

BY-LAWS
OF
TUCSON COUNTRY CROSSING HOMEOWNERS ASSOCIATION, INC.

ARTICLE I
DEFINITIONS AND APPLICABILITY

Section 1.01. Definitions. In these By-Laws, unless the context otherwise requires; all definitions shall be as set forth in the Declaration of Covenants, Conditions and Restrictions for Country Crossing, hereinafter referred to as the "Declaration."

ARTICLE II
MEMBERSHIP AND VOTING

Section 2.01.

A. Qualifications. Each Owner (including Declarant) of a Lot, by virtue of being such an Owner and for so long as he/she is such an Owner, shall be deemed a member of the Association. The foregoing is not intended to include persons or entities who hold an interest in a Lot merely as security for the performance of an obligation, or a lessee or tenant of an Owner or a purchaser or vendee under an executory contract of sale which has not "closed" and/or been recorded in the office of the County Recorder, Pima County, Arizona. No Owner shall have more than one (1) membership for each Lot owned.

B. Certificates of Membership. Each Owner is automatically a member of the Association. The Association shall issue the same

number of certificates of membership in the Association as there are Lots to Owners reflecting their voting status as provided for in the Declaration. In the event any Lot is owned by two (2) or more persons, a single certificate shall be issued in the name of all of said persons, and said persons shall designate to the Association, in writing the one of their number authorized to vote said certificate at any and all meetings of the Association. No certificate shall be transferred to any person or persons other than another Owner of record. Any member who has disposed of all his/her interest in any Lot shall forthwith surrender his/her certificate evidencing membership in the Association and a new certificate shall be issued in the name of the person or persons or entity acquiring his/her interest in a Lot. Failure to surrender such certificate shall, nevertheless, upon the sale by a member of his/her interest in any Lot void his/her certificate and all of his/her rights as a member of the Association.

C. Transfer of Membership. Membership of each Owner (including Declarant) in the Association shall be appurtenant to the Lot owned and shall not be transferred, pledged or alienated in any way except upon the transfer of ownership to said Lot, and then only to the transferee thereof. Any attempt to make a prohibited transfer shall be void. Any transfer of ownership of a Lot shall operate automatically to transfer said membership to the new Owner thereof.

Section 2.02. Voting Rights. The Association shall have two (2) classes of voting membership:

Class A: Class A members shall be all Owners, with the exception of Declarant, and shall be entitled to one (1) vote for each Lot owned. When more than one (1) person holds an interest in any Lot, all such persons shall be members. The vote for such Lot shall be exercised as they among themselves determine, but in no event shall more than one (1) vote be cast with respect to any Lot.

Class B: The Class B member shall be Declarant, and shall be entitled to three (3) votes for each Dwelling Unit owned. The Class B membership shall cease and be converted to Class A membership on the happening of either of one of the following events, whichever occurs earlier:

(a) When the total votes outstanding in the Class A membership equal the total votes outstanding in the Class B membership, or

(b) Three years following the conveyance of the first Lot to an Owner other than Declarant.

Section 2.03. Proxies. Votes may be cast by proxy provided that proxies are filed with the Secretary of the Association on or before the appointed time of the meeting.

ARTICLE III

ADMINISTRATION

Section 3.01. Association Responsibilities. The Association shall have the responsibility of administering the common area(s) or the common property, approving the annual budget, establishing and collecting assessments together with such other responsibilities as set forth in these By-laws and the Declaration. In general, the Association shall be the representative of each Owner for every problem which affects more than one (1) Lot.

Section 3.02. Annual Meetings of Owners. There shall be an annual meeting of the Owners on the third Tuesday in January of each year at such time and place convenient to the Owners as may be designated by the Board of Directors. The Board of Directors may designate another date for such annual meeting not more than thirty (30) days before or after the date fixed for said annual meeting by written notice of the Board given to the Owners not less than ten (10) nor more than thirty (30) days prior to the date fixed for said annual meeting specifying the date, time and place thereof.

