

FREQUENTLY ASKED QUESTIONS TO PROPOSED CHANGES TO CC&RS & BYLAWS

LOGISTICS QUESTIONS	PAGE
Where can I get a copy of the proposed changes to the CC&Rs and Bylaws?	2
I never received the mailing sent to homeowners that included the proposed changes and the Written Consent. How do you I get it re-sent to me?	2
What is the difference between the red lines?	3
WRITTEN CONSENT PROCESS QUESTIONS	PAGE
Why are you using the Written Consent to gather support versus a vote by a regular ballot?	3
How many Written Consents does it take to gain approval?	4
How long could this process take?	4
What if I decided to rescind my consent?	4
In the event a homeowner signed the Written Consent and then sells their property, is their vote still valid?	4
What records are kept to track the number of consents received?	4
When does the approval become effective?	5
Why are we voting on all changes as one vote versus on each item individually?	5
CONTENT SPECIFIC QUESTIONS	PAGE
Will my monthly assessment increase or decrease with the Pass-through Assessment?	6
Why add the definition on Pass-through Assessment now?	6
Why can't the sewer and storm water be included in the regular assessment?	6
How will the Pass-through Assessment protect homeowners?	7
What is the intent of removing the golf course representative from the Board?	7
What is the potential of assessing residents for the costs of mail distribution?	7

Why are you not addressing political flags in the sign restriction (Section 11.6)?	7
Will the change to Section 11.6 impact the real estate or for sale signs?	8
Why did you select the date of February 26, 2019 for the one-time exemption to the Asset Improvement Fee (Section 5.16 h)?	8
Will a person listed as a Level 1 Sex Offender be affected by the Sex Offender provision?	9
Will the references to charging for landscaping services affect my specific lot (Section 10.8)?	9
I am not in favor of a three-year term for Board members.	9
There is a discrepancy in the CC&Rs in the definition of an Arizona Room and the definition in the Rules and Regulations.	10
Should you include the requirement for an RV lot to be returned to an RV lot upon sale in Section 11.1?	10
In Section 2.1.4, does this mean a board member can forbid an owner from using the amenities even though their assessments are paid?	10
Regarding Section 2.1.4, I have concerns about suspension of owner rights for nonpayment of assessment and the difficulty in having a process to force compliance.	11
Regarding Section 1.31 Referendum. Please explain why a second vote would only require 30%.	11

LOGISTICS QUESTIONS

Where can I get a copy of the proposed changes to the CC&Rs and Bylaws?

- Electronic version is on our website by clicking the Current Topics button.
- Paper copies are available in the Information Center within the Mail Center.

I never received the mailing sent to homeowners that included the proposed changes and the Written Consent. How do you I get it re-sent to me?

Contact Jill McGregor, our Community Manager at happytrails@htresort.com. Include your name, lot number, and current address. She will get the information sent to you.

What is the difference between the red lines? Some are crossed out and others are just in red.

Wording struck-through and in red font relates to previous language that will be removed from the final document. Any new language that has been added or changed is highlighted using the red font and is underlined.

WRITTEN CONSENT PROCESS QUESTIONS

Why are you using the Written Consent process to gather support versus a vote by regular ballot?

The Written Consent process is available to non-profit corporations per A.R.S. § 10-3704. Our legal documents allow both the standard ballot mechanism and the Written Consent process.

The main difference between the two methods is a **deadline date**.

- A regular ballot must have a deadline (just as in any State or Federal election and our elections for Board members).
- Written Consent process timeline can be open-ended.

Many residents are unable to attend our formal meetings. It is critical that homeowners be able to make an informed decision whenever we propose changes to the CC&Rs. The Written Consent process allows us time to communicate the importance of the changes to all residents (permanent, seasonal, and non-resident owners).

The majority of HOAs use the Written Consent process whenever making changes to their legal documents. The Board has been consistent in selecting the voting method to be used in specific situations:

- Regular ballot method for annual election of Board members.
- Written Consent process for any change or addition to the CC&Rs or the Bylaws.

How many Written Consents does it take to gain approval?

Our governing documents require approval by the majority of homeowners. In our case, it would require 1001 Written Consents.

How long could this process take?

The process is open-ended and there is no requirement to select an end date. The Board historically decided if the approval is not obtained within 12 months, it would halt the process.

What if I decided to rescind my consent?

Any member may revoke their consent by delivering a signed revocation of the consent to the Board President or Secretary before the date the consent or consents are signed by the last member whose signature results in the requisite amount of the voting power.

In the event a homeowner signed the Written Consent and then sells their property, is their vote still valid?

All home sales are reviewed at least monthly by the Management team.

If the previous homeowner had consented to the changes, their consent is removed and no longer included in the count. It would be up to the new homeowners to consent to the changes.

What records are kept to track the number of consents received?

