

E K M A R K & E K M A R K, L.L.C.

ATTORNEYS AT LAW

SUMMARY OF THE ARIZONA NONPROFIT CORPORATION ACT

1. Notice.
 - A. Can be communicated by phone, fax or mail.
 - B. Written notice is effective when it is mailed to the correct address.
 - C. Notice by newsletter is acceptable and it is effective at the earlier of either its receipt or five days after it is mailed.
2. The Court may schedule a meeting if impractical or impossible.
 - A. Court may determine who the directors are.
 - B. Court may ignore requirements such as quorums.
3. Unless the association's documents provide otherwise, associations may have the power to:
 - A. Lease and pledge property.
 - B. Compensate directors and officers.
 - C. Make certain donations.
 - D. Impose transfer fees.
4. Association's power to act may only be challenged by:
 - A. Ten percent or fifty members, whichever is less.
 - B. The corporation in a suit against a former director.
 - C. A member through a derivative action.
5. A creditor of the association must attempt to collect from the association first. If it is not able to collect the full amount owed, then it can garnish assessment payments until the debt is paid in full.
6. Members may resign, but they still have to pay dues and abide by the deed restrictions.
7. Special meetings of the membership may be called:
 - A. In accordance with the Articles of Incorporation or the Bylaws.
 - B. By the Board of Directors.
 - C. By ten percent of the members by written demand specifying purpose. The close of business on the 30th day before the demand was delivered is the record date for determining the ten percent.
 - D. If the Board refuses to schedule a meeting within 30 days after the demand, the Court may schedule the meeting and award fees and costs.
 - E. Notice of the meeting must state the purpose of the meeting.

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8. Associations may use written consents (in some cases) to vote instead of holding a meeting.
 - A. The record date is the date the first member signs the consent.
 - B. Written notice of actions must be given to all those who do not sign.
 - C. Consent may be revoked in writing if it is done before the last necessary consent is obtained.

9. Notice of meetings of the membership.
 - A. Must be at least ten days and not more than fifty days before the meeting in order to comply with this law and the Condominium Act and the Planned Community Act.
 - B. The record date for the notice may be specified in the Bylaws.
 - C. If the record date for the notice is not specified in the Bylaws, the Board may set forth the requirements for the record date.
 - D. Record date for voting is specified by:
 - i. Bylaws.
 - ii. Board.
 - iii. Meeting date.
 - E. No record date may be specified more than seventy days before the meeting.

10. Certain actions may be taken by written ballot.
 - A. Ballot must:
 - i. Set forth issues.
 - ii. Allow both yes or no vote.
 - B. Must meet quorum and approval requisites.
 - C. All solicitations for ballots must:
 - i. Indicate number of responses to meet quorum.
 - ii. State percentage of approvals necessary.
 - iii. Specify time in which ballot must be returned (cannot be less than three days).
 - D. Written ballots cannot be revoked.

11. Members list for meetings.
 - A. After fixing a record date, association must prepare alphabetical list of names entitled to vote and it must list the addresses and number of votes.
 - B. List must be available for inspection and copy by member or attorney.
 - C. List must be available at the meeting.

 - D. Failure to provide this list may result in ultimate payment of attorney's fees and costs.

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12. Cumulative voting is permitted only if the documents provide and:
 - A. The meeting notice states it; or
 - B. A member elects.
13. Resignation by a director is accomplished by delivering the resignation in written form.
14. A director may be removed by a Court action instituted by the corporation, or twenty-five percent of the members if:
 - A. Fraud or criminal conduct is evident **AND**
 - B. Removal is in the best interest of the corporation.
15. Board meetings.
 - A. Acceptable by conference call/speaker phone.
 - B. Notice must be given two days prior to the meeting (except for emergencies).
 - C. The President or twenty percent of the directors may call the meeting.
 - D. Directors may vote by proxy if allowed by the Articles of Incorporation or Bylaws.
16. Corporation must keep the following records:
 - A. Its Articles of Incorporation or Restated Articles of Incorporation and all amendments to them currently in effect.
 - B. Its Bylaws or Restated Bylaws and all amendments to them currently in effect.
 - C. Resolutions adopted by the Board of Directors relating to the characteristics, qualifications, rights, limitations and obligations of members or any class or category of members.
 - D. The minutes of all members' meetings and records of all actions taken by members without a meeting for the past three years.
 - E. All written communications to members generally within the past three years, including the financial statements furnished for the past three years.
 - F. A list of the names and business addresses of its current directors and officers.
 - G. Its most recent annual report delivered to the Corporation Commission.
17. Inspection of records.

May be requested by a member who has been a member of the association for at least six months and may be inspected by the member, his agent or attorney. The inspection and

inspection requires five day's written notice.

- A. Proper purpose must be articulated.
- B. Member may copy at his or her expense.
- C. If an inspection is ordered by the Court, the association may have to pay attorney's fees and costs.

The foregoing is a general overview of an issue and is not intended as specific legal advice regarding any particular situation. Associations are advised to seek competent legal counsel when confronted with legal issues. If you have any questions, please contact Ekmark & Ekmark at 480-922-9292.