Section 3.03 Special Meetings of Owners. A special meeting of the Owners may be called at any reasonable time and place by written notice of the Board of Directors or by the Owners having one-fifth (1/5) of the total votes and delivered notice to all other Owners not less than ten (10) days nor more than thirty (30)

undertaken. No business shall be transacted at a special meeting except as stated in said notice unless by consent of a majority of Owners present, either in person or by proxy.

Section 3.04. Notice of Meeting. It shall be the duty of the Secretary of the Association to mail or deliver a notice of each annual or special meeting within the time period specified above stating the purpose thereof as well as the date, time and place where it is to be held to each Owner of record. The mailing or delivery of such notice to each Owner shall be considered notice served.

Section 3.05. Quorum and Adjourned Meeting. The presence at any meeting, in person or by proxy, of the Owners entitled to vote, one-tenth (1/10th) of the votes of each class of membership shall constitute a quorum for any action except as otherwise provided in the Articles of Incorporation, the Declaration or By-laws. If any meeting cannot be held because a quorum is not present, the Owners present, either in person or by proxy, shall have the 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 represented. Except as otherwise provided herein, any action may be taken at any meeting of the Owners upon the affirmative vote of the Owners having a majority of the total votes present at such meeting either in person or by proxy.

Section 3.06 Order of Business. The order of business at all regular annual meetings of the Association shall be as follows:

- A. Roll call.
- B. Proof of notice of meeting or waiver of notice.
- C. Reading of minutes of preceding meeting.
- D. Report of officers.
- E. Report of committees.
- F. Election of Directors.
- G. Unfinished business.
- H. New business.

ARTICLE IV

BOARD OF DIRECTORS

Section 4.01. Number and Qualifications. The affairs of the Association shall be conducted by a Board of Directors, who need not be Owners, comprised of not more than nine (9) persons, nor less than three (3) persons.

Section 4.02. Election and Term of Office. Subject to the requirements of Section 4.01 of these By-Laws, the Directors shall be elected in a regular annual meeting of the Association by a vote of a majority of Owners present either in person or by proxy, constituting a quorum, for a term until the next regular annual meeting unless a longer or shorter term is authorized as hereinafter provided and shall hold office until their successors are elected and qualify. The members of the Board may succeed themselves indefinitely, but in no instance shall there be more than one (1) board member from each Lot.

The Board of Directors prior to a regular annual meeting shall appoint a nominating committee to obtain a list of names of Owners who desire to serve on the Board of Directors to be elected at the forthcoming regular annual meeting and the nominating committee shall inform the Owners that it is accepting names of persons to serve on the Board of Directors. After the nominating committee has determined which Owners are willing to serve on the Board of Directors, it shall prepare a list of such names and submit it at the next regular annual meeting for a vote of the Owners. An owner may be elected to the Board of Directors even though his/her name does not appear on the list prepared by the nominating committee. The nominating committee shall count and verify the ballots collected at the regular annual meetings.

Section 4.03. Vacancies. Vacancies in the Board of Directors caused by any reason other than the removal of a Director by vote of the Owners shall be filled by vote of the majority of the remaining Directors, even though they constitute less than a quorum; and each person so elected shall be a Director until a successor is elected at the next regular annual meeting of the Association.

Section 4.04 Removal of Directors. At any regular or special meeting duly called, any one or more of the Directors may be removed with or without cause by a majority of the Owners and a successor may then and there be elected to fill the vacancy thus

created. Any Director whose removal has been proposed shall be given an opportunity to be heard at the meeting.

Section 4.05 Organizational Meeting. The first meeting of a newly elected Board of Directors shall be held within ten (10) days of election at such place as shall be fixed by the Directors at the meeting at which such Directors were elected, and no notice shall be necessary to the newly elected Directors in order to legally constitute such meeting, provided a majority of the whole Board shall be present.

Section 4.06 Regular Meetings. Regular meetings of the Board of Directors may be held at such time and place as shall be determined, from time to time, by a majority of the Directors, but at least two (2) such meetings shall be held during each fiscal year. Notice of regular meetings of the Board of Directors shall be given to each Director, personally, by mail or telephone at least three (3) days prior to the day set for such meeting.

