Guidelines for retirement village residents’ committees

Important Information

The Retirement Villages Act 1992 allows residents of a retirement village to elect a residents’ committee if they wish to.

If residents seek to form an incorporated association to carry out the function of the residents’ committee, this must be decided by a special resolution*.

Other committees can also be formed in the village for other purposes such as social activities, but there can only be one residents’ committee.

A residents’ committee may be established by:

a) an election conducted among the residents of a retirement village; or
b) an election conducted by the administering body on the request of –
   i) a minimum of five residents or 10 per cent of residents, whichever is greater, or
   ii) a majority of the occupied residential premises if fewer than 10 occupied residences; or
c) forming an association that is to be incorporated under the Associations Incorporation Act 1987. This course of action must be decided by special resolution* passed at a meeting of residents.

A residents’ committee is not a decision making body.

It is a group of residents, elected by their fellow residents, to represent their interests and to carry out certain functions. A residents’ committee also provides an important channel for communication between the residents and management.

Residents’ committees are free to set their own procedures, as long as these are not inconsistent with the law.

Optional guidelines have been developed to be used by a residents’ committee, or may be modified to suit an individual committee’s needs.

*See Appendix B

Part 1 Definitions
Part 2 Membership
Part 3 Sub-committees
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Appendix B Voting requirements for residents’ consent.
Appendix C Sample ballot paper
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Part 1 – Preliminary

1. Definitions
In these rules:

Chairperson means the person holding office as Chairperson of the residents’ committee (see point 5 below).

Committee means those residents elected to the residents’ committee.

Resident means a person who has been admitted to occupation of residential premises in accordance with a retirement village scheme and includes a spouse or de facto partner of such a person who is residing with that person or was residing with that person at the time of his or her death as defined in Part 1 section 3 of the Act and Division 1 clause 1 of the Code.

Returning officer means a resident who is not a member of the residents’ committee and is not standing for election to the residents’ committee selected by a show of hands at a meeting of the residents. The returning officer carries out the election and/or ballot on behalf of the residents.

Secretary means the person holding office as Secretary of the residents’ committee or, if no person holds that office, the Chairperson of the residents’ committee (see point 5 below).

The Act means the Retirement Villages Act 1992 (the Act).

The Code means the Fair Trading (Retirement Villages Interim Code) Regulations (the Code) (note: interim codes are replaced every six months).

Treasurer means the person holding office as Treasurer of the residents’ committee or, if no person holds that office, the Chairperson of the residents’ committee (see point 5 below).

2. Name
The name of the committee is: ‘The [insert name of village] residents’ committee (the committee).

3. Objects
The objects of the committee are to:

1) consult with the administering body of the retirement village on behalf of residents about the day-to-day running of the village and any issues or proposals raised by the residents;
2) advance and protect the interests of all residents of the village;
3) discuss issues of concern to residents under the Act and Code, or any other matter affecting the management and operation of the village;
4) call general meetings of all residents for the purpose of considering and voting on matters requiring the consent of residents except for voting on special resolutions; meetings for this purpose must be called by the administering body;
5) conduct voting in accordance with the Act and Code and report on the results;
6) facilitate communication between residents and management;
7) assist in dispute resolution by raising concerns or complaints with management, or taking or defending action before the State Administrative Tribunal (‘SAT’) on behalf of a resident, a group of residents or all residents of the village;
8) liaise with WARVRA, (the Western Australian Retirement Villages Residents Association), and represent the village at WARVRA meetings where the village is a member of WARVRA; and
9) welcome new residents into the village.

Part 2 – Membership

4. Residents’ committee members
The residents’ committee consists of the following office bearers:

1) Chairperson
2) Secretary
3) Treasurer
4) [insert number] ordinary committee members;
and the following sub-committees [delete or add as appropriate]:

a) Financial sub-committee – to consider proposed variations in recurrent charges, proposed annual budgets, examine quarterly accounts and other matters relating to financial management
b) Social sub-committee – to arrange social functions and outings for interested residents
c) Other (specify) ………………………………….

