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NOTICE OF NEW CITY OF SCOTTSDALE ORDINANCE AFFECTING HOA'S LOCATED IN SCOTTSDALE

Planned communities located in the City of Scottsdale should be aware that on September 20, 2022, the City of Scottsdale adopted Ordinance No. 4567 that adds new Section 49-260 "Prohibition of Mandatory Turf Conditions by Owner's Associations" to the Scottsdale Revised Code that addresses turf over-seeding and related issues.

The Ordinance generally provides with respect to any *planned community association*¹ located in the City of Scottsdale (regardless of any provision in the association's governing documents), the association cannot require an owner to:

- Over-seed their turf between October 1 and March 1;
- Irrigate their turf between October 1 and March 1; or
- Maintain any minimum amount of turf on the owner's lot at any time;

Notwithstanding the above, the association can still enforce its maintenance standards, so long as doing so does not contradict the provisions of the Ordinance.

A copy of the Ordinance is attached for your records. A link to the Ordinance follows as well:

<https://www.scottsdaleaz.gov/Assets/ScottsdaleAZ/Clerk/pending-ordinances/ORDINANCE4567.PDF>

Planned communities located within the City of Scottsdale should consider comparing their CC&R's as well as Rules/Guidelines to the provisions of the Ordinance so as to determine whether any changes in the association's enforcement practices are needed.

Although the Ordinance is specific to planned communities within the City of Scottsdale, community associations in other jurisdictions should be on the lookout for comparable ordinances purporting to override the association's governing documents.

Additionally, some associations may decide to challenge the City's authority to implement the Ordinance given that it "overrides" an association's governing documents. Predicting the success of such a challenge at this time is difficult.

If you have any questions about the Ordinance or any other legal issue affecting your association, please reach out to any of our attorneys.

¹ The Ordinance appears to apply to planned communities only; however, the Ordinance is not entirely clear and the City could argue that it also applies to Condominiums.