Section 4.07 Special Meetings. Special meetings of the Board of Directors may be called by the President on three (3) day's notice to each Director, given personally, by mail or telephone, which notice shall state the date, time, place and purpose of the meetings. Special meetings of the Board of Directors shall be called by the President or Secretary in like manner and on like notice on the written request of at least two (2) Directors. Notwithstanding the foregoing, a majority of the

Directors may waive the three (3) day notice requirement for calling a special meeting and convene a special meeting at such date, time and place as agreed upon by the majority of Directors.

Section 4.08 Board of Director's Quorum. At all meetings of the Board of Directors, a majority of the Directors shall constitute a quorum for the transaction of business, and the acts of the majority of the Directors present at a meeting at which a quorum is present shall be the acts of the Board of Directors. If, at any meeting of the Board of Directors, there be less than a quorum present, the majority of those present may adjourn the meeting, from time to time. At any such adjourned meeting, providing a quorum is then present, any business which might have been transacted at the meeting as originally called may be transacted without further notice.

Section 4.09. 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, these By-Laws and the Declaration. The Board shall have the power to do any and all lawful things which may be authorized, required or permitted to be done by the Association under and by virtue of said Articles, these By-Laws and the Declaration, and to do and perform any and all acts which may be necessary or proper for or incidental to the exercise of any of

the express powers of the Association. Without in any way limiting the generality of any of the foregoing provisions, the Board shall have the power and authority at any time to do the following:

A. Care, upkeep, repair and supervision of the common areas and facilities. The Board shall determine all maintenance and repair expenses on the basis of at least three (3) independent bids, whenever possible; the bids shall be submitted by reputable contractors or persons in the business of performing said maintenance and repairs. The Board shall select the best bid which need not be the lowest bid and the Board's decision in this regard shall be final and conclusive.

B. Collection of assessments from Owners.

C. Designation and dismissal of personnel necessary for the maintenance and operation of the common property.

D. To maintain insurance coverage as provided for in Article V of the Declaration and to use the insurance proceeds to repair and replace any damage or destruction of property, real or personal, covered by such insurance and pay any balance remaining to the Developer, Declarant and Owners and their mortgagees as their interest may appear.

E. To grant and convey to any person easements, rights-of-way, parcels or strips of land in, on, over or under any common areas for the purpose of constructing, erecting, operating or maintaining thereon, therein and thereunder (1) roads, streets,

walks, pathways and driveways; (2) temporary overhead or permanent underground lines, cables, wires, conduits, or other devices for the transmission of electricity for lighting, heating, power, telephone, cable T.V., and other purposes; (3) sewers, storm drains and pipes, drainage easements, water systems, water, heating and gas lines or pipes; and (4) such improvements as may be permitted under Article III of the Declaration.

F. To retain and pay for legal and accounting services necessary or proper in the operation of the common areas and facilities, enforcement of these By-Laws and the Declaration, or in any of the other duties or rights of the Association.

G. To maintain and repair drainage and other easements, private pedestrian walkways, sidewalks, streets, roads, roadways, roadway rights-of-way, parking lots, median strips, entry details, walls or other areas not maintained by governmental entities, or Owners.

H. To obtain or pay for, as the case may be, any other property, or services, which the Board deems necessary including security services for the common areas and facilities.

I. To enter at any reasonable time upon any exterior portion of any Dwelling Unit for the purpose of carrying out its duties and obligations for exterior maintenance and landscaping pursuant to Section 4.04 of the Declaration.

J. In the event any property owned by the Association is damaged or destroyed by an Owner or any of his/her guests, agents or members of his/her family, such Owner does hereby irrevocably authorize the Association to repair said damage, and the Association shall so repair said damage in a good workmanlike manner in conformance with the original plans and specifications. Said Owner shall then repay the Association in the amount actually expended for said repairs.

In the event of a dispute between an Owner and the Board of Directors with respect to the cause of damage or the extent of repairs necessitated or with respect to the cost thereof, then upon written request of the Owner delivered to the Association, the matter shall be submitted to arbitration under such rules as may from time to time be adopted by the Association. If no such rules have been adopted, then the matter shall be submitted to three (3) arbitrators, one chosen by the Board of Directors, one chosen by said Owner and these two arbitrators shall choose a third arbitrator. If the two arbitrators cannot agree as to the selection of the third arbitrator, then the same shall be selected by the presiding Judge of the Superior Court of Pima County, Arizona. A determination by any two of the three arbitrators shall be binding upon said Owner and the Association who shall share the cost of arbitration equally. In the event one party fails to choose any arbitrator within ten (10) days after receipt

of a request in writing for arbitration from the other party, then said other party shall have the right and authority to choose both arbitrators.

