

**Sunrise Valley Townhomes
Homeowners Association
Tucson, Arizona**

Governing Documents

Effective March 30, 2008

**Sunrise Valley Townhomes HOA
4505 N. Avenida Ronca
Tucson, Arizona 85750-6344**

GOVERNING DOCUMENTS
SUNRISE VALLEY TOWNHOMES HOMEOWNERS ASSOCIATION

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PREFACE

This revision of our governing documents is major and incorporates numerous changes to Arizona law since the previous one in 1999. The central theme of this revision is to share authority with homeowners, and to limit the authority of the Board of Directors to the minimum necessary to manage its responsibilities. As part of this endeavor, the authoritarian, and at times belligerent, tone of the old documents has been eliminated in every case.

Several points should be kept in mind. First, over half of the content of the documents is pro forma—what is called “boilerplate.” This type of content varies little among hundreds of homeowner associations, and rarely if ever leads to controversy. Our Association owns and maintains about ten million dollars worth of real estate and improvements thereon, *not* including the individual homes and lots. The sum of the annual assessments is nearly \$100,000, and more than 95% of that money is spent on the maintenance of the common areas and facilities, and for providing landscaping and refuse collection services to homeowners. Enforcement of architectural standards and other restrictions consumes less than 5% of the board’s time, and about 1% of that budget. Still, most of this work is comparatively routine, hence the “boilerplate.” In any event, the following items are of especial interest to our homeowners:

- *Informal resolution.* Except in emergencies involving a bona fide risk to life and property, the Board is required to attempt to resolve all issues informally before recourse to legal resolution.
- *Fines and penalties.* With one exception, all fines and penalties have been eliminated. It is necessary to keep the late-payment-of-assessments fee, but the only penalty is a nominal ten dollar fine imposed when the required attempt at informal resolution of an issue fails, and then only when that issue does not involve assessments.
- *Leeway.* Owners have more leeway on landscaping and some architectural modifications. Moreover, numerous types of architectural modifications can be approved “while you wait.”
- *Committees.* All committees, except the ad hoc variety, have been eliminated. Then, too, all actions by the Board require a majority vote of the entire Board, not just a majority of those attending a Board meeting. (In practice, the Board rarely proceeds without unanimity.) Lastly, homeowners are to nominate themselves to run for a seat on the Board.
- *Updating the documents.* Positive procedures have been added to ensure that every owner has a complete copy of the governing documents and all changes thereto. Any relevant change occasioned by law results in an immediate notice of the effect of that law pending amendment to the CC&Rs or Bylaws as may be the case, or by distributing a revised rule.
- *Rules.* With one exception, rules imposed by the Board are limited to those pertaining to common land, streets, recreational facilities, and services provided to homeowners. Restrictions on homeowners must be incorporated into the CC&Rs and approved by a majority of all homeowners. The exception concerns decorations and signs. The law here is frequently revised, granting general permissions but leaving it to homeowner associations to implement the details.
- *Text.* The language has been simplified, the verbiage reduced by 25%, a clearer type font used, and the text printed on one side of the page. Then, too, the different documents are color-coded and placed in different sections of a loose-leaf binder. Also, definitions of terms have been grouped into like categories so that these terms can be more easily understood.

- *Fewer restrictions.* All unnecessary (and often ludicrous) restrictions and obligations have been eliminated. For example, the previous documents required the Association to enforce all laws and statutes pertaining to any aspect of home ownership and building codes. Elsewhere, it is no longer necessary for the Board to conduct a special meeting and obtain homeowner approval before proceeding with a legal action against a contractor.

Discussion items. Six items relevant to the governing documents warrant discussion:

- *Owner versus member.* An owner is a legal construct and refers collectively to all persons who share title in a single Lot within the association. But every such person is a member of the association. A homeowners association is a government of property, not persons per se: one lot; one vote. But persons, not lots serve on the board, use the recreational facilities, and so forth. The former governing documents were notorious for confusing these terms, as do some Arizona statutes. Incidentally, it is not correct to say that if only one person has title to a specific lot, then the two terms are synonymous. Why? That same person may own another lot, hence he or she is one member but two owners and has two votes. This is not academic; this situation has, and continues to, occur in our association.
- *Liens.* A lien is a special form of legal right to obtain payment of a debt. It does not cover all debts. For example, a debt owed to a licensed contractor creates a lien, whereas to an unlicensed contractor, a lien does not obtain. The advantage of a lien is that it may be filed against real estate owned by the debtor, who cannot then sell the property, or only by paying the lien with part of the proceeds going to pay the lien. In a homeowners association, a lien arises whenever an assessment goes unpaid as of the due date, and thus an association may file a lien against the real estate of the recalcitrant owner. As a last resort, the association can then foreclose on the property in order to satisfy the lien (though in our association only as a last resort).
- *Owner property outside boundary walls.* Almost all homeowners in this association own land lying outside their boundary walls, typically at the back wall. The depth of this land ranges from a few inches to as much as twenty feet. In the absence of markers, it is difficult to determine the dividing line between this property and the common area. In practice, the Association has taken *some* responsibility for maintenance of these areas. The new rules on landscaping services clarify this division of responsibility (albeit complex cases may require some negotiation).
- *Binding arbitration.* Arbitration for party-wall disputes is mandatory when any informal attempt to resolve a dispute fails. By contrast, binding arbitration is only an option for disputes between the association and a homeowner. The nature of party-wall disputes typically involves shared responsibilities, whereas in most association-homeowner cases, the dispute is usually one-sided, for example, unpaid assessments or a clear-cut violation of the restrictions.
- *CC&Rs versus Bylaws.* The Bylaws primarily address the mechanics of Association management, such as election procedures, meetings, and notices. These items are more subject to change, and in any event, no Bylaw can overrule or otherwise bypass a revision of the CC&Rs.
- *Administrative law judges versus Superior Court.* In 2007, the Arizona state legislature permitted some types of homeowner association issues to be brought before an administrative law judge in lieu of filing suit in Superior Court. This process is much faster and far less expensive. But this alternative procedure cannot be used for injunctive relief, for example, compelling a homeowner to do such-and-such (other than paying assessments).

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AMENDMENTS, NOTICES, AND REVISIONS TO RULES

Amendments to the CC&Rs (the Declaration), Bylaws, and Rules are to be annotated on this page, and a copy of this page included with the changes distributed to homeowners. This is also true for notices of changes to Arizona law affecting any provision of the governing documents, pending formal amendment thereto. However, once that amendment is approved and distributed, the entry on the re-issue of this page here will state that the notice is cancelled. *The existing page in the governing documents binder should be discarded, noting that each time this page is updated, it will be printed in a different color.*

THE CC&Rs (the DECLARATION)

- March, 2008. Draft document distributed for voting. *This copy should be discarded in its entirety.*
- March 24, 2008 (distributed in April 2008). Copy of the recorded Declaration, with signatures and recordation numbers. This replacement document has the same dates as the draft, and there are no changes to it other than the signatures, recordation data, notary public seal, and spacing between paragraphs on the front page to accommodate a requirement of the Recorder's Office..

THE BYLAWS

- March, 2008. Document distributed for voting. *Page 7 should be discarded.*
- March 24, 2008 (distributed in April 2008). Signature page (page 7) distributed. There are no changes to the document except to add the signatures and notary public seal.

RULES

- March 2008. Complete restatement of the Rules. ~~Rule~~
- April 15, 2008. I. Rules for Traffic, Parking and Refuse/Recycle Collection replaced (one page). This revision makes a minor change to the time limit for removal of refuse/recycle containers, and provides a rule on the temporary parking of campers and trailers for purposes of loading, unloading, and cleaning. *Discard the copy of Rule I dated March 30, 2008.*
- April 15, 2008. II. Rules for Use of the Recreational Area. In paragraph #4, change "quasi-public" to "semi-public". In paragraph #8, change "are prohibited" to "are permitted". In paragraph #17, change "11:00 pm" to "10:00 pm". *These are pen-and-ink changes. Please do NOT discard the existing pages.*

FORMS

- March 2008. Complete restatement of the forms used by the Association.
- April 15, 2008. Request for Architectural Modification. Under "Approval" where the text begins "This is a level 2 proposal ..." Delete "is" between "stands" and "approved." Also change "Avenida" to "Camino" wherever it appears on a signature line if you live on Campero. *These are pen-and-ink changes.*

NOTICES

- CC&Rs, page 13, last line of section 9.7. The words "Section XII" are interpreted to mean "Article XII" *This is NOT a pen-and-ink change, but will be corrected by subsequent amendment.* Also, a proposed change to permit two rather than three pets will be voted upon at the next annual meeting.

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STATUS OF THE CC&Rs (the DECLARATION)

- March 30, 2008. Complete restatement of the Declaration

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STATUS OF THE BYLAWS

- March 30, 2008. Complete restatement of the Bylaws

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STATUS OF THE RULES

- March 30, 2008. Complete restatement of the Rules.
- ~~March~~ September 20, 2012. Rules Governing Solar Devices added.

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NOTICES

- As of March 30, 2008, there are no notices.

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