5. Functions of office bearers

1) The functions of the Chairperson are to:

a) chair meetings of the committee and meetings of residents;
b) advise management of all decisions made by residents;
c) rule on any procedural matters raised at meetings of the committee or meetings of residents or enquiries as to the meaning of these rules;
d) request management to call a meeting of residents when deemed necessary;
e) represent the committee in meetings with management and WARVRA if the village is a member of WARVRA;
f) seek clarification, where necessary, from the Department of Mines, Industry Regulation and Safety about the rights and obligations of residents under the Act and Code; and

g) make or defend applications before the SAT on behalf of a resident, a group of residents, or all residents of the village, if the committee agrees it is appropriate to do so.

2) The functions of the Secretary are to:

a) keep a register of office bearers of the committee;

b) keep a written record of decisions made at meetings of the committee or meetings of residents, in particular the votes on matters considered at meetings;

c) notify committee members of the date, time and venue for meetings of the committee and all residents of any general meeting of residents;

d) keep the notice board in the village updated with relevant information;

e) conduct and receive correspondence on behalf of the committee and table copies at each meeting of the committee;

f) liaise with the operator regarding the provision of administrative assistance to the committee;

g) chair meetings of the committee and meetings of residents required under the Act in the absence of the Chairperson, if nominated to do so by the committee;

h) welcome new residents into the village; and

i) update these rules when amended.

3) The functions of the Treasurer are to:

a) make sure that money due to the committee is collected and receipted and that payments authorised by the committee are made;

b) make payments through a petty cash system or by cheque signed in conjunction with other signatories as authorised by the committee;

c) submit a report at each meeting of the committee and meeting of residents that details all receipts and payments made since the previous report, accompanied by a list of unpaid accounts and monies outstanding up to and including the day of the meeting, and

d) chair meetings of the committee and meetings of residents required under the Act in the absence of the Chairperson, if nominated to do so by the committee.

7. Term of membership

1) Each member of the committee, or a sub-committee, is to be appointed for a period of 12 months but may be re-elected.

2) An office bearer may be removed at any time by a special resolution*.

8. Nominations for office bearers and ordinary committee members

1) When a meeting of residents is held at which a committee is elected, all positions on the committee are to be declared vacant. The first business item at the meeting must be the election of the committee for the coming year.

2) At the first meeting of the residents held to elect the committee, an acting Chairperson is to be appointed with the consent of those residents present at the meeting, for the purposes of running that particular meeting. When subsequent meetings are held to elect the committee, the Chairperson from the previous year will act as chair of the meeting until the position of Chairperson has been filled.

3) Any resident present at the meeting can nominate themselves or another resident to be a committee member.

4) An existing member or former member of the committee may nominate again, or be renominated to be a member of the committee.

5) Nominations must be seconded and accepted by the nominee before that person becomes a candidate.

6) If only one nominee for an office bearer position is received, or if the number of nominations received for ordinary committee members is equal to or less than the number of vacancies to be filled, the person(s) nominated are taken to be elected.

7) If more than one nomination for an office bearer position is received, or if the number of nominations received for ordinary committee members exceeds the number of vacancies to be filled, a written ballot is to be conducted to elect members and office bearers.

9. Election of office bearers and ordinary committee members

1) Where an election for a position is required, a separate ballot is to be held for each office bearer followed by a ballot for ordinary committee members.

2) Office bearers are to be elected in the following order:

   a) Chairperson;
   b) Secretary;
   c) Treasurer; and
   d) Any other office bearers.

6. Qualifications for membership

Only a resident of the village is eligible to become a member of the committee or a sub-committee or to nominate a resident for membership.
3) If the previously elected committee included a returning officer, then the returning officer is responsible for conducting the ballot and counting votes.

4) If the committee does not include a returning officer, then a resident who is not standing for election to the committee is to be selected by show of hands and is responsible for conducting the ballot and counting votes.

5) Voting papers must be prepared listing the name of each nominee in alphabetical order including the position for which they are nominated i.e. office bearer position or ordinary committee member, and must be given to each person at the meeting (see Appendix C for sample ballot paper).

6) The voting paper must not identify the person who is voting.

