

6. REMOVAL OF DIRECTORS & BOARD MEMBERS A.R.S. 33-1813 / CONDO A.R.S. 33-1243

Removal of Directors from Office: This procedure does not apply to board members appointed by the developer and supersedes any other provisions in the association's documents pertaining to removal of board members:

1) **Petition for Removal of Director Requirements:** (a) Associations with 1,000 or Fewer Members: A petition must be presented to the board for removal of a director that is signed by the number of persons who are entitled to cast at least 25% of the votes in the association or one hundred votes in the association, whichever is less; (b) Associations with over 1,000 Members: A petition must be presented to the board for removal of a director that is signed by the number of persons who are entitled to cast at least 10% of the votes in the association or one thousand votes in the association, whichever is less; 2) **Special Meeting:** The special meeting shall be called, noticed and held within 30 days after receipt of the petition for removal; 3) **Quorum:** A quorum for the removal meeting purpose is met if at least 20% of the votes, or one thousand votes, whichever is less, are present at the meeting in person or as otherwise permitted by law; 4) **Percentage Required to Remove Director:** A member of the board can be removed from office with or without cause by a majority vote of the members entitled to vote and voting on the matter at a meeting of the members called for the removal purpose. A quorum must be present; 5) **Retention of Documents:** The board must retain documents related to proposed removal for at least one year after the special meeting and shall permit inspection of these records by members; 6) **Only One Removal Attempt Per Term:** A petition for removal of the same member of the board shall not be submitted more than once during each term of office for that member.

7. DISPLAY OF THE AMERICAN FLAG A.R.S. 33-1808 (A) (B) / CONDO A.R.S. 33-1261

An association cannot prohibit the outdoor display of the American Flag or an official flag (or a replica) of the United States Army, Navy, Air Force, Marine Corps, Coast Guard by a unit/lot owner on that unit/lot owner's property if the American flag or military flag is displayed in a manner consistent with the Federal Flag Code. Associations also cannot prohibit the outdoor display of the following: 1) POW/MIA flag; 2) Arizona State flag; and 3) The Arizona Indian Nations flag. In addition, the association shall adopt reasonable rules and regulations regarding the placement and manner of display of the American flag. Finally, these rules may regulate the location and size of flagpoles, but shall not prohibit the installation of a flag-pole.

8. FINES & PENALTIES A.R.S. 33-1803 (B) A.S.S. 33-1807 / CONDO A.R. S. 33-1242

After notice and an opportunity to be heard, an association or board of directors may impose reasonable monetary penalties on members for violations of the declaration, bylaws and rules of the association. Associations no longer have the right to record a notice of lien for unpaid fines and penalties. Associations can enforce payment of these fines by: 1) filing a lawsuit against the owner; 2) obtaining a judgment against the owner; AND 3) recording the judgment with the county recorder's office. After the judgment is recorded, the association will have a lien that is effective upon conveyance or paid at the time of the sale of the unit/lot. Alternatively, the association can collect the judgment through garnishment of wages, rent or a bank account.

9. REQUIREMENTS FOR ENFORCEMENT OF ASSOCIATION DOCUMENTS A.R.S. 33-1803 / CONDO A.R.S. 33-1242

Step One – Notice of Violation: The association sends the lot/unit owner written notice of the violation.

Step Two – Written Response by Unit/Lot Owner: A unit/lot owner who receives a written notice that the *condition of the property owned by the unit/lot owner is in violation of a requirement of the association's documents* may provide the association with a written response by sending the written response *by certified mail* to the association's address (as listed in the written notice OR on the notice of contact form recorded with the county recorder) within ten (10) business days after the date of the notice.

Step Three – Required Response from Association: If the Association receives a written response from the unit/lot owner as specified in step 2, the association is then required to respond to the unit/lot owner within ten (10) business days (after receipt of the certified mail containing the response from the unit/lot owner) with a written explanation regarding the notice.

The written notice shall provide, at a minimum, the following information (if the Notice of Violation did not already include this information):

1) The provision of the association's documents that has allegedly been violated; 2) The date of the violation or the date the violation was observed; 3) The first and last name of the person(s) who observed the violation; and 4) The process the unit/lot owner must follow to contest the notice.

If the owner complies with the requirements of Step Two, the association *cannot* proceed with any action to enforce the association's documents (including fines, self-help and the collection of attorneys' fees) until the requirements of Step Three are met (*exception:* If Step One contains the requirements of Step Three).

10. INSPECTION OF ASSOCIATION BOOKS & RECORDS BY MEMBERS A.R.S. 33-1805 / CONDO A.R.S. 33-1258

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. 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 communication between an attorney for the association and the association;
2. Pending litigation;
3. Meeting minutes or other records of a session of an executive session board meeting;
4. Personal, health or financial records of an individual member of the association, an individual employee of the association or an individual employee of a contractor for the association; and
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.

New legislation in 2006 *entitles* owners to see association books and records pertaining to "contemplated" litigation. An association cannot charge a member for making books and records available for review. An association has ten (10) business days from submittal of a request by an owner or an owner's designated agent to make records available or copies of the requested records. The association can only charge 15 cents per page for copies of records.