

# SunBird Golf Resort

## Book of Governance

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### **Purpose of the Association**

The purpose of the Association is to maintain, protect and enhance the value of the homes and the quality of life of the residential community. It represents the general welfare of the Members.

### **Purpose of the Board of Directors**

The Board of Directors purpose is to develop policies that interpret the values, perspectives and interests of the General Membership into written statements. These statements are for the benefit of all those who need to understand why and how the Association functions.

### **Purpose of Management**

Management's role is to develop such procedures and rules necessary for the fulfillment of the policies established by the Board of Directors. In other words, Management's role is to provide for an orderly operation of the day to day affairs in a manner that is consistent with the policies established by the Membership and by the Board of Directors.

## **Board of Directors & Association Policies:**

### **Mission and the relationship to values, perspectives and objectives:**

The goal is to provide leadership to the Association by a system of governance that is based upon a principle of defining the mission, values, perspective and objectives. Leadership uses the statements of purpose (the mission statement) and objectives (the ends desired to be reached to serve and support the mission) to focus its efforts.

### **Definition of Policy:**

This Book of Governance contains policies. A 'policy' is defined as anything that expresses a 'value, or perspective that causes actions'. It is through a system of written policies that we establish an unambiguous position of our values and objectives. These statements are our Official Policies. The purpose of policies is to provide a framework that will guide our thinking toward desired ends. Policies should be statements of what we (the Members and leadership) are about; what are our standards, values and perspectives.

### **The Book of Governance as the Official Book:**

The Book of Governance is the 'official written record.' It is a record that may be challenged, tested, amended and approved as the body of knowledge, experience and conditions change. The policies contained in The Book of Governance establish 'ends/objectives.' These policies must recognize and protect our value system.

**Principle of Separation of Powers:**

The role of the Board of Directors is to represent the Members and to translate the Membership's will into policies. Implementation of policy is the duty of Management. The principle of 'separation of powers' is critical to the success of the concept.

**Safeguards through the Principle of Checks and Balances:**

Adherence to the principle of checks and balances is an additional safeguard. The application of this principle is intended to assure that no individual or group of individuals will be allowed to exercise absolute authority. Absolute authority could result in the abuse of power. Division of the powers between the policy body (Board of Directors) and the executive body (General Manager) has historically been the best compromise to assure the interests of the Members.

**Form for Explicit Policies:**

The Association's Membership will be protected by a system of governance that requires that the policies of the Association be in a written form.

**Definition of Procedures & Means:**

Procedures are the means that are used by those given the responsibility of doing a particular function or attaining a particular objective. Generally accepted business practices and principles allow the procedure writing to be done by those given the responsibility of performing the work. A procedure defines a particular process or series of steps that need to be taken. A procedure contains various alternative steps depending upon the set of circumstances.

**Separation of Powers:**

The monitoring and oversight duties are fundamental to the policy making role. Regardless of whether the Board of Directors has chosen to have paid or volunteer staff, it is important that the policy or legislative body members do not attempt to fulfill both policy and executive duties. The primary purpose for the separation of powers is that even the best intentioned individuals cannot fairly assess themselves.

**Adoption and Distribution of Policies:**

Minutes are for the purpose of recording the resolutions. Policies are the substance of resolutions. It will be the duty of the Board of Directors to convey each policy expression to Management. Management will do that which is necessary and proper to implement the Policies of the Board.

No member of the Board of Directors of SunBird Golf Resort Homeowners

Association may without approval of a majority of the Board of Directors:

1. Contact any City, County or State officer or employee about any matter in which SBGRHOA has an interest, or
2. Contact any corporate or company officer or employee about any matter in which SBGRHOA has an interest.

### **Code of Ethics:**

One of the primary purposes of the Board of Directors is to assure that the affairs of the Association are conducted in the highest moral and ethical manner. A Director will diligently pursue the establishment of policies, a copy of ethics and a standard of care which will prevent harm to those they represent, the Membership.

### **Board of Directors:**

Directors of community associations have a fiduciary relationship with the association and a corresponding fiduciary duty. A fiduciary is one who holds something in trust for another. The duty of a fiduciary has two components--a duty of care and a duty of loyalty.