7) Votes may be cast with a tick, or cross, or numbered, but each voting paper must not contain more votes than the number of positions being filled.

8) The Chairperson, or acting Chairperson, has the power to rule votes invalid if a vote cannot be reasonably determined.

9) The nominee receiving the greatest number of votes for each position is taken to be elected to that position.

10) If the votes for two nominees for one office bearer position are equal, either another ballot for that position must be held or the candidate can be chosen by a draw.

11) Voting papers are to be retained by the returning officer for 14 days and may be inspected by any resident.

10. Announcement of election results

1) The names of successful candidates must be announced at the meeting at which the election is held. There is no need for the number of votes received by each nominee to be announced.

2) The names of the residents elected should be advised to the administering body and placed on the notice board at the village within seven days of the election.

11. Vacancies

1) A vacancy is created when:
   a) a member of the committee ceases to be a resident during their term of appointment;
   b) a member of the committee resigns by notice in writing to the Secretary;
   c) a member is removed by special resolution; or
   d) all positions are declared vacant in accordance with section 8 (1) of these rules.

2) Casual vacancies for office-bearers that arise during the term of the committee are to be filled by way of an election among the other members of the committee. The committee may determine whether or not vacancies of ordinary committee members need to be filled.

Part 3 – Sub-committees

12. Formation of sub-committees

1) The residents’ committee may decide to appoint a sub-committee at its own discretion during the year if the need arises.

2) The committee may determine which ordinary committee members will be on a sub-committee.

3) The committee may appoint a resident who is not a committee member to assist a sub-committee.

Part 4 – Conduct of meetings

14. Meetings of residents’ committee

1) The residents’ committee is to meet [insert number] times in each period of 12 months at a place and time the committee determines.

2) The Chairperson may convene additional meetings of the committee.

3) The Chairperson presides at all meetings of the committee at which the Chairperson is present. If the Chairperson is absent from any meeting, the members of the committee present at that meeting must appoint an alternate committee member to preside at that meeting during the absence of the Chairperson.

4) Any person who is not a member of the committee must not attend a meeting unless invited by the Chairperson.

5) Committee members are to submit written requests to the Secretary for items to be placed on the agenda (see sample agenda at Appendix D).

6) The Secretary must give verbal or written notice of a meeting to each member of the committee at least 72 hours before the meeting. The notice is to include an agenda for the meeting.
7) matters for which notice has been given are to be discussed at the meeting and other matters may be raised as general business.

8) the quorum required to constitute a meeting of the residents' committee, where this is not an incorporated association, is not specified in the code. the quorum required for an incorporated association operating as a residents' committee is:
   a) a minimum of five members entitled to vote on a resolution or 30 per cent of the number of members entitled to vote on a resolution, whichever is the greater; or
   b) if the incorporated association has fewer than 10 members, a majority of those members.

9) decision making is by a majority vote.

10) each member present at the meeting is entitled to one vote.

11) in the event that a vote on an issue is equal, the chairperson of the meeting is entitled to exercise a second or casting vote.

15. meetings of residents

1) the residents' committee is to call a meeting to which all residents of the village are invited at least once each year. votes for committee members will be conducted at this meeting.

2) other general meetings of residents may be called during the year if issues arise that affect all residents, or for any other matter.

3) the administering body must call a meeting of the residents for the following:
   a) an annual general meeting within five months of the end of the financial year to deal with matters relating to the presentation of the financial statements and auditor's report if any; and
   b) an annual budget meeting before the end of each financial year to deal with the final budget proposals for the village for the next financial year.

4) the administering body must also call a meeting:
   a) when requested to do so by the residents’ committee or a minimum of five residents or 10 per cent of residents, whichever is the greater; and
   b) to enable residents to vote on a special resolution*.

5) residents are to submit written requests to the secretary for items to be placed on the agenda.

6) written notice of a meeting of residents is required as follows:
   a) under (1) or (2) notice must be given by the secretary to each resident and/or placed on the village noticeboard at least 10 working days before the meeting. the notice is to include an agenda for the meeting.
   b) under (3) notice must be given at least 10 working days before the meeting. the notice is to include an agenda for the meeting.
   c) under (4) the meeting must be called by the administering body within 20 days and they must give at least 10 working days’ written notice of the meeting.

