

## Synopsis – Summary of Changes and Justifications for New CC&Rs

### **Reasons to update CC&Rs. Problems with the existing CC&Rs include but are not limited to the following:**

- a) The Current CC&Rs limit Rules and Regs to Common Areas. As they currently stand, they are very weak and impeded the Boards ability to govern beyond Common Areas.
- b) We need better Rules and Regulations - that include residential property
- c) The ARC section is broad and needs to be more specific.
- d) Assessments need to be brought up to date and consistent with AZ statutes.

### **The three main areas of importance are:**

- a) Better Rules and Regulations
- b) Improved ARC
- c) Rewriting of assessments

### **EFFORT TO INVOLVE COMMUNITY HOMEOWNERS:**

- a) Held a 'Town Hall' in March of 2020 to address homeowners' questions and concerns. After 2 hours - all questions were answered. About 80 attended.
- b) We have solicited and received many suggestions via email and phone calls. All suggestions were seriously considered, discussed by the Board and lawyer, and when appropriate, incorporated into the CC&Rs.

### **Current CC&Rs are Out of Date and Lengthy:**

Over 30 years ago Don Savage created Cliff Rose as a HOA community. He started with a set of CC&Rs before he had developed Phase One and therefore had little input from the few homeowners. Since then each of us agreed to follow those CC&Rs when we purchased property here. Originally about 30 pages.

Now, 30 years later, we are asking the Community to update the document. Over the years amendments have extended the CC&Rs to about 100 pages, newer State statutes have created conflicts, pre-internet requirements are restrictive, calculations and formulas are confusing. Requires us to consult the attorney often – at \$300 per hour. Clarity would be beneficial in several areas.

Current CC&Rs require that all correspondence be done by USPS. Which means that the HOA has to pay for the Paper, envelopes, printing and postage, costing us \$100's per month. Allowing Email for those who agree could save us \$\$.

### **Regarding RENTALS:**

It is possible to have a supplemental policy for rentals that included rental violations, penalties and fees. The CC&Rs will be voted on without the rental section. At a later time, we could address the rental issues using input from a committee and vote on it separately down after the CC&Rs are voted on. Currently there are no provisions for renting or leasing.

### **IMPROVEMENTS/CHANGES:**

**Changes to Rules & Regs:** (Section 4): Current CC&Rs allow the Board to change the Rules & Regs without consulting homeowners. New/Proposed CC&Rs say that "The BOARD may, from time to time and subject to the provisions of this DECLARATION, adopt, amend and repeal rules and regulations. . . Any changes will be mailed to all members and go into effect after 30 days unless 51% of members disapprove by vote." (New CC&Rs require the Board to notify all homeowners about the changes 1 month prior to the vote. Allowing homeowners time to voice any concerns. We added the 51% veto right of members based on input from the Town Hall homeowners meeting.)

**Approval for Modifications:** Current has a general statement of "no changes" without approval. Proposed lays out specifics as to what needs ARC approval. Proposed now requires ARC approval for hardscaping.

**Antenna:** Current has no provision for antenna. Proposed: no antenna without Board approval – subject to C.F.R. § 1.400 (Over-the-Air Reception Devices Rule),

**Pets:** Current CC&Rs stipulate that pets are "not to disturb other homeowners & no unsanitary conditions or odors". Proposed CC&Rs specify "not to disturb other homeowners, pick-up after, leash, sanitary, no livestock or other unusual pets..

**Yard Signs:** Proposed CC&Rs are more specific as to size and type (For Sale, For Lease, temporary Open House, cautionary Children’s sign, political signs (size and duration), etc.

**New Builds:** Proposed are the same as Current: Conventional design - must be built in place (not moved from another location).

**Single Family Home:** Current CC&Rs just say "Residential use" - Proposed CC&Rs business restrictions have been modernized. Acceptable business are free from identification by sight sound or smell from outside lot and conforms to city and State codes. Door-to-door solicitation is not allowed, consistent with residential character (no hazardous materials). Example: A real estate office, lawyer’s office etc would be acceptable.

**Orderly Condition:** Current CC&Rs only say subjective "neat & orderly". Proposed CC&Rs is more specific, adding “ no visible car repairs (except for emergency), nor inoperable vehicles”,

**One Story:** Current CC&Rs say "shall not exceed 2 stories”. Proposed CC&Rs: no more than 1 story above grade level (front door). Existing 2 story homes are "grand-fathered" and walk-out basements are allowed.

**Setbacks:** Not in Current CC&Rs. Proposed defines setbacks at 25 feet, but may be reduced to 10 to conform to city code due to topography.

**No Sub-dividing Lots:** Not in Current CC&Rs. Proposed: Cannot sub-divide without approval of Board

**Drainage:** Not in Current CC&Rs. Proposed: No one shall interfere with the drainage established at the time of grading of the Lot or Common Area.

**Exceptions:** Board can grant exemptions

**Assessment calculation:**

**Current CC&Rs:** ...the maximum annual assessment may be increased based on the percentage increase of liability insurance, taxes and expenses, and fees associated with the common area. [Ambiguous and problematic since one would think that “liability insurance” and “taxes” would be included in “expenses”]. The portion which refers to “and fees” – is it meant to be an offset to expenses, [if so is it subtracted from the expenses] or added to the expenses? Calculation is ambiguous:

$$\frac{\text{Taxes, Liability Insurance, Expenses \& Fees associated with Common Area (for 2020)}}{\text{Taxes, Liability Insurance, Expenses \& Fees associated with Common Area (for 2019)}} = \% \text{ increase}$$

The calculation may have been meant to ensure that dues do not go up unless the expenses go up as well. But as you can see, the calculation for 2021 looks back 2 years (to 2019) – so any fee increase would happen 3 years AFTER the money was expended.

Over the last 30 years, the calculation may have resulted in an increase of 5% or 8%. But the Board did not increase by those incremental amounts – a missed opportunity.

Over the last few years the HOA has spent a considerable amount on Maintenance and the community agrees. 3 years ago we spent about \$17,000 on Maintenance, the following year \$15,000 and the next \$13,000. So, even though we are spending more money – we cannot increase dues because it is not INCREASING year after year. This is the problem with this calculation – it does not account for expenses if we spend money – but try to save money and be frugal.

**Proposed:**

...the BOARD shall not increase the annual assessment in any fiscal year by more than twenty percent (20%) over the immediately preceding fiscal year’s annual assessment without the approval of a majority of the MEMBERS. [standard for the State of Arizona].

Note: As of the last Board meeting – we are not looking to increase Dues at any foreseeable point (we still have a \$12,000 in Cash and about 50,000 in reserves (reserves are required by law)

Note: this is not an exhaustive list – but a quick run-down of interesting changes