

**CONSTITUTION / BY-LAWS
OF
THE DIAMONDHEAD PROPERTY OWNERS ASSOCIATION, INC.**

ARTICLE I

NAME, LOCATION AND MEMBERSHIP

Section 1. **Name and Location** The name of the corporation is the DIAMONDHEAD PROPERTY OWNERS ASSOCIATION, INC (referred to herein as DPOA, POA or the Association). The principal office of the corporation shall be located at the Diamondhead Property Owners Association office and the mailing address will be 245 Independence, Hot Springs, Arkansas 71913.

Section 2. **Membership**

Property Owner: Any person owning property within the platted area known as Diamondhead and whose deed has been recorded and filed in the appropriate county shall be an Association member and shall be subject to and comply with these by-laws and all other DPOA rules and regulations.

Non-Property Owner: Any non-member (a person who does not own property within the platted area known as Diamondhead) who desires to use Diamondhead amenities will be required to pay a usage fee decided upon by the DPOA Board of Directors. Renters/tenants fall under this classification.

Renters/tenants must pay a fee to use our amenities, as specified above, UNLESS the property owner transfers usage rights to the renter/tenant. (In no case may the property owner and renter/tenant both utilize a property owner's right to use of amenities associated with the rented property.) These fees can change from year to year. Renters/tenants may not chair a committee nor serve on the Board of Directors. Renters/tenants may be part of a committee but have no voting privileges. All rental properties and renters/tenants must comply with Diamondhead Standards, Rules, Resolutions and Regulations policies.

ARTICLE II

MEMBERSHIP MEETINGS

Section 1. **Annual Membership Meetings**. The annual meeting shall be held at 7:30 PM on the third Saturday of August of each year.

Section 2. **Special Membership Meetings**. Special meetings may be called by the President, the Board of Directors, or upon the written request of not less than one-tenth (1/10) of the members in good standing.

Section 3. **Notice of Membership Meeting.** The annual meeting shall be held at a location, date and time, as determined by the Board of Directors, on the third Saturday of August of each year. The location shall be determined at least sixty (60) days prior to the meeting date. Written notice of each annual meeting of the members shall be given at the direction of the Secretary or person authorized to call the meeting by-sending such notice by email or US Postage at least thirty (30) days before such meeting to each member in good standing. Such notice is to be addressed to the member's address last appearing on the books of the Association, or supplied by such member to the Association for the purpose of notice. Such notice shall specify the place, day and hour of the meeting, and in the case of a special membership meeting, the purpose of the meeting.

Section 4. **Quorum.** One-tenth (1/10) of the members in good standing shall constitute a quorum.

Section 5. **Proxies.** Proxies may be used in order to constitute a quorum. Any member in good standing may vote in person or by proxy, except no vote for the election of any director shall be cast by proxy or in person. All proxies shall be revocable, in writing and filed with the Secretary.

Section 6. **Parliamentary Rules.** Robert's Rules of Order Newly Revised shall govern and control all matters not specifically covered by these By-Laws.

ARTICLE III

BOARD OF DIRECTORS: SELECTION, TERM OF OFFICE

Section 1. **Selection:** The affairs of this Association shall be managed by a board of nine (9) directors who must be property owners in good standing at Diamondhead, a minimum of six (6) of whom shall be residents of Diamondhead and three (3) of whom shall be members at large (either residents or non-residents). A property owner must have owned property in Diamondhead for at least one year, as reflected in records for the appropriate county, prior to close of nominations to be eligible to become a director.

Section 2. **Term of Office.** Each director shall serve a term of three (3) years with three (3) of the nine (9) members of the Board of Directors being elected at each annual meeting.

Section 3. **Compensation.** No director shall receive compensation for any service he/she may render in his/her capacity as a director to the Association. However, any director may be reimbursed for his/her actual expenses incurred in the performance of his/her duties for the Association.

Section 4. **Resignation.** A director may resign at any time by giving notice to the board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 5. **Interim Board Members.** In the event of death, resignation or removal of a director, a successor shall be selected by the remaining members of the board and shall serve until the next annual election, at which time, a qualified nominee will be elected to fill the unexpired term of the original director.

