural Committee, ~~composed comprised~~ of a minimum of no less than three (3) members, ~~either Members or Non-Members and chaired by a director~~ of the Association. The Architectural Committee shall have such powers and duties as are set forth in the Declaration.

ARTICLE ~~XVII~~XVIII: INDEMNIFICATION

Every officer or director of the Association may be indemnified by the Association against all expenses, liabilities and penalties, including counsel fees, reasonably incurred by or imposed upon him in connection with any proceeding to which he may be made a party or in which he may become involved by reason of any acts or omissions alleged to have been committed by him while acting within the scope of his employment as a director or officer of the Association, including any settlement thereof, provided that the Board ~~of Directors~~ determines that such person acted in good faith and did not act, fail to act or

refuse to act willfully with gross negligence, or with fraudulent or criminal intent in regard to the matter involved in the action or proceeding.

The Association shall have the power to purchase and maintain insurance on behalf of any person who is or was a director or officer of the Association or was serving at the request of the Association as a director or officer against any liability asserted against him and incurred by him in any such capacity or arising out of his status as such, whether or not the Association would have had the power to indemnify him against such liability under this Article.

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 by law.

ARTICLE ~~XII~~: 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 Declarations, the Articles of Incorporation, and the Amended and Restated By-Laws of the Association shall be available for inspection by any Member at the principal office of the Association, where copies may be purchased ~~at a reasonable cost~~ in conformance with A.R.S. §33-1805.

ARTICLE ~~XII~~: ASSESSMENTS ~~X~~: MISCELLANEOUS

~~As more fully provided in the Declaration, each Member is obligated to pay to the Association assessments. Any assessments which are not paid within thirty (30) days of the due date shall be delinquent, shall constitute a lien on the Lot of the Owner who fails to pay them and shall bear interest from the date of delinquency at the rate of 12% per annum or as provided in the Declaration. The Association may bring an action at law against the Owner personally obligated to pay the assessment or foreclose the lien against the property, and interest, costs, and reasonable attorneys' fees of any such action or foreclosure shall be added to the amount of such assessment. No Owner may waive or otherwise escape liability for the assessments provided for herein by non-use of the Common Areas.~~

ARTICLE ~~XIII~~: CORPORATE SEAL

~~The Association shall have a seal as is shown at the right of this Article. {Seal on file with the Board of Directors.}~~

ARTICLE ~~XIV~~: AMENDMENTS

Section 1: ~~{Procedure}~~ Amendments

~~These By-laws may be amended, at a regular or special meeting of the members, by a~~

by the affirmative vote of Members representing a majority of a quorum of members present in person or by proxy, the total eligible votes in the Association or two-thirds (2/3) of those Members eligible to vote and voting on the matter, whichever is less.

Section 2: ~~{Controlling Documents}~~Conflicts

In the case of any conflict between the Articles of Incorporation and these Amended and Restated By-Laws, the Articles shall control; and in the case of any conflict between the Declaration and these Amended and Restated By-Laws, the Declaration shall control.

~~ARTICLE XV: MISCELLANEOUS~~

Section 3: Fiscal Year

The fiscal year of the Association shall begin on the first day of January and end on the last day of December of every year, ~~except that the first fiscal year shall begin on the date of incorporation.~~

~~ARTICLE XVI: ACTION AGAINST DECLARANT~~

~~Notwithstanding any other provision of these Bylaws, the Board of Directors or their officers or agents shall not take an action against or hire any agent to take any action against the Declarant or its agents, whether such involved a governmental proceeding, court proceeding or any other direct or indirect action against the Declarant or its agents, without obtaining approval of such action from than fifty percent (50%) of the Members entitled to vote, excluding the Declarant.~~

The undersigned certify that these Amended and Restated By-laws were approved by two thirds of Members voting on the matter at the annual meeting held the _____ day of _____, 20_____.

SUNRISE MOUNTAIN VIEW ESTATES HOMEOWNERS ASSOCIATION, INC.,
An Arizona nonprofit corporation

By: _____
Its: President

By: _____
Its: Secretary