

Hillcrest Improvement Association (HIA)
Guidelines, Responsibilities, and Policies
for the Board of Directors
Including Rules and Regulations for the Common Areas
As adopted by the HIA Board of Directors, effective 10/3/2023

Board email: hillcrestia@gmail.com

Mailing address: 13824 N. Medinan Dr, Phoenix, AZ 85022

Statement of Purpose:

This document replaces the following 2 existing documents:

Hillcrest Improvement Association ("Association")

Owner's Guide to Association Rules.

Adopted by the Association Board of Directors, effective May 10, 2012

Hillcrest Improvement Association

Violations Enforcement Policy

Approved May 8, 2012

The above referenced documents are hereby canceled and revoked.

With contributing guidance, review, and content provided by legal counsel, this document has been prepared by the current Board of Directors of the HIA and may be amended at any time by this Board or subsequent Boards.

This document is separate from, and is not intended to be an interpretation or restatement of, the Amended and Restated Bylaws of Hillcrest Improvement Association adopted at a meeting of the Members on April 15, 2023, or the Third Amended and Restated Declaration of Restrictions for Hillcrest Improvement Association as recorded May 8, 2023. Homeowners are encouraged to refer to these documents for policies pertaining to the use and restrictions of their *personal property*.

Statement of Relationship to Moon Valley Homeowners Association. Hillcrest is located within the boundaries of The Moon Valley Homeowners Association which represents approximately 1600 homes, and also serves the Moon Valley area. Hillcrest homeowners are encouraged, but not required, to join the MV HOA.

BOARD OFFICERS AND COMMITTEES

The HIA is self-managed. The Board consists of five to nine Directors elected annually for staggered two-year terms. Your Board members are unpaid volunteers who are working on your behalf while managing their own homes, personal businesses, and in some cases, full time jobs. Board officers include President, Vice President, Secretary, and Treasurer. Committees are established and reconfirmed at the annual Organizational meeting (held immediately following the election of the new Board at the Annual meeting, or at the earliest possible date agreed upon by the new Board). Committees may be combined, split, deleted, updated, or otherwise changed at the Organizational Meeting depending on the number of Directors elected, and the current and anticipated needs of the community. At the discretion of the Board of Directors, a committee may be added, deleted, or modified during the year.

The following Committees are recommended, and are chaired by Board members, unless otherwise noted. Committee Chairs may, but are not required to, appoint members or enlist volunteers to assist with their duties and responsibilities:

Grounds: Manages and oversees all maintenance and repair of all Common Areas, subject to approval by the Board of Directors.

Architecture: Reviews and approves modification requests (must be submitted on a Modification Form). Enforces policies for landscaping, exterior modifications, architectural changes and additions, paint colors, and so on.

Membership: Provides applications and information for new owners, and maintains Lot files for the Association. Reports on real estate listings, sales, number of rentals, and number of lots occupied by residents under age 55.

Long Term Planning: Conducts a needs assessment for the Common Areas of the Association and assists in the preparation and maintenance of a reserve fund for future maintenance and replacement costs. While not required, recommended committee members would be the Board President (Committee Chair), Treasurer, and Grounds Director. Additional Ad Hoc committee members are encouraged to be included for the purpose of gaining a wide range of opinions and input with regard to major projects.

Pool: Oversees the use, maintenance, and repair of the pool and its equipment, subject to approval by the Board of Directors.

Outreach and Hospitality: Sends welcome letters to new members. Facilitates the creation and distribution of a community newsletter. Sends get well, sympathy, and thank you cards. Reaches out to members of the community to assist with any needs.

Social: Plans, promotes, coordinates, and oversees the Association's social activities. The Social Director is a volunteer position, subject to approval by vote of the Board at the annual Organizational meeting. The Committee consists of Ad Hoc members appointed by the Director, including one member of the Board. The Director works with the Secretary to notify the community of forthcoming activities. The Social Director will report any needed appliance or furniture repairs or replacements to the Grounds and/or Pool Director for approval by the Board.