Section 6. **Conflict of Interest.** In order to assure the absence of conflicts of interest within the composition of the Board of Directors, no otherwise qualified employee of the Association shall be allowed to become a candidate, be elected or otherwise be seated as a member of the Association's board of directors. Any board member who subsequently becomes an employee of the Association will, contemporaneously with such employment, lose his or her qualification to continue serve as a board member, and the board shall immediately seek a replacement for such person. No person whose profession or occupation might benefit from his/her potential position on the Board of Directors will be eligible for nomination to the Board of Directors. In addition, board members MUST recuse themselves from discussion and/or voting on any issue from which they might benefit.

ARTICLE IV

NOMINATION AND ELECTION OF DIRECTORS

Section 1. **Nomination.** Nomination for election to the Board of Directors shall be made by the Election Committee. The Election Committee shall consist of a chairman, who shall be the Vice-President of the board for the coming year, and two (2) or more members of the Association. The Election Committee shall be appointed by the outgoing Board of Directors at the annual meeting of the members to serve from the close of such annual meeting until the close of the next annual meeting and such appointment shall be announced at each annual meeting. The Election Committee shall make as many nominations for election to the Board of Directors as it shall in its discretion determine, but not less than the number of vacancies that are to be filled. Any candidate intending to run for election to a position on the Diamond-head Board of Directors must be a member in good standing as of close of business in the POA office on the last business day prior to close of nominations. Close of nominations will be midnight on April 30. For election ballot eligibility, "member in good standing" shall be defined as current in the payment of all assessments, service and use charges, and not under any suspension of privileges. In addition, a candidate must have had no disciplinary actions (suspension of amenities) within the previous 12 months and have no felony conviction or be a registered sex offender. No property owner who has served on the board and resigned shall be eligible for nomination for the duration of his/her

unexpired term of office. No person whose profession or occupation might present a conflict of interest will be eligible for nomination to the Board of Directors.

Section 2. **Elections.** Election to the Board of Directors shall be by secret ballot, which must be postmarked no later than July 31. Ballots will be opened and tabulated at least seven (7) days prior to the Annual Meeting by a certified public accounting firm or by any other method approved by the Board of Directors prior to the annual election. The Secretary of the Association shall announce the result of the election during the Annual Meeting, and the ballots and tabulations shall be subject to inspection by any member. No ballot shall be cast by proxy. All returned ballots and election paperwork shall be retained in the POA office for 3 years and available for inspection by any Association member during normal business hours.

Section 3. **Exception.** If the time set by the Association for nominations to the Board of Directors expires and the number of vacancies on the Board of Directors to be filled at any election and the number of candidates for those positions are the same or less, the Association shall not be required to follow the election procedure outlined in Section 2 above. Rather, for reasons of economy, the Board of Directors shall declare the candidates elected as officially as if elected by the ballot procedure, and they shall take and hold office accordingly. Except in the instance that the number of candidates and the number of openings are the same, but the directors being elected will serve terms of differing lengths, then an election will be held, with the candidates receiving the largest number of votes being elected to the longer terms, the next highest number of votes being elected to the next longest term(s), etc.

ARTICLE V

MEETINGS OF THE BOARD OF DIRECTORS

Section 1. **Regularly Scheduled Meetings.**

- a. **Board of Directors** meetings shall be held at 7:00 p.m., at the clubhouse or other location determined by the board on the fourth (4th) Thursday of each month. All meetings of the board shall be open to any POA member. However, members will not be allowed to actively participate in the meetings unless permission is granted prior to the meeting by the President of the board.
- b. **Executive Sessions**, for board members only, must be exclusively limited to personnel issues or confidential legal matters. Notice of these meetings must be posted three (3) days in advance unless a continuation of a regularly scheduled monthly meeting. Results of all votes taken at these meetings will be made public at the next scheduled meeting, except where prohibited due to confidentiality or legal reasons.