### **The Duty of Care:**

In order to satisfy the duty of care, Directors must make an honest effort to make an informed decision with respect to each issue that comes before the Board. As a starting point, Directors should be familiar with the Association's governing documents and established procedures. In cases where specific expertise or skills are required, Directors should request the advice and assistance of component experts or practitioners. Lastly, unless a Director has a conflict of interest or cannot, after thoughtful analysis and deliberation, make up his or her mind, Directors should vote on each issue presented. Abstaining is not a way to satisfy the duty of care. In fact, a regular pattern of abstaining from votes may be cogent and compelling evidence that a Director does not care.

### **The Duty of Loyalty:**

The duty of loyalty requires that Directors refrain from taking actions, particularly undisclosed actions, that will benefit them (or parties related to them) to the detriment of the Association. It is permissible, for instance, for a Director to own a company that contracts with the Association, or to be paid for services rendered to the Association as long as the relationship is disclosed and the work is actually performed at a commercially reasonable price. It is permissible for a Director to be reimbursed for out-of-pocket expenses. It is a breach of the duty of loyalty, however, to hide pecuniary relationships, to pad expenses or charge the Association more services than it would pay a similarly qualified third party to perform the same work.

An effective test for a Director to use in evaluation whether or not he or she is acting properly is to ask: 'Am I placing my personal interests ahead of those of the Association as a whole?'

**Relationship to Members:**

Association Members often find it difficult to see the Association as a legal entity separate from themselves. As a result, pressure is often put to Boards to respond to the wishes of a majority or fraction of the Members. Even though the Board of Directors is elected by the Members while in office, the Board of Directors are responsible for managing the affairs of the Association. On occasion, the Board is required by the long-term interests of the Association to take action or spend association funds, that if put to a vote, would be voted down.

**Standard of Care (Business Judgment Rule):**

When evaluating the acts of the Board of Directors, the standard of care in Arizona is known as the 'business judgment rule.' If Board of Director members act in good faith and have rational bases for their decisions, they have met the standard of the rule. The question is not whether a particular decision turned out to be right or wrong, but whether the Board of Directors, after appropriate fact-finding, solicitation of expert advice if appropriate, and discussion, made a supportable business judgment. Board members are not guarantors of the success of the Association, but the Board of Directors must act for the Association within the scope of its authority and act in good faith.

**Leadership:**

Nowhere with any corporate body or community association can exist the 'ultimate leadership' except in the Board of Directors. It is the duty of the Board, through a constant search, to evaluate the system of values and ends which the Association strives to reach. Leadership may not compromise 'that which is right' for 'the expedient or popular' or the 'short term.' The duty of the leadership is to accept the charge of finding the best virtue and objective while serving no special interest, single interest or self interest, but rather, the general welfare of those members of today and those who should follow.

**Risk Management Standard**

**Indemnification and Insurance:**

Being right is the best defense, but it may not necessarily protect Directors from lawsuits. To protect Directors of incorporated associations from specious claims, the Arizona Legislature has passed a number of laws authorizing indemnification and

forming a shield of sorts around Directors. While valuable, indemnification and limitation of liability provisions do not address the costs of defense if the association is unable to pay. Due to the uncertainty of the indemnification provisions and the need for adequate financial means to reimburse Directors, the Director and officer liability policy was created and may be the most important coverage the association can obtain. It will be the policy of the Association to have sufficient policies of insurance in the forms that are ordinary for Associations of this nature.

**Budgets & Assessments:**

It will be the policy of the Association to appropriate assessments from the Membership in sufficient amounts that will pay for the annual expenses of the Association. The expenses are for services which are necessitated by the scheme policies of the Association. A budget will be consistent with the policies and will be brought into conformance with policies. It is recognized that a budget is a product of policy and does not control policy, but rather, is the consequence of policies. Further, it will be the duty of each succeeding Board of Directors to assume the responsibility of funding to the best of its ability items of expense that by their nature are funded through savings. It is a policy to have a system of budgets and assessments adequate to meet the current and long term expenses including sufficient reserve funds. Nothing within this policy will be construed that subsequent Boards should be relieved from the responsibility of adjusting the annual apportionment of assessments sufficient to meet the current needs of the Association. Management shall provide to the Board of Directors a proposed budget which incorporates the cost of those programs and projects which are enumerated within this Book of Governance, the Association's Declaration of Covenants, Conditions and Restrictions, Bylaws, State and Federal Laws. This budget will include an updated long term funding plan in a form sufficient to meet Board fiduciary responsibilities.