TYPES OF BOARD MEETINGS:

Monthly Board Meetings: Monthly Board meetings are recommended; however, the Board has the authority to postpone or skip a meeting at their discretion.

Where practicable and as determined by the President, meetings of the Board of Directors shall be conducted under the guidelines published by Robert's Rules of Order: "Informal Procedure in Small Boards" (attached).

Members of the Association are welcome to attend and observe Monthly Board meetings. Members will be afforded an opportunity to speak on agenda topics after the Board has discussed the topic, but before the Board votes on the matter. Additional membership opportunities to be heard may be afforded during the meeting at the discretion of the President, but are not required. Membership comments shall be limited to not more than three (3) minutes unless otherwise determined by the President.

Executive Sessions: Executive Sessions are for Board members only and shall be limited to consideration of one or more of the following:

- Legal Advice
- Pending or contemplated litigation
- Personal information about an individual Member of the Association, employee, or employee of a contractor for the Association

- Matters relating to job performance, compensation, or complaints against an employee or employee of a contractor of the Association
- Discussion of a Member's violation appeal
- Any other purpose authorized by Arizona law

Committee Meetings: Association members may attend meetings of regularly scheduled committee meetings (for example, those held on the same day/date each month). It is up to the Committee Chair to specify member participation guidelines and limitations at the beginning of regularly scheduled committee meetings.

Committee meetings that are called as needed, or Ad Hoc committees, may, but are not required, to allow member attendance and/or participation.

Committee Chairs should provide a general summary of matters discussed at their meetings at the next scheduled Board meeting. Minutes need only be taken for budget matters, estimates reviewed, or specific requests received from homeowners.

Town Hall Meetings: These meetings are classified as regular or special meetings of the Board, and are open to attendance by the membership. They are typically called by the Board to discuss important matters or policies that affect the community.

Association Annual Meeting: as stated in the Bylaws, held within the State of Arizona once per calendar year, time and place determined by the Board, open to all members.

POLICIES FOR MAINTAINING RECORDS

Please refer to the attached RECORDS RETENTION AND MANAGEMENT POLICY.

POLICIES AND RESPONSIBILITIES FOR THE COMMON AREAS

Parks, Pool, Pavilion Area, and Islands: these areas are restricted to use by Homeowners, Residents, and their guests. Homeowners and/or Residents are responsible for their guests at all times.

The following are policies pertaining to the use of specific areas and events:

1. Pool use and Guidelines: Gates must be kept closed and latched at all times except to accommodate entry and exit. **All users of the pool and surrounding area inside the walls are expected to read the rules of use prominently posted on the Pavilion East and West gates. Hillcrest and Maricopa County rules are both placed on posts located on the south side of the pool.** Note: Individuals unable to swim unaccompanied must be accompanied by a competent swimmer. **Please refer to and become familiar with the attached rules.**

2. The Pavilion Area use and Guidelines: this area is open for use by Homeowners, Residents, and their guests for social and casual gatherings. It may only be reserved for special events by Homeowners and Residents, with the condition that the resident host must be present throughout the event. The Homeowner or Resident requesting the reserved space must obtain an "Event Reservation Form" from the Social Director, and upon completion, return the form to the Social Director for approval. A reservation fee, as recommended by the Social Director and subject to approval by the Board, will be charged for the reserved use of the Pavilion area. The Homeowner or Resident who made the reservation may not charge a fee to those attending their reserved event. **NOTE:** the pool cannot be reserved. Private events held at the Pavilion Area will not preclude other homeowners, residents, and their guests from using the pool.

3. Social Events. Social events hosted in the Common Areas are funded by the HIA and organized and managed by the Social Committee for the purpose of group enjoyment of the Common Areas, as well as providing an opportunity for developing camaraderie and friendship among members. A hospitality fee may be charged to offset the costs of paper and plastic, utensils, food, ice, soft drinks, decorations, and cleaning.