Section 2. **Special Board Meetings.** Special meetings of the Board of Directors shall be held when called by the President of the Association, or by any two (2) directors, after not less than three (3) days notice to each director. Notice of special meeting shall be posted in conspicuous places in the community in order to notify property owners of the meetings.

Section 3. **Quorum.** A majority of the number of directors shall constitute a quorum for the transaction of business. Every act or decision done or made by a majority of the directors present at a duly held meeting at which a quorum is present shall be regarded as the act of the Board, unless specified otherwise in these By-laws.

Section 4. **Action Taken Without a Meeting.** The directors shall have the right to take emergency action in the absence of a meeting which they could take at a meeting provided that the particular action is ratified at the next regular or special board meeting. Any action so approved shall have the same effect as though taken at a meeting of the directors (exception: Article VI, Section 1(d)).

Section 5: **Telephonic Meetings**
The Board may hold regular scheduled meetings and/or special board meetings, as defined in Sections 1 and 2 of Article V, by telephone conference, video screen communication, or other communications equipment. Participation in such a meeting under this Section shall constitute presence at the meeting, the same as if physically present, if ALL of the following apply:

- a. Each Director participating in the meeting can communicate concurrently with all other Directors.
- b. Each Director is provided the means of participating in all matters for the Board, including the capacity to propose, or to interpose an objection to, a specific action to be taken by the Board.
- c. The Board has a means of verifying that the person participating at the meeting is a Director and that all votes cast during said meeting are cast only by Directors.
- d. Each Director physically attends at least three (3) board meetings per year of his or her entire tenure as a Director.

ARTICLE VI

POWERS AND DUTIES OF THE BOARD OF DIRECTORS

Section I. **Powers.** It is hereby expressly declared that the Directors shall have the following powers, to-wit:

- (a) adopt and publish rules and regulations governing the use of the

- Common Area and facilities and the personal conduct of the members and their guests, and to establish penalties for any infractions;
- (b) suspend the voting and membership rights (the rights to use of the recreational facilities) of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing, for a period not to exceed sixty (60) days, for infraction of published rules and regulations;
 - (c) create different classifications of members and various maintenance fee amounts for such classifications, other than regular voting members, and to establish the terms and conditions of such memberships;
 - (d) determine the amount of dues, users' fees and/or assessments each year for members, associate members and social memberships **PROVIDED HOWEVER** no increase in the annual assessment of property owners shall be made **EXCEPT** by the affirmative vote of seven (7) members, and only after open discussion at an announced town meeting. The President shall be allowed to vote on this matter;
 - (e) participate in area fire protection and mitigation programs;
 - (f) declare the office of a board member vacant in the event such board member shall be absent from three (3) consecutive regular Board of Directors meetings without just cause as determined by the remaining members of the board, or remove a member of the board, whenever, in its judgment, the best interests of the POA would be served thereby. In order to remove a board member, seven (7) votes must be cast for removal. The member who is the subject of the removal vote will not be allowed to participate in the vote. The President shall be allowed to vote on this matter. If seven board members vote that a board member is subject to removal, then the board member subject to removal may elect to resign or to be tried through the process defined in Robert's Rules of Order Newly Revised Section 63. This involves an investigating committee being appointed, charges being preferred, and a formal trial before members of the organization. No director who has been removed from office shall be eligible for service for the remainder of their unexpired term.
 - (g) employ a manager, an independent contractor or such other employees as they shall deem necessary, and to prescribe their duties;
 - (h) create an executive committee to conduct the routine daily business affairs of the Association and to expend funds **NOT TO EXCEED** the sum of **ONE THOUSAND FIVE HUNDRED DOLLARS** (\$1500.00). The Executive Committee shall be composed of the duly elected officers of the Board of Directors. For expenditures in excess of \$1,500, an attempt shall be made to receive three (3) competitive bids.