The Management team is responsible for tracking and recording all of the Written Consents received. They log each consent into a spreadsheet.

All paper copies of the Written Consent are retained per our records retention policy. We are required by law to make these records available for inspection by homeowners.

When does the approval become effective?

The action is approved on the date the consent or consents are signed by the last member whose signature results in the requisite amount of the voting power. It goes into effect when it is recorded with Maricopa County.

Why are we voting on all changes as one vote versus on each item individually?

If a specific proposed change to the CC&Rs placed a financial burden on homeowners, we would have pulled that specific item out for approval as a single item. None of the proposed changes will have a financial burden on homeowners as we are not proposing any additional fee or assessment.

Many proposed changes are interrelated. If one item did not get approved and a related item was approved, it would have led to complications. For example, if the homeowners did not approve of the change in composition of the Board (eliminating requirement for the golf course representative), the need to change the Bylaws would not exist.

Many of the proposed changes are driven by changes in the Arizona laws that take precedence over our CC&Rs. Regardless of homeowner approval, they must be followed. As a formality, whenever we make changes to the CC&Rs, we are instructed to incorporate current law. It is similar to making major repairs to your home and now being required to follow current building codes.

We believe none of the changes would cause significant angst that any one item would prevent a homeowner from agreeing to the majority of the changes.

We acknowledge that some homeowners may object to a specific proposed change and therefore not agree to the other changes. If there is a specific item that concerns, please let's discuss it. We want to know what would prevent any homeowner from agreeing to the changes.

CONTENT SPECIFIC QUESTIONS

Will my monthly assessment increase or decrease with the Pass-through Assessment?

There will be no change in the monthly assessment as it has been calculated into our current budget for this fiscal year. The pass-through amount increases or decreases based on the amount charged to the Association by the City of Surprise. They inform us of the rate annually. As of May 1, 2021 our monthly assessment of \$178.65 consists of two parts:

1. Regular Assessment (\$163.43) covers all common expenses to run the Association and a
2. Pass-through Assessment (\$15.22) refers to the costs charged by the City of Surprise for sewer and storm water.

Why add the definition on Pass-through Assessment now?

It is important that our legal documents are consistent with actual practice. The definition was not included in the CC&Rs when they were approved in 2005 even though the Budget Committee and Board have used that term consistently when proposing the annual Budget.

Why can't the sewer and storm water be included in the regular assessment?

The Board is limited to annual increases in regular assessment to a maximum of 6% per year. As with any budget, we have some control over how we manage our common expenses to stay within that maximum amount.

We have no control over the amount charged to us by the City of Surprise. For a number of years, the cost was consistent and other years the increase was significant. We are legally able to "pass-along" the entire amount to each lot owner for those required services (sewer and storm water) and not be limited to the 6%.

This current year, that amount decreased due to a miscalculation by the City of Surprise.

How will the Pass-through Assessment protect homeowners?

This prevents any Board from arbitrarily adding a new assessment that does not meet the criteria as outlined in the definition in section 1.4.5 (*required services, occurring at regular interval and equal costs to each lot*). At this time, we do not know of any new service that would meet that definition.

What is the intent of removing the golf course representative from the Board?

Changing the Board composition by removing the Golf Course representative will relieve the Golf Course representative of the obligation of regular participation on the Board. Fifteen years ago there was a definite need for the representative to vote on matters that affected Happy Trails. That no longer exists.

Making this change would assure that all voting members of the Board are Happy Trails homeowners.

A committee to address areas of mutual concern will assure that our working relationship continues (i.e., shared water access and drainage issues).

What is the potential of assessing residents for the costs of mail distribution?

The cost of mail distribution is currently part of "Common Expenses" for the Association and therefore is a component of the regular monthly assessment (not as a pass-through).

Why are you not addressing political flags in the sign restriction (Section 11.6)?

We know many residents have complained about the flags that could be considered political. There are Arizona Statutes for planned communities that provide opportunities to restrict flags (with specific exceptions) and a separate statute that addresses restriction of political signs. These statutes are currently being reviewed in the legislature.

We have been in communication with our legal counsel and the AZ State legislature attorney's for clearer definition of political signs versus a flag.

If we make a distinction about flags, it will be in our Rules and Regulations.

Will the change to Section 11.6 impact the real estate or for sale signs?

No. Language in the law clearly states *“the association shall not require the use of particular signs indicating an open house or real property for sale and may not further regulate the use of temporary open house or for sale signs that are industry standard size and that are owned or used by the seller or the seller's agent.”*

Why did you select the date of February 26, 2019 for the one-time exemption to the Asset Improvement Fee (Section 5.16 h)?