The Line Item amount in the budget for Social expense covers the cost of refreshments and serving materials provided at the Annual Meeting, and meetings of the Board of Directors where applicable. The HIA may contribute to the cost of Association parties at the discretion of the Board of Directors.

4. Alcohol Policies: In order to comply with current State liquor laws, and to meet insurance requirements for coverage of events where alcohol is consumed at our Common Areas, the HIA does not purchase, sell, or serve alcohol. All Social events held at the Common Areas including HIA sponsored events, private events (arranged by reservation), informal events such as Friday night Happy Hours, and any other planned or unplanned events, are BYOB.

Alcohol is prohibited at all meetings of the members or Board of Directors.

In consultation with legal counsel, it is the Board's opinion that the HIA does not function as a business, and therefore does not need to file for a BYOB exemption.

Please refer to the attached CHDB HOA + Liquor Law Quick Reference Sheet which was prepared by Carpenter, Hazlewood, Delgado & Bolen, LLP, and was sent to members by email on September 18, 2023, and handed out at the Town Hall meeting held September 19, 2023.

5. HIA Roadways: The curbs and streets belong to the Association and not the City of Phoenix; therefore, the Association is responsible for their upkeep, maintenance, and safety. (Note: each Resident is responsible for keeping the curb and street directly in front of his/her residence free of dirt and debris).

Because Hillcrest is not a gated community, even though our streets are private, it is difficult to monitor non-resident vehicles or pedestrians who may come into our community. Many of our residents are frequently visited by family and friends with children. The Board's policy is to assume that anyone walking, biking, or driving in our community is a guest and is to be treated with courtesy and respect. If an individual is creating health or safety issues, causing damage to the Roadways or personal property, or displaying illegal behavior, Homeowners or Residents should call the City of Phoenix Police Department, and follow up with notification to the Board. Dates, descriptions, and details should be provided, including photos or videos if possible. Under no circumstances should Residents take it upon themselves to question or challenge those who use our Roadways, or engage in any type of self-policing.

Because there are no sidewalks, drivers should be aware that our community experiences significant pedestrian use of our Roadways. Please be alert and yield to pedestrians. Drivers should adhere to the 15 mph speed limit, and follow directional arrows. **NOTE: drivers should not cut corners which creates wrong way driving, and is a safety hazard to oncoming vehicles, pedestrians, pets, and bikers!**

ENFORCEMENT POLICIES

Monetary penalties for violations of the CC & Rs, Bylaws, and rules of the Association shall be imposed uniformly according to the procedures set forth as follows:

Written notice will be sent to the homeowner at the mailing at the mailing address as it appears on the records of the Association at the time of notice. The FIRST NOTICE

shall be a violation letter with no Fine imposed and shall give the owner adequate time to comply as set by the Board of Directors. The notice shall include:

- (1) The nature and date of the violation
- (2) A date for correction of the violation
- (3) The fact that a monetary penalty may be imposed for failure to correct the violation or for the repeat violations of the same rule as determined by the Board. The amount of the monetary penalty will be given.
- (4) The manner in which the Owner will be provided an opportunity to be heard regarding the violation, and/or the monetary penalty within ten (10) days of the date of the letter.
- (5) Notice of the Owner's option to petition for an administrative hearing on the matter in the state real estate department pursuant to A.R.S. § 32-2199.01 (attached).

If the violation is not corrected by the given date, or if the same violation reoccurs within a ninety (90) day period of the previously written notice, a **SECOND NOTICE** will be sent. The second notice shall include:

- (1) The nature and date of the violation and the dates of the first and second notices to Owner.
- (2) The fact that monetary penalties of at least \$10.00 may be assessed **every day** until the violation is resolved, or upon each reoccurrence.