- (i) to determine who shall be authorized under the corporation's behalf to make and sign bills, notes, acceptance, endorsements, checks, releases, receipts, contracts and other instruments.
- (j) to delegate any powers of the board in relation to the ordinary business of the corporation to any standing or special committee or to any officer or agent (with power to sub-delegate) upon such terms as they think fit; however, in no event will the committees be allowed to contractually obligate the DPOA to expend funds;
- (k) to borrow money and to make and issue notes, bonds and other negotiable and transferable instruments, mortgages, deeds of trust and trust agreements and to do every act and thing necessary to effectuate the same;
- (l) exercise for the Association all powers, duties and authority vested in or delegated to this Association, not specifically reserved to the membership, including adopting and/or amending rules and regulations deemed necessary by the Board of Directors and to enforce such rules and regulations by any legal or appropriate action they deem advisable; and
- (m) establish a petty cash fund for use by the Diamondhead General Manager in accordance with established policy and procedures.

Section 2. **Duties.** It shall be the duty of the Board of Directors to:

- (a) cause to be kept a financial statement and to present said statement to the board at each monthly board meeting and to the members at the annual meeting, or at any special meeting, when such statement is requested in writing by one-fourth (1/4) of the members in good standing at least ten (10) days prior to the meeting;
- (b) establish the amount of the annual assessment and send written notice to every member subject thereto at least thirty (30) days in advance of the due date; to suspend the rights and privileges of a member for failure to pay his or her assessment within ninety (90) days after the due date, or to bring an action at law against the owner personally obligated to pay the same and may file a lien against any property for which assessments are not paid within one hundred and twenty (120) days after due date;
- (c) procure and maintain adequate liability and hazard insurance on property owned by the Association, and procure and maintain indemnity insurance on the POA's employees and Board of Directors when the board deems it necessary;
- (d) cause all officers or employees having fiscal responsibilities to be bonded, as it may be deemed appropriate; and
- (e) cause the Common Area to be maintained and operated as the board deems necessary.
- (f) appoint a Parliamentarian, during the Annual meeting. This person must be a member in good standing and should have an understanding of Robert's Rules of Order Newly Revised. The Parliamentarian is to be the final authority in questions relating to

the interpretation of Robert's Rules of Order Newly Revised when called upon by the board during town meetings, board meetings, or other meetings. The Parliamentarian is not to attend executive sessions of the board, but may be called upon to rule on any matter during such meetings. In this case, the Parliamentarian shall agree to maintain confidentiality of such matters.

ARTICLE VII

OFFICERS AND THEIR DUTIES

Section 1. **Enumeration of Offices.** The officers of this Association shall be a President, Vice-President, Secretary, and Treasurer, who shall at all times be members of the Board of Directors, and such other officers as the board may from time to time by resolution create.

Section 2. **Election of Officers.** The election of officers shall take place during the annual meeting.

Section 3. **Term.** The officers of this Association shall be elected annually for a one (1) year term by the new Board of Directors at the annual meeting.

Section 4. **Special Appointments.** The board may elect such other officers as the affairs of the Association may require, each of whom shall hold office for such period, have such authority and perform such duties as the board may, from time to time, determine.

Section 5. **Resignation and Removal.** Any officer may be removed from office with cause by the majority vote of the board. Any officer may resign at any time by giving notice to the board, the President, or the Secretary. Such resignation shall take effect on the date of receipt of such notice or at any later time specified therein, and unless otherwise specified therein, the acceptance of such resignation shall not be necessary to make it effective.

Section 6. **Vacancies.** A vacancy in any office may be filled by appointment of the board. The officer appointed to such vacancy shall serve for the remainder of the term of the officer he replaces.

Section 7. **Multiple Offices.** No person shall simultaneously hold more than one of any of the offices, except in the case of special offices created pursuant to Section 4 of this Article.

Section 8. **Duties.** The duties of the officers are as follows:

(a) **President.** The President shall be the principal executive officer

of the Association and shall in general supervise and control all of the business and affairs of the Association as authorized by the board of directors. He/She shall sign, with the Secretary or any other proper officer of the Association, as authorized by the Board of Directors, any deeds, mortgages, bonds, contracts, or other instruments which the Board of Directors have authorized to be executed by the officer except in cases where the signing and execution thereof shall be expressly delegated by the Board of Directors or by these regulations or by statute to any officer or agent of the Association; and in general he/she shall perform all duties incident to the office of President and such other duties as may be prescribed by the Board of Directors from time to time.