7) matters for which notice has been given are to be discussed at the meeting and other matters may also be raised as general business.

8) no resident is obliged to attend or vote at a meeting of residents.

9) a resident who does not attend a meeting may appoint someone to act as a proxy. the resident may use the proxy notice form (appendix 2 of the code). the proxy appointment has no force if the resident attends the meeting and votes in person.

10) no person may hold more than five proxy votes at the same time.

11) the following persons are eligible to be appointed as a proxy:
   a) a friend or relative of the resident;
   b) the resident's guardian;
   c) a member of the residents' committee;
   d) another resident of the retirement village; or
   e) a person nominated by the administering body to act as a proxy where the resident is a relative of that person.

12) the following persons are not eligible to be appointed as a proxy:
   a) a member of the administering body; or
   b) a close associate of the administering body, unless they are a relative of the resident for whom they are being appointed as proxy.

13) in order to attend a meeting at which a special resolution* is to be considered, an administering body can only attend if invited to do so by a majority of residents.

14) if under sub-clause (13), an administering body is present at a meeting of the residents, they may remain unless a majority of residents decide that the administering body must leave the meeting.

notes to section 15:

for matters requiring residents’ consent, voting must be held in accordance with the act and the code.

appendix a lists the matters that require residents’ consent by special resolution*.

appendix b summarises the voting procedures set out in the act and regulations.
Part 5 – General

16. Use of funds

1) Annual membership fees and/or contributions shall be not more than $1.00 per member. Residents may choose not to have any membership fees.

2) The residents’ committee’s income and assets may only be used in accordance with the objects set out in rule three (3).

3) Members of the committee are appointed in a voluntary capacity. No payment, goods or benefit is to be made to members of the committee other than to reimburse them for expenses incurred with the approval of the committee.

17. Confidentiality

1) The residents’ committee shall not divulge any information provided to it by residents unless it has the consent of the resident(s) concerned.

2) The committee may seek advice from a government agency or another body or person, on behalf of residents, provided that no action is taken or costs incurred without the residents’ consent.

18. Changes to these rules

1) These rules may only be altered, rescinded or added to at a general meeting of residents with majority consent.

2) These rules are subject to the provisions of the Act and the Code. If a rule conflicts with the Act or Code the provision of the Act or Code prevails.

19. Secret ballot

1) If more than one resident or proxy at a meeting of the residents calls for, or supports, a secret ballot, the vote must be taken by a secret ballot.

2) If a secret ballot is used, the ballot must ensure the votes can be counted without identifying how any resident has voted.

3) If a decision is required on any matter relating to the secret ballot, the returning officer’s decision is final.

4) The result of the secret ballot should be recorded in the minutes of the meeting.

20. Protection of committee members in mediation of disputes

No liability attaches to a member of a committee convened under the Code to hear and mediate disputes within a retirement village. This also applies to any person involved in the actions of any such committee. This protects any act or omission that occurred in good faith and in the performance or discharge of the committee’s functions under this or any other written law.

These rules were adopted/last amended on [insert date]
Appendix A

Matters which require residents’ consent by special resolution under the Retirement Villages Act 1992

The following matters require consent by special resolution:

a) approving the application of any budget surplus in the village for a purpose other than the future operating expenses of the village;
b) dissolving a residents’ committee;
c) removing a member of the residents’ committee during their one year term;
d) collectively applying to the State Administrative Tribunal if a dispute arises between the residents and the administering body regarding an increase in recurrent charges or the imposition of a levy;
e) requesting that the annual financial statements of the village, presented to residents at the annual meeting, be independently audited for the financial year in which the resolution is passed;
f) varying services or facilities;
g) varying or revoking the residence rules; and
h) varying the dispute resolution processes prescribed in the Code.

Appendix B

Voting requirements for residents’ consent

Majority consent

The Act sets out how the residents of a retirement village give their majority consent to a proposed measure or action as follows:

1) The residents of the village are taken to have given their consent to a particular measure or action if more than 50 per cent of the residents who vote, whether personally or by proxy, on the measure or action consent to it.