FINES: No fine shall be imposed without first providing a written warning to the Owner describing the violation. Failure to correct the violation within the deadlines established within the notice(s), or **another occurrence of the same violation within ninety (90) days** of the original violation, shall result in the imposition of a **monetary penalty**.

INJUNCTIVE RELIEF: Notwithstanding the foregoing, the Board of Directors reserves the right to seek Injunctive Relief at any time regardless of the presence or absence of notices hereunder, for any violation that the Board of Directors determines, in its sole and absolute discretion, necessitates such action and/or constitutes a material danger to persons or property, or requires immediate action for any other substantial reason.

The Board of Directors reserves the right to take any action permitted by law or the Declaration, in addition to the above mentioned Fine policy.

The Board of directors shall consider the fines set forth herein to constitute damages sustained by the Association, and are intended to compensate the Association for the administrative burden of addressing the violation and the adverse impact of the violation on the community.

The Board reserves the right to vary the procedures set forth herein when, in its sole discretion, the Board determines that any such variance is appropriate. Further, the Board reserves the right to deviate from the fine amounts set forth herein if, after an Owner appeals a fine, the Board finds good cause to modify the amount of the fine levied in a particular case. The Board also reserves the right to pursue any and all other remedies

set forth in the Declaration at the same time or in lieu of levying the fines set forth in this Policy. This includes turning a matter over to the Association's legal counsel.

APPEAL PROCESS

- When a violation notice is sent to an Owner, the notice will include a statement notifying the Owner the Owner has the RIGHT OF APPEAL.
- When an Owner wishes to appeal a violation, the Owner must notify the Association's Board of Directors in writing within ten (10) days after the date of the violation notice.
- Appeals should demonstrate **extenuating circumstances** that require deviation from the CC & Rs and/or guidelines.
- Appeal should include all pertinent backup information to support the existence of the **extenuating circumstance**.
- Appeals that do not meet the above requirements will not be heard by the Board of Directors and will be considered **DENIED**.
- The Owner appealing the violation will be given written notice that a hearing on the appeal is scheduled.
- The appeal will be heard in a closed session of a Board of Directors meeting unless otherwise requested by the Owner.
- The Board President will introduce all parties.
- Lengthy discussions are not a part of an appeal process.
- The Owner who is appealing will be asked to state the Owner's case and present any applicable documentation.
- Each Board Member will have the opportunity to ask the Owner specific questions regarding the appeal.
- Upon completion of the question and answer period, the Board President will state that the appeal has been heard and the Board of Directors will make its decision in closed session. Written notice of the Board's decision will be delivered to the Owner within fourteen (14) days of the hearing.
- All decisions of the Board of Directors are final and may not be further appealed.
- If the appeal is denied, the Owner must bring the violation into compliance within fourteen (14) days of the notice of appeal denial. If the violation still exists after fourteen (14) days, the Association will resume enforcement in accordance with this Policy until the violation is resolved. In addition, the Board of Directors may seek legal action to remedy the violation.

HOMEOWNER COMPLAINTS

Homeowners and Residents are expected to familiarize themselves with the Association's Governing Documents and to exercise care and restraint to assure that their activities do not violate the rights of their neighbors. Homeowners and Residents who are disturbed by a neighbor's action or inaction are urged as a first step to talk with the party involved. If no resolution to the problem is achieved at the informal level, then the Homeowner or Resident may write a letter of complaint to the Board. All complaints must be in writing and signed. The letter should cite the rule or regulation being violated, and summarize the problem, noting all prior action taken. The Board will investigate and take action if appropriate. The Board will not act on anonymous notifications.

Concerns regarding violations of City ordinances should be directed to the City Code Enforcement.

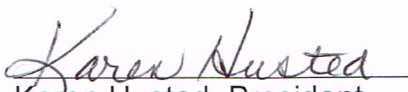
If the complaint involves received threats, or a violation of City ordinances, residents should contact the City of Phoenix Police Dept., with notice to the Board.