- (b) **Vice-President.** In the absence of the President or in the event of his/her inability to act, or resignation, the Vice-President shall perform the duties of the President until the board elects a new president, and when so acting, shall have all the powers of and be subject to all the restrictions upon the President. Any Vice-President shall perform such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors, and shall serve as chairman of the Election Committee.

- (c) **Treasurer.** If required by the Board of Directors and funded by the Diamondhead Board of Directors, the Treasurer shall give a bond for the faithful discharge of his/her duties in such sum and with such surety or sureties as the Board of Directors shall determine. He/She shall have charge and custody of and be responsible for all funds and securities of the Association; receive and give receipts for monies due and payable to the Association from any source whatsoever, and deposit all such monies in the name of the Association in such banks, trust companies, or other depositories as shall be selected; report on the financial condition of the Association, keep appropriate current records showing the members of the Association together with their addresses, and, in general, perform all duties incident to the office of Treasurer and such other duties as from time to time may be assigned to him/her by the President or by the Board of Directors.

- (d) **Secretary.** The Secretary shall keep the minutes of the meetings of the members, the Board of Directors, and the meetings of the Executive Committee in one or more books provided for that purpose; see that all notices are duly given in accordance with the provisions of these regulations or as required by law; be custodian of the corporation records and of the seal of the Association and see that the seal of the Association is affixed to all documents. the execution of which on behalf of the Association under its seal is duly authorized in accordance with the provisions of these regulations; and, in general, perform all duties incident to the office of Secretary by such member, and from time to time may be assigned to him/her by the President or the Board of Directors. In

addition, the Secretary shall maintain a permanent, chronological record of all amendments and resolutions submitted for approval, with passed and/or not passed notations, with a complete revised copy of the current By-Laws on file in the POA office for review or reproduction at a reasonable charge by any member of the Association during regular business hours.

ARTICLE VIII

POWERS RESERVED

The members of the Diamondhead Property Owners Association, Inc. reserve to themselves the power to:

- (a) elect the directors, and recall a member of the Board of Directors;
- (b) amend, revise or supersede these By-Laws; commit the common properties for the purpose of forming any improvement district.

ARTICLE IX

COMMITTEES

The Board of Directors shall appoint an Architectural Control Committee, an Election Committee, and such other committees as deemed appropriate in carrying out its purpose. The President of the Board of Directors will select the chairperson of each committee. The chairperson and the ex-officio (liaison) from the board will select the remaining committee members. All voting committee members must be property owners in good standing (as good standing is defined herein). Renters/tenants may serve on committees, but may not chair any committee nor have voting privileges on committees. All committees shall maintain minutes of each meeting and record all votes on issues taken by the committee.

ARTICLE X

BOOKS AND RECORDS

The books, records and papers of the Association, except confidential, employee or personnel documents, shall at all times, during reasonable business hours, be available for inspection by any member at the principal office of the Association, where copies may be purchased at a reasonable cost, for personal use only. All new property owners are to be provided a current copy of the Association By-Laws, Bill of Assurance and Community Standard documents at no charge.

ARTICLE XI

ASSESSMENTS

Each member shall be obligated to pay the annual assessment, as well as any special assessment, both of which shall be secured by a continuing lien on the property against which the assessment is made. Any assessment not paid when due shall be delinquent. A penalty not to exceed 20% may be charged if the annual assessment is not paid within thirty (30) days after the due date. This penalty will be charged each year until the delinquency is paid in full. In the event of nonpayment, the DPOA may file a lien. No owner may waive or otherwise escape liability for any assessment by reason of non-use of the common area or abandonment of his/her lot.

ARTICLE XII

CORPORATE SEAL

The Association shall have a seal in circular form having within its circumference the words DIAMONDHEAD PROPERTY OWNERS ASSOCIATION, INC., an Arkansas Non-Profit Corporation.

ARTICLE XIII

AMENDMENTS

Members, by the affirmative vote of a majority of a quorum of members in good standing present in person or by proxy, may at a regular or special meeting amend, revise or supersede any of these By-Laws, provided the substance of the proposed amendment shall have been stated in the notice of the meeting. Changes to the By-Laws cannot supersede the Bill of Assurance.