K. To regulate the use and provide for appropriate safety measures for all common areas including, but not limited to, private roadways and parking areas.

L. To maintain all common areas in a neat and attractive manner.

M. To construct new improvements or additions to the common areas or demolish or replace existing improvements; provided that in the case of any improvements, additions or demolition (other than maintenance or repairs to existing improvements and reconstruction made pursuant to Section 4.16 hereof) involving a special assessment, the vote of Owners having two-thirds (2/3) of the total vote present, voting either in person or by proxy at an annual or special meeting called for the purpose of approving plans and a maximum total cost therefor shall first be obtained. The Board shall levy a special assessment on all Owners for the cost of such work pursuant to these By-Laws and the Declaration.

N. To assign parking spaces.

O. To utilize water metered to the Lots for watering of the plants, trees and shrubs in the common area; provided, however, and on the condition, the Association reimburses Owners on a fair and equitable basis for the cost of water so utilized. The

Board's determination of the amount to be reimbursed for such use of water shall be final and conclusive.

P. To select and employ a Trust Company, Bank, or Professional Property Management Company, in Tucson, Arizona, to collect and disburse funds of the Association under such terms and conditions approved by the Board.

Q. To grant and convey easements and rights-of-way in accordance with the terms of the Declaration.

Section 4.10. Management. The Board shall control, maintain, manage and improve the common property as provided in these By-Laws, the Articles and the Declaration. Such right and power of control and management shall be exclusive. In managing the common property, the Association hereby accepts all responsibility for the control, maintenance, safety and liability of such common property including but not limited to collecting and paying taxes on common areas, which shall be assessed by the County Assessor.

Section 4.11. Taxes. Owners shall pay all real estate and personal property taxes which may be assessed against their respective Lots. The Association shall pay all taxes levied upon any property conveyed, leased or otherwise transferred to the Association, to the extent not assessed to Owners.

Section 4.12. Fidelity Bonds. The Association shall purchase and maintain in force, fidelity coverage against dishonest acts on the part of directors, officers, managers, trustees, em-

ployees, or volunteers responsible for handling funds belonging to or administered by the Association. Such fidelity bonds or insurance shall name the Association as the named insured and shall be written in an amount sufficient to provide protection, which is, in no event, less than 1-1/2 times the insured's estimated annual operating expenses and reserves, and provide for at least ten (10) days notice to the Association and first mortgagees servicing FNMA owned mortgages before cancellation or substantial modification of the bond. In connection with such coverage, an appropriate endorsement to the policy to cover any persons who serve without compensation shall be added, if the policy would not otherwise cover volunteers.

Section 4.13. Assessments. The Board of Directors shall levy and collect assessments pursuant to the provisions of these By-Laws and Article VII of the Declaration. The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety and welfare of the members and their guests, for the improvement and maintenance of the common areas and for all purposes set forth in the Articles, Declaration and these By-Laws. The Board of Directors of the Association shall provide that Association dues, charges or assessments shall include an adequate reserve fund for maintenance, repairs and replacement of those elements of the common areas and common property owned by the Association that must be replaced on a

periodic basis. All such dues, charges and assessments imposed by the Association shall be paid on a periodic basis in regular installments rather than by special assessments.