Complaints *unrelated to a violation of the Association's governing documents* may be forwarded to the Board of Directors in confidence by writing a letter to the Board, signature omitted.

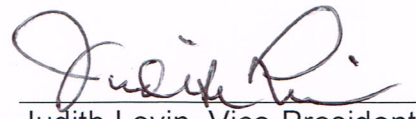
HOMEOWNER COMMUNICATIONS TO THE BOARD

Your Board of Directors appreciates hearing from members! Constructive ideas, suggestions, and concerns are welcome! In addition to having the opportunity to speak at the Monthly Board meetings, Homeowners and Residents may send comments by email to Hillcrestia@gmail.com, or drop signed written communications in the Association mailbox by the Pool. ***Whether communicating verbally in meetings, or by written communication, courtesy and respect are anticipated and appreciated. Please keep in mind your Board members are your fellow neighbors and have volunteered to work on your behalf. Rude or disrespectful comments and/or behavior do not promote productive communication, and will not receive a response.***

Approved and adopted by the Board of Directors at the Executive Session meeting on October 3, 2023.


Karen Husted, President

10-3-23
Date


Judith Levin, Vice-President

10-3-23
Date

Attachments:

Roberts Rules of Order for Small Boards
Records Retention and Management Policy
Pool Rules
CHDB HOA + Liquor Law Quick Reference Sheet
A.R.S. § 32-2199.01

Robert's Rules of Order as stated for "Informal Procedure in Small Boards" as well as the policy stated for "Unanimous Consent."

Copied verbatim below from Robert's Rules of Order, Newly Revised, In Brief, fully updated 3rd edition, by Karen Husted, for Hillcrest HIA Board Meeting, May 9, 2023, approved unanimously.

Page 161: "Informal Procedure in Small Boards"

D. PROCEDURE IN BOARDS

As a board member, what you need to know to participate properly in board meetings depends on their size. If there are more than about a dozen board members at a meeting, the same procedures are followed as at other meetings, exactly as described in the rest of this book.

If, however, not more than about a dozen board members are present, a more informal procedure is followed [RONR (12th ed.) 49:21]:

Informal Procedure in Small Boards

- + Board members may raise a hand instead of standing when seeking to obtain the floor, and may remain seated while making motions or speaking.
- + Motions need not be seconded.
- + A board member may speak any number of times (not just twice) on a debatable question, except that the regular rules apply to appeals *(see pp. 90-91, copied below)
- + Informal discussion of a subject is permitted while no motion is pending.
- + Votes can be taken initially by a show of hands.
- + If a proposal is perfectly clear to everyone, it may be voted on even though no formal motion has been made.
- + In putting questions to a vote, the chairman need not stand.
- + If the chairman is a member of the board, he or she can, without giving up the chair, participate in debate, make motions, and vote on all questions.

Page 68:

B. "UNANIMOUS CONSENT" INSTEAD OF A VOTE

Paragraph 2:

Unanimous consent enables a motion to be adopted or some action to be taken without the necessity of having the chair state the question on a motion and put the motion to a vote. It even permits taking action without the formality of a motion being made at all. The chair simply asks the assembly if there is any objection to taking the desired action, and if no member then objects, the chair declares that the action has been agreed to.

*Pages 90-91:

B. APPEAL

The group as a whole, not the chair, is the final authority in judging whether the rules have been violated. If you disagree with a ruling by the chair, you may *Appeal* it to the group as a whole.

Without waiting to be recognized, you stand and say, "**I appeal from the decision of the chair.**" An *Appeal* requires a second.