**Board Monitoring of Management and Executive Functions:**

It shall be the practice of the Board of Directors to establish reporting mechanisms as part of each policy. As part of the policy statement, it should contain a schedule of reports and the intention of the reports to cover or measure the performance of the policy.

**Executive Limitations - Financial**

Investments - Safety, Liquidity and Return: It will be the policy of the Association to invest the cash assets of the Association in an insured bank, or savings and loan, or insured investment broker qualified to understand the needs of the Association.

**Protocol and Conduct of Members:**

1. Members of the Board of Directors will conduct themselves in a manner of respect and consideration for other members of the Board. Members of the Board shall not criticize thoughts, ideas and plans of committees, homeowners or other members of the Board. Nor shall members of the Board deport themselves in an angry or uncontrolled manner regardless of provocation.
2. A Director will have the right to propose any matter as a priority consideration that may be at a variance to these policies and procedures. A Director will at all times, subsequent to the vote, support the decisions of the majority of the Board of Directors regardless of the position that he has taken at the time of the vote. A Director will be loyal to the Association and conform to the Association's policies.
3. No Director will assume or is vested with any authority to direct a member, contractor, agent or employee of the Association. The authority of a Director is limited to the vote upon policies of the Association and participation in the meetings of the Board.
4. The Board of Directors speaks through its deliberations, decisions and policies. No member of the Board will have greater powers than another Director.

**Chairperson:**

It will be the duty of the Chairperson of the Board to call and convene meetings of the Board of Directors as is necessary. For purposes of this section, the President of the Association will act as the Chairperson of meetings of the Board. In the absence of the Chairperson, the Vice-President will act as the Chairperson.

**Official Record - Minutes:**

The minutes of the Board of Director meetings will be prepared and distributed to the Board of Directors as soon as practical after the close of each meeting. Minutes are a recording of what is done and not what is said. These minutes will be 'draft minutes' until approved and then become the 'Official Record'.

**Committees of the Association:****Committees:**

The purpose of a Committee is to assist and support the Board of Directors. Each Committee shall have a charter and will be assigned specific duties from time to time for research and input from the committee members and community. The Committee Chairperson and Assistant Chairperson shall be selected by the respective Committee and names submitted to the Board of Directors for approval. The term of the Chairperson and Assistant Chairperson shall be two years beginning with the

date of approval by the Board of Directors. Committee members shall have terms on a yearly basis.

Committee meetings are open to all SunBird homeowners. Meeting dates and times shall be posted in the clubhouse. The Chairperson shall be responsible for conducting and presiding at committee meetings and may appoint other members to conduct in his/her absence. The Chairperson or designated member shall be the spokesperson for the Committee.

The Chairperson may make recommendations to the Board of Directors. Recommendations must first be presented at the Board of Director Agenda Planning Meeting to be considered. Recommendations must be in writing and include all information related (benefits, concerns, plans, cost, committee consensus and other relevant information). The Architectural Control and Rules Committee may make decisions as permitted in their respective charters and/or CC&R'S.

Minutes of each Committee meeting shall be maintained and copies distributed to the General Manager and filed in the Committee Minutes Book. A Committee Chairperson or a designated member, may but is not obligated to make reports at Board of Director meetings if such request is submitted to the Board of Directors three days prior to such meeting.

At the Annual Meeting, each Committee reports on the past year's activities.

### **Meetings: Board of Directors, Committees, and General**

#### **Purpose of Meetings:**

There are several different types of meetings for different purposes. Generally, meetings allow an opportunity for the Board of Directors, Committees and Membership to meet and conduct business depending on the type of meeting. All meetings should be posted in advance with date, time and place of meeting. All meetings are open to the Membership except for executive meetings of the Board of Directors.

#### **Agenda Planning Meeting (Board of Directors):**

Agenda Planning Meetings are designed for the Board of Directors and Management to briefly discuss different ideas, proposals, plans, and concerns for future consideration. This allows time for further research and possible amendments prior to voting. Items may be approved at these meetings if necessary, but, the majority of discussion along with voting should take place at Regular Board of Director

Meetings. Comments by Association Members may be heard after the business of the Board has been finished.