A. The Board of Directors shall keep or provide for the keeping of books with detailed accounts affecting the administration of the Common Areas specifying the maintenance, repair and replacement expenses thereof and any other expenses incurred. The books and vouchers shall be made available for examination to any of the Owners at convenient hours on working days. At the Annual Meeting, the Board shall make available to the members of the Association a complete financial report pertaining to the Association's financial condition. Upon the vote or written request of twenty-five (25%) percent of the Association's members, the Board shall appoint a committee of at least three (3) members to audit the books, or in the alternative, shall contract with a private accounting firm to audit same. Any holder, insurer or guarantor of a first mortgage shall be entitled, upon written request to the Association, to receive a copy of the audited financial statement prepared by a private accounting firm. In the event an audited statement has not been prepared by a private accounting firm, the requesting party shall be entitled to receive a copy of the opinion of the financial report of the Board and, if applicable, the member-conducted audit report, and the Association shall have an audited financial statement prepared at its expense after any

holder, guarantor or insurer of a first mortgage has requested a copy of such statement unless said holder, insurer or guarantor waives the right after receiving a copy of the financial report of the Board and/or the member-conducted audit report.

B. Within (30) days prior to the end of each calendar year (January 1 through December 31) and subject to the provisions of Section 4.13C hereof, the Board of Directors shall estimate the total charges to be paid during the forthcoming year to determine the annual assessment (including a reasonable reserve for contingencies and less any expected surplus from the prior year).

C. Subject to Section 4.13B hereof, the Board of Directors shall not increase the annual assessment by an amount greater than either (i) five percent (5%) of the amount of the preceding annual assessment; or (ii) the percentage increase in the cost of living as reflected by the column entitled "all items" in the Consumer Price Index on a national basis published by the Bureau of Labor Statistics of the United States Department of Labor (hereinafter called the "Cost of Living Index Number"). In the event that the Bureau of Labor Statistics shall fail to publish a comparable Cost of Living Index Number during any such years, but a comparable Cost of Living Index Number shall be published by any governmental agency of the United States in place thereof, then such comparable index number shall be used for the purpose of adjusting the annual assessment under the provisions of this Section 4.13 with the same

force and effect as the Cost of Living Index Number of the Bureau of Labor Statistics.

D. Any increase by the Board of Directors in the Annual Assessment which is greater than the amount permitted under Section 4.13C hereof must be first approved by two-thirds (2/3) vote of the members who are voting in person or by proxy at a meeting duly called for this purpose before such increase may be placed in effect and bind the members of the Association.

Section 4.14. Authorized Payments by the Association. The Board of Directors shall have the exclusive authority to make payments out of the Association's funds for the benefit of each Owner; this authority shall include but shall not be limited to the following:

- A. Water service for the common areas.
- B. Utility service for the common areas.
- C. All goods, materials, supplies, labor, services, maintenance, repair, alterations, reconstruction and insurance which the Board of Directors is authorized to obtain and pay for pursuant to these By-Laws and the Declaration or which are authorized by the Owners for the convenient operation of the common property.
- D. Workmen's Compensation Insurance to the extent necessary to comply with any applicable laws.

E. Professional management services as provided herein, legal, accounting and other services contracted for by the Board of Directors if it is deemed necessary by them for the operation and maintenance of the common property, protection of any of the common property or in the best interest of the Owners.

F. As provided in Section 4.04 A of the Declaration, maintenance, repair, upkeep and repainting of Dwelling Units, including any other improvements on a Lot shall be the sole responsibility of each Owner. In the event any Owner fails to maintain his/her Lot or the exterior of his/her Dwelling Unit or any other improvement on a Lot in a manner in keeping with the general neighborhood, the Association, after approval by two-thirds (2/3) vote of the Board of Directors, shall have the right, through its agents or employees, to enter upon the subject property, and repair, maintain and restore the Lot, including the interior and exterior sides of the perimeter yard walls or fences, and any improvements erected thereon. The cost of such repair and maintenance shall be added to and become part of the assessment to which such Lot is subject. The Board in its sole discretion shall have the right to determine whether or not a lot or the exterior of a Dwelling Unit and any improvements erected on a Lot is in need of maintenance, repair and upkeep in order to conform to the standards of the general neighborhood, and the Board shall use a reasonably high standard to determine whether such mainte-

nance, repair and upkeep is required so that the lots as a whole will reflect a high pride of ownership.

G. All costs of enforcing the provisions of these By-Laws and the Declaration, including attorney's fees and court costs provided that all costs incurred for the enforcement of the provision of these By-Laws and the Declaration against any Owner shall be assessed especially against such Owner.