Hillcrest Improvement Association
Records Retention and Management Policy

Hillcrest Improvement Association Records must be maintained in written form or in another form capable of conversion into written form within a reasonable time. Record retention requirements are found in A.R.S. 33-1805, Planned Community, A.R.S. 33-1258, Condo, and A.R.S 10-11061, Corporate Records

Retention Period: Permanent

- a) CC&Rs (Declaration of Covenants, Conditions, and Restrictions) and Amendments
- b) Articles of Incorporation and Amendments
- c) By-Laws and Amendments
- d) Rules and Regulations, Architectural Guidelines and Amendments
- e) Resolutions adopted by the Board of Directors relating to the characteristics, qualification, rights, limitations, and obligations of Members or any class or category of Members
- f) Minutes of all Board of Directors Meetings and Member Meetings
- g) Record Of Actions Taken by the Board of Directors or Members Without a Meeting
- h) Record Of Actions Taken by A Committee of the Board of Directors on behalf of the Association
- i) Rules, Regulations, Policies and Resolutions Pertaining to Enforcement, Assessment, and Collection
- j) Resolutions adopted by the Board of Directors relating to Rights, Limitations, and Obligations of the Members
- k) Year-end Balance Sheet, Statement of Activities, Financial Audit or Review, and 20 Year Plan.
- l) Election Vote Tally Sheet or Certification of Election
- m) Lot Files – General Correspondence with Unit Owners, Complaints and Violation Notices, Architectural Modification approvals/denials
- n) Record of Members in a form that permits preparation of a list of the names and addresses of all Members

Retention Period: 7 (Seven) Years

- a) Contracts
- b) Insurance Records
- c) Accident Reports
- d) Settled Insurance Claims
- e) All Financials Records

Retention Period: 3 (Three) Years

All Written Communication to Members, including Notices, E-mails, Letters, Ballots, Web Pages, and Newsletters

Retention Period: Miscellaneous

- a) Records related to the removal of a Board Member for One Year
- b) Maintain Records related to an election until those elected have resigned or completed their term.
- c) Previous Owner Documentation in Lot Files other than Architectural Approvals or Denials may be discarded 7 years after a new owner purchases the home except for documentation related to a current, outstanding violation.

Records Requests and Inspection of Association Books & Records Policy

All Financial and other Records of the Association shall be made reasonably available for examination by any Member, or any person designated by the Member in writing as the Member's representative. Records Requests and Inspection of Association Books & Records requirements are found in A.R.S. 33-1805, Planned Community, A.R.S. 33-1258, Condo. Legislation enacted in 2006 entitles owners to see Association books and records pertaining to "contemplated" litigation.

Books and Records kept by or on behalf of the Association and the Board may be withheld from disclosure to the extent that the portion withheld relates to any of the following:

- 1) Privileged communications between an attorney for the Association and the Association.
- 2) Pending Litigation concerning the Association.
- 3) Meeting Minutes or other records of a session that is not required to be open to members, i.e. Executive Session Board Meeting
- 4) Personal, health or financial records of an individual employee of the association or an individual employee of a contractor of the association who works under the direction of the association
- 5) Records relating to the job performance of, compensation of, health records of or specific complaints against an individual employee of the Association or an individual employee of a contractor of the Association who works under the direction of the Association.

Process for Records Request

Records Request must be in writing

- 1) The Association has ten (10) business days from submittal of a written request by a Member or a Member's designated representative to make records or copies of the requested records available.
- 2) The Association has 10 (ten) business days to fulfill a request
- 3) The Association may not charge a Member or a Member's designated representative for making records available for review even if they incur costs in making the records available for review.
- 4) The Association may charge a fee of not more than fifteen (15) cents a page for copies of records.
- 5) If a Member requests documents be mailed, the Member must reimburse the Association for mailing costs.