In the initial draft of the Asset Improvement Fee Amendment, there was a provision to grant an exemption if the resident sold their home within 18 months. At that time, homes were taking a long time to sell. Some residents who attended the informational meetings felt the provision could negatively impact the sale price of their property as they might accept a lower price to meet the timeframe.

It was decided to eliminate that section. It was not included in any further drafts of the proposed Amendment.

The Amendment was approved by the majority of homeowners on February 14, 2019. February 26, 2019 is the date it was recorded in Maricopa County and went into effect.

Later the Board learned some residents were told the Board could grant an exemption or waive the assessment. Obviously, we do not know who was giving out this information in error. A Board may waive a fine, but they cannot waive an assessment.

In an effort to rectify the situation, we added this exemption clause so those residents who owned property at the time the Amendment went into effect would be eligible for the exemption. We based the language on review of similar local HOAs.

Residents approved the Amendment to the CC&Rs to create the Asset Improvement Fee, therefore only they can approve a change.

Will a person listed as a Level 1 Sex Offender be affected by the Sex Offender provision in the CC&Rs (Section 11.26)?

Only those who are required to register as Level 2 and Level 3 Sex Offenders would be excluded from residing in Happy Trails.

Will the references to charging for landscaping services affect my specific lot (Section 10.8)?

This provision has been inserted to address this longstanding practice in the Villas that was left out of the 2005 CC&Rs.

Residents who own property in the Villas currently have an additional special assessment to cover the expenses for landscaping personnel to provide landscaping services. All planting / landscaping inside of the Villas is considered Common Area.

This provision does not apply to lots outside of the Villas as those residents are responsible for landscaping costs of their individual lots.

Those residents outside of the Villas who own property that is adjacent to Common Areas will not be individually responsible for landscaping the Common Area (it is included in all common expenses).

I am not in favor of a three-year term for Board members.

Most Board members experience a learning curve to serving on a Board. Many have expressed they just learn the role and it is time for them to decide to reapply. Some have said "I can commit to three years, but a complete second term is hard."

A two-year term hinders our ability to truly be a team. It takes time and working together to appreciate the skills of all fellow Board members and how we all fit into a team (not just six individuals doing their own thing).

We acknowledge that some very well qualified people may feel they cannot commit to a three-year term and we could lose out on some great candidates.

Also homeowners may worry that once a resident is elected to the Board, the community is stuck with them.

If a Board member has health or family issue (or is just tired of serving), they can always resign from the Board. There is a process for filling a vacancy.

If homeowners feel a Board member has breached their duties, there is a recall mechanism to get them removed from the Board.

There is a discrepancy in the proposed changes to the CC&Rs in the definition of an Arizona Room and the definition in the Rules and Regulations.

In any HOA, there is a hierarchy to our governing documents. Changes in one should flow to the next appropriate document for consistency.

It is preferred to have the language in the CC&Rs correct before we address the language in the Rules and Regulations. As soon as we can get the approval for the proposed changes to the CC&Rs complete, we will then address the required changes to the Rules and Regulations.

Should you include the requirement for an RV lot to be returned to an RV lot upon sale in Section 11.1?

The changes made to the CC&Rs were reviewed by our legal firm. They are confident they can defend the changes as outlined and would not need to include that language in the CC&Rs as it is addressed in the Design Guidelines. Potential new owners are informed they must make the appropriate application to reside on an RV lot without an RV.

In Section 2.1.4, does this mean a board member can forbid an owner from using the amenities even though their assessments are paid?"

No. The proposed change in Section 2.1.4 would allow the Board to suspend a homeowner's right to use the Common Areas resulting from failure to pay assessments.

Regarding Section 2.1.4, I have concerns about suspension of owner rights for nonpayment of assessment and the difficulty in having a process to force compliance.

Many homeowners have asked the Board "why do you allow someone to continue to use the Common Areas when they are so far behind in their monthly assessments?"

Enforcement of any rule within an HOA is difficult. The intent of any fine or fee is to encourage homeowners to follow the rules or make their payments on time.

The Board would be required to adopt a resolution (policy and procedure). The resolution would spell out a number of parameters that must be met before the Board would take this type of action. The intent of this resolution would be used only when efforts to collect delinquent accounts have failed.

All policies are approved at an Open Board meeting where homeowners are allowed to comment.

Regarding Section 1.31 Referendum, please explain why a second vote would only require 30%.

The referendum process is something that is not frequently used, but it is included in CC&Rs in the event a referendum is brought forward. The referendum process in these CC&Rs has not changed from when it was introduced in 2005.

This is how it works. The first time the referendum ballot gets sent out, we would need at least 60% of the ballots returned to meet quorum. A majority of the 60% returned ballots must vote in favor for the referendum to pass.

If 60% of the ballots were not received (therefore, not a quorum), we could send it out again. The quorum requirement drops to 30%. But this time the number of votes needed for the referendum to be approved increases to two-thirds.