This does not apply to a measure or action that requires a special resolution.

2) A vote may be taken by means of:
   a) a show of hands; or
   b) a written ballot conducted in accordance with the Code.

3) The management of a retirement village must accept as a true reflection the residents’ decision reported to them by:
   a) an officer of the residents’ committee; or
   b) if there is no residents’ committee established for the village, a resident elected as the representative of the residents of the village in relation to the measure or action concerned.

Special resolution

The Code sets out the requirements for a special resolution as follows:

1) A resolution concerning the action or measure to be considered by residents must be put to a meeting of residents of the retirement village called by village management.

2) Village management must call a meeting at which a special resolution is to be considered within 20 days of being requested to do so and at least 10 days’ written notice of the meeting must be given to all residents of the village.

3) A special resolution must not be considered unless there is a quorum present, either in person or by proxy, of:
   a) a minimum of five residents entitled to vote on the resolution or 30 per cent of the number of residents entitled to vote on the resolution (whichever is the greater); or
   b) if the village has fewer than 10 occupied residential premises, a majority of residents entitled to vote.

4) A special resolution is carried only if it is passed by at least 75 per cent of the number of residents who participate in the ballot (whether in person or by proxy).
### Appendix C

**Sample Ballot Paper**

(VILLAGE NAME RESIDENTS’ COMMITTEE)  Election of Office Bearers (DATE OF ELECTION)

#### PART A

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#### PART B

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### INSTRUCTIONS FOR COMPLETION OF BALLOT PAPER

1. **PART A** – For office bearer positions e.g. President, mark the ballot paper by placing the number 1 or a tick or cross in the square opposite the name of your most preferred candidate.

2. **PART B** – For committee members, number the squares next to your preferred candidates in the order of your preference up to the number of vacancies.
Appendix D

Sample Agenda

(VILLAGE NAME) RESIDENTS’ COMMITTEE

The Annual General Meeting will be held at (Venue Name) on (Date) at (Time).

Business

1) Chairperson’s opening
2) Apologies
3) Minutes of previous meeting
4) Business arising from the minutes
5) Correspondence [sometimes omitted]
6) Chairperson’s report
7) Treasurer’s report
8) Election of committee members
9) Questions and discussion
10) Motion on notice:
   Mrs Smith to move: ‘That the Association organise a fundraising event …’
11) General business
12) Notice of motions for the next meeting
13) Next meeting
14) Close
## Appendix E

### Sample Minutes

**MEETING MINUTES**  
**(NAME OF RETIREMENT VILLAGE) RESIDENTS’ COMMITTEE MEETING**  
**DATE OF MEETING**  
**PLACE OF MEETING**

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<td><strong>2. BUSINESS ARISING FROM MINUTES</strong></td>
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<td><strong>5. GENERAL BUSINESS</strong></td>
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<td><strong>6. DATE AND TIME OF NEXT MEETING</strong></td>
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**Disclaimer** – The information contained in this fact sheet is provided as general information and a guide only. It should not be relied upon as legal advice or as an accurate statement of the relevant legislation provisions. If you are uncertain as to your legal obligations, you should obtain independent legal advice.

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**Consumer Protection**  
| Department of Mines, Industry Regulation and Safety  
**1300 304 054**  
8.30 am – 5.00 pm Mon, Tue, Wed and Fri  
9.00 am – 5.00 pm Thurs  
Gordon Stephenson House  
Level 2, 140 William Street  
Western Australia 6000  
M: Locked Bag 100, East Perth WA 6892  
W: www.dmirs.wa.gov.au  
E: consumer@dmirs.wa.gov.au  
| **Regional Offices**  
| Goldfields/Esperance | (08) 9021 9494  
Great Southern | (08) 9842 8366  
Kimberley | (08) 9191 8400  
Mid-West | (08) 9920 9800  
North-West | (08) 9185 0900  
South-West | (08) 9722 2888  
| **National Relay Service**: 13 36 77  
Translating and Interpreting Service (TIS): 13 14 50  
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