MARICOPA COUNTY POOL REGULATIONS

1. Observe all safety regulations.
2. Absolutely NO diving.
3. No glass allowed in the pool or within the cool decking area.
4. No drink, candy, tobacco, popcorn, gum, alcohol, or food of any kind shall be permitted in the pool or within the required walkways of the pool.
5. No animals allowed except for service animals.
6. Suntan oils and lotions must be removed before entering the pool. Shower and use the toilet before entering the pool (Shower located behind bathrooms).
7. Gates must be kept closed and locked at all times. DO NOT prop open.
8. Persons with sore or inflamed eyes, colds, nasal or ear discharge, boils or other acute or obvious skin or body infections or cuts, shall be excluded from the pool.
9. If incontinent, wear tight fitting rubber or plastic pants or a swim diaper.

HILLCREST POOL AND PAVILION RULES

1. Compliance with all County pool regulations posted at pool side is required.
2. No lifeguard on duty! A designated adult must accompany any child who uses the pool.
3. Use of pool and pavilion permitted only for residents and their guests.
4. Swimsuits only; no cutoffs or jeans; no skinny dipping.
5. Metal chairs, metal tables or other metal objects are not permitted on pool cool deck surfaces.
6. Reserved or exclusive use of the pool for private events or any other occasion is not permitted.
7. No running, bicycling, roller skating/blading or skate boarding on any concrete within pool walls.
8. Park all the above outside the pool park walls away from gate entrances.
9. Clean up after use; deposit all trash in trash receptacles; turn off overhead lights. Close and lock all toilet doors and gates when you leave.
10. Do not touch, tamper with or disturb any of the controls to our pool systems, including the pool aerators, pool light, pump and filtration systems.
11. Noise – Any and all audio shall be held to a level that will not intrude on surrounding homes or others in the pool pavilion area.
12. No parking on concrete at gate entrances except to load/unload equipment, event provisions, or to perform repairs.

CHDB HOA + Liquor Law Quick Reference Sheet

Liquor on Association Premises Basics

Lack of clarity regarding whether the Arizona Department of Liquor Licenses and Control (“DLLC”) classifies Associations as “business establishments” or “business premises”—this distinction affects options for allowing alcohol on Association property¹

→ If the Association is considered a “business establishment” or “business premises”:

- To allow *bring-your-own-bottle (“BYOB”) consumption of alcohol*, the Association can do so with or without an Exemption, subject to the risks below and meeting the requirements below (4 items)

→ If the Association is *not* considered a “business establishment” or “business premises”: the above restrictions do not apply, and the Association may allow BYOB alcohol events without an exemption

BYOB Events on Association Premises

→ BYOB without Exemption

- The Association may host a BYOB social event without DLLC authorization as long as *none of the following occur* at the same event (or if the HOA takes the position it is not a “business”):
 - Food and beverage sales (but may be offered free of charge);
 - Entertainment² (e.g. film, music, exhibits, games, lectures, sports);
 - Cover or admission charge (unlikely that annual assessments qualify);
 - Requiring minimum purchase/rental of goods/services³
- *Private celebrations, casual game/movie nights, and similar events are likely allowed (notwithstanding “entertainment” restriction), as long as the Association does not advertise the event as “entertainment,” host or permit gambling, or charge a cover*

→ BYOB with Exemption (used if HOA is concerned about being classified as “business premises”)

- Best practice to ensure Association does not violate state liquor laws (if requirements can be met)
- Requires applying to the DLLC, paying a \$50 fee, and limiting the number of guests and amount of alcohol per guest, among other requirements⁴
- If approved, valid for BYOB social events for 12 months
- Exemption holders are still *prohibited* from sponsoring, selling, or serving alcohol in any way

Selling, Serving, or Providing Liquor

- Generally, it is illegal for any person (including a non-profit corporation or a business) to “buy for resale, sell or deal in spirituous liquors” without a license. A.R.S. § 4-244.
- To *sell, serve, or provide* alcohol to members, the Association must obtain a license from the DLLC, even if the Association does not charge money for the alcohol or the event where alcohol is served.
- Progressive dinners – HOA should not pay for or otherwise provide alcohol, but attendees may.

→ Temporary “Special Event” Liquor License is appropriate if the Association wishes to sell or serve alcohol to members and guests only a few times annually.