Section 4.15. Rules and Regulations. The Board of Directors shall have the power to adopt and publish rules and regulations (Rules) governing the use of the common property, and such rules and regulations shall be binding upon the members of the Association.

Section 4.16. Damage and Destruction. In the case of damage by fire or other casualty to the common property:

A. Destruction; Proceeds Exceed 80% of Reconstruction Costs.

If the amount available from the proceeds of such insurance policies for such restoration and repair is at least eighty (80%) percent of the estimated costs of restoration and repair, a Reconstruction Assessment, with each Owner contributing a like sum, may be levied by the Association to provide the necessary funds for such reconstruction and repair, over and above the amount of any insurance proceeds available for such purposes.

B. Destruction; Proceeds Less Than 80% of Reconstruction Costs. If the amount available from the proceeds of such insur-

ance policies for such restoration and repair is less than eighty (80%) percent of the estimated cost of restoration and repair, the improvement shall not be replaced or restored unless approved by the vote or written consent of Members entitled to exercise two-thirds (2/3) of the voting power of the membership of the Association.

(1) Rebuilding Not Authorized; First Mortgagee Approval. Notwithstanding the foregoing, unless at least fifty-one (51%) percent of the Eligible Mortgage Holders, based on one (1) vote for each Mortgage held, have given their prior written approval, the Association shall not be entitled to use hazard proceeds for losses to any Common Area for other than the repair, replacement or reconstruction of such improvements.

(2) Open Common Area; First Mortgagee Approval. In the event of a determination not to replace or restore the improvements on the Common Area, and provided that in the event of such determination, the Association shall obtain the additional written consent of fifty-one (51%) percent of such Eligible Mortgage Holders, based on one vote for each Mortgage held, the Common Area shall be cleared and landscaped for open Common Area to be used by the Owners pursuant to Article VI of the Declaration, and the costs thereof shall be paid for with the insurance proceeds, and any deficiency may be raised by the levy of uniform Reconstruction Assessments in an amount determined by the Board.

C. Distribution of Proceeds; Excess Proceeds. In the event any excess insurance proceeds remain, the Board shall retain such sums in the general funds of the Association. Notwithstanding anything to the contrary contained in this Section 4.16, the distribution of any insurance proceeds for any damage or destruction to the Common Area shall be subject to the prior rights of Mortgagees.

D. Reconstruction.

1. Insurance Proceeds. The insurance proceeds arising out of damages to said property shall be paid to such bank or other trust company as may be designated by the Board, to be held in separate trusts for the benefit of Owners and their mortgagees, as their respective interests shall appear. The Board is authorized to enter, on behalf of the Owners, into an agreement with such insurance trustee relating to its powers, duties and compensation, on such terms as the Board may approve consistent herewith.

2. Contractor Bids. The Board shall obtain firm bids from two (2) or more responsible contractors, to rebuild any portions to said property in accordance with the original plans and specifications with respect thereto and shall, as soon as possible thereafter, select the best bid which need not be the lowest bid.

3. Reconstruction Assessment. Upon acceptance of a bid, the Board shall levy a Reconstruction Assessment or assess-

ments on the Owners pursuant to these By-Laws and the Declaration to make up any deficiency between the total insurance proceeds and the contract price of repairing or rebuilding the damaged property and such assessment or assessments and all insurance proceeds, whether or not subject to liens of mortgagees, shall be paid to said insurance trustee to be used for such rebuilding. If two (2) or more assessments are levied, such assessments may be made due on such dates as the Board may designate over a period of not to exceed twenty (20) years and the Board may borrow money to pay the aforesaid deficiency, and may secure such borrowing by an assignment of the Association's right to collect such assessments, or by a pledge of any personal property held by it in trust for the Owners, or by both.

ARTICLE V

OFFICERS

Section 5.01. Designation. The principal officers of the Association shall be a President, a Vice President, a Secretary and Treasurer, all of whom shall be Directors. Any number of offices, except the office of President and Secretary, may be held by the same person, unless the Articles or these By-Laws otherwise provide.

Section 5.02. Election of Officers. The officers of the Association shall be elected annually by the Board of Directors at