ARTICLE XIV

FISCAL YEAR

The fiscal year of the Association shall begin on the 1st day of April and end on the 31st day of March of each year.

ARTICLE XV

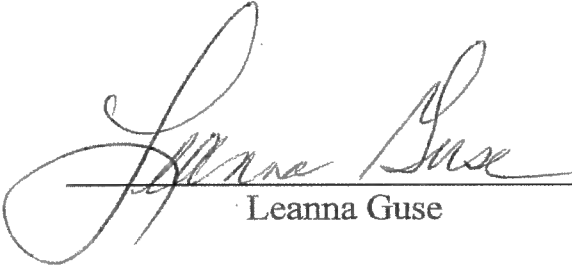
PRIORITY OF BY-LAWS

These By-Laws shall supersede, amend and cancel all other Code of Regulations or By-Laws which were duly adopted by the membership of the Diamondhead Property Owners Association. Changes to the By-Laws cannot supersede the Bill of Assurance.

Revised: August 21, 2004; August 18, 2007; August 19, 2017; August 17, 2019

ARTICLE XVI


APPROVALS



Leanna Guse Secretary

9/18/19

Date



Ben Sanders President

9-18-19

Date

(Diamondhead Seal)



APPENDIX A

DEFINITIONS

Amenities: Refers to secure gate access, Club House facilities (i.e. exercise room, 19th Hole Grill, library, meeting rooms, card rooms), swimming pool, golf course (including driving range and practice facilities), pavilion, common grounds (including playground, tennis and basketball courts, Springbrook boat ramp and memorial garden), fishing ponds and other facilities as may be defined by the Board of Directors.

Architectural Control Committee (ACC) has the responsibility and authority to approve or disapprove all residential construction within the area of Diamondhead. It also has the responsibility for maintaining the general harmony of all construction.

Articles of Incorporation is a document that was created and filed on September 16, 1969, to establish DPOA corporation.

Association shall mean and refer to the Diamondhead Property Owners Association (DPOA), a non-profit corporation organized and existing under the laws of the State of Arkansas.

At Large Member is a term used in this document to refer to either resident or non-resident property owners.

Bill of Assurance is a document that contains all of the restrictions, conditions, covenants, or agreements by which all members are to abide.

Code of Ethics refers to a document, signed by members of the Board of Directors, which defines a number of ethical guidelines the directors are committed to follow.

Common Properties refers to those areas so designated for the use and enjoyment of the members in Diamondhead. Such areas include, but are not limited to, the pool, Kiddie Korral, golf course, tennis courts, pavilion and the Diamondhead clubhouse.

Directors shall refer to all board members. These positions are elected by majority vote of members and typically serve 3-year terms.

Just Cause is the guiding principle to be utilized in removing a director from his/her position. Anything that impedes the board's function or is detrimental to the DPOA is cause for removal. It is incumbent upon the individual requesting such action from the Board of Directors to establish the just cause for the request.

Member in Good Standing means a property owner current in the payment of all assessments, service and use charges, and not under any suspension of privileges.

Officers refers to the President, Vice President, Treasurer and Secretary who serve for a one year term in this capacity. They are selected by the directors. These four directors also comprise the Executive Committee. The term "officer" may also apply to special appointments.

Posting as used in this document refers to notifications of meetings being posted in conspicuous places around Diamondhead, such as but not limited to: the front gate/marquee, the Diamondhead Clubhouse and on the Diamondhead web site.

Straw Vote is a term used by the Board of Directors to indicate a vote, usually via email, taken outside of a regular Board meeting. Such votes are to be verified and confirmed at the next regularly scheduled Board meeting.

Resolutions are actions taken by the Board of Directors to establish or define rules regarding actions to be taken by the Board, committees or property owners. Resolutions are filed in the DPOA office and may be examined by any property owner at any time during normal business hours. Resolutions have the same authority as regulations and By-Laws, except that they may not supersede By-Laws or the Bill of Assurance.