- Allows qualifying organizations (political parties, campaign committees, religious organizations, or charitable and civic 501(c) organizations) to sell alcohol at events up to ten times annually
- HOA must partner with a qualifying organization (such as a Rotary Club or charity)
 - Association and partner should enter into a revenue-sharing agreement
 - Qualifying organization must receive at least 25% of the gross proceeds of alcohol sales at the event. A.R.S. § 4-203.02.

Insurance Considerations—If HOA provides or allows alcohol at any event, it should check with its insurance carriers to know whether the Association’s policy includes Host Liquor Liability Coverage. If not included, the Association should obtain this coverage for any event where alcohol may be consumed.

¹ See the DLLC’s advisory opinion on this matter at

https://www.azliquor.gov/communications/advisory/IndustryAdvisoryPDF/2019_Aug13_HOA.pdf.

² A.A.C. R19-1-101(17).

³ A.R.S. § 4-244.05(A)–(B).

⁴ See all requirements for exemption at A.A.C., R19-1-324

(<https://www.azliquor.gov/LiquorLaws/ViewRule.cfm?RuleID=82>). Request for Exemption form available at https://www.azliquor.gov/forms/lic_unlicensed_prem_app.pdf.

32-2199.01. Hearing; rights and procedures

A. For a dispute between an owner and a condominium association or planned community association that is regulated pursuant to title 33, chapter 9 or 16, the owner or association may petition the department for a hearing concerning violations of condominium documents or planned community documents or violations of the statutes that regulate condominiums or planned communities. The petitioner shall file a petition with the department and pay a filing fee in an amount to be established by the commissioner. The filing fee shall be deposited in the condominium and planned community hearing office fund established by section 32-2199.05. On dismissal of a petition at the request of the petitioner before a hearing is scheduled or by stipulation of the parties before a hearing is scheduled, the filing fee shall be refunded to the petitioner. The department does not have jurisdiction to hear:

1. Any dispute among or between owners to which the association is not a party.
2. Any dispute between an owner and any person, firm, partnership, corporation, association or other organization that is engaged in the business of designing, constructing or selling a condominium as defined in section 33-1202 or any property or improvements within a planned community as defined in section 33-1802, including any person, firm, partnership, corporation, association or other organization licensed pursuant to this chapter, arising out of or related to the design, construction, condition or sale of the condominium or any property or improvements within a planned community.

B. The petition shall be in writing on a form approved by the department, shall list the complaints and shall be signed by or on behalf of the persons filing and include their addresses, stating that a hearing is desired, and shall be filed with the department.

C. On receipt of the petition and the filing fee the department shall mail by certified mail a copy of the petition along with notice to the named respondent that a response is required within twenty days after mailing of the petition showing cause, if any, why the petition should be dismissed.

D. After receiving the response, the commissioner or the commissioner's designee shall promptly review the petition for hearing and, if justified, refer the petition to the office of administrative hearings. The commissioner may dismiss a petition for hearing if it appears to the commissioner's satisfaction that the disputed issue or issues have been resolved by the parties.

E. Failure of the respondent to answer is deemed an admission of the allegations made in the petition, and the commissioner shall issue a default decision.

F. Informal disposition may be made of any contested case.

G. Either party or the party's authorized agent may inspect any file of the department that pertains to the hearing, if the authorization is filed in writing with the department.

H. At a hearing conducted pursuant to this section, a corporation may be represented by a corporate officer, employee or contractor of the corporation who is not a member of the state bar if:

1. The corporation has specifically authorized the officer, employee or contractor of the corporation to represent it.
2. The representation is not the officer's, employee's or contractor of the corporation's primary duty to the corporation but is secondary or incidental to the officer's, employee's or contractor of the corporation's, limited liability company's, limited liability partnership's, sole proprietor's or other lawfully formed and operating entity's duties relating to the management or operation of the corporation.