**Regular Meeting (Board of Directors):**

Regular Meetings are held for the Board of Directors to conduct business and vote on policies, procedures and other issues concerning the Association. Normally, agenda items have been briefly discussed at the Agenda Planning Meeting but require more detailed discussion at the Regular Meeting. General Membership may listen and participate as designated by the Board of Directors.

**Executive Meetings (Board of Directors):**

Executive meetings of the Board of Directors may be held at such time and place as shall be determined by a majority of the Board of Directors Members. Items for discussion are limited to: Legal advice from an attorney; pending or contemplated litigations; personnel information about a Member or staff; matters relating to the job performance of employees; and Member's appeals of any violation cited. General Membership are restricted from attending.

**Committee Meeting (Committee Members):**

Committees meet regularly to review and discuss areas of their individual Charter for proposing revisions or improvements to the Board of Directors for consideration. General membership may listen and participate when appropriate.

**Special Meeting (Board of Directors, Committees and Membership):**

The Board of Directors, Committees and the Membership can call special meetings for the purpose of addressing special issues under extenuating circumstances with time of the essence. Depending on the type of special meeting called, General Membership participation may be restricted.

**General Membership Meeting(all SunBird homeowners):**

General Membership meetings may be held occasionally for the purpose of discussing policies, plans and ideas concerning association operations. No action is conducted.

**Annual Meeting (Membership):**

A general membership meeting is held annually for the purpose of reporting the previous year's financial information, accomplishments and results.

## **Meeting Rules of Conduct:**

### **Parliamentary Procedures - Board Meetings:**

The meetings of the Board of Directors will be conducted in accordance with Roberts Rules of Order as follows:

1. The Chair works as a member of the Board of Directors during the meeting; moves motions, debates and votes. The Chair announces the result of the vote.
2. The Chair controls the conduct of the meeting and observes adherence to the agenda.
3. Board Members may speak to a question without limit. HOA Members may speak one time only per business item, before a vote is taken, but may speak on each business item on the Agenda. Time allowed to speak will be set by the Chair.
4. Motions to close debate or limit debate are not permitted.
5. Board Members are required to be recognized to speak or present motions.
6. Motions need a 'second'.
7. When a motion is clear to all those present, a vote can be taken.
8. The Secretary of the Association, designated member of the Board, or a staff member may take the minutes of the meeting.
9. Directors have only such power as may be given them by the governing documents of the Corporation, state statute and/or the general membership.

### **Board and Management Relationships:**

#### **Necessary & Proper:**

The Management will have such authority that is necessary and proper to fulfill the duties expressly defined by the Board of Directors and the Governing Documents.

#### **Executive Authority:**

Management will perform such executive duties that are consistent with the policies and needs of the Association. In the absence of written policies adopted by the Board of Directors, Management will exercise such judgment that is appropriate in the circumstances.

Management shall have the duty to exercise their judgment and to establish such process and procedures which they believe would promote the interest of the Association. If the Board of Directors or Membership has not established policy objectives or executive limitations, it is understood that until a policy has been adopted concerning any specific area, that Management will have authority and shall exercise their judgment until the Board of Directors and/or Membership have

provided more specific direction. Management shall proceed in the rule making, policy making procedure development consistent to those policies adopted by the Board of Directors and Membership.

**Administrative Procedures and Rules:**

It will be the sole responsibility of management to prepare such procedures and rules which are consistent with the Association's Governance and Policies.

**Management's Duty to Report to the Board of Directors:**

The intent of this section is to establish a continuing understanding between the Board and Management on what information the Manager will provide to the Board. Management will provide the Board such information which is necessary for the Board to access the attainment of objectives and policies of the Association. It is not intended that matters that are within the jurisdiction of Management are a normal matter of concerns or communication between the Board and Management.

Items which will not be normally communicated:

1. Sales and Resales on and individual basis
2. Notices of Delinquency or other Infraction of the Rules
3. Maintenance Activity Reports
4. Individual Financial Transactions

**Board Manager Assessment:**

The Board will review the performance of the manager in a process of comparison of attainment of policy, objectives and executive limitations of the Board. The review of the performance will be done in a manner which is in the best interest of the Association. Management performance will be assessed using the Standard of reasonableness. Were the actions reasonably taken consistently with the policies that existed? If the Association had no guiding policy then the measurement of the reasonableness is not possible.