

**PROPOSED CC&R's MEETING WITH CLIFF ROSE RESIDENTS
MARCH 12, 2020**

Present: Board members, Catherine Craig, Robert Sledge, Marty Zwilling and Libby Zwilling. Attorney, Jason Miller. HOAMCO Representative, Ashley Beumer.

The Board is tasked with trying to keep Cliff Rose a pleasant community. That means we would like neighbors to get along with neighbors. To that end, we apply rules to the community as a whole. When considering these rules, you can apply them to yourself, how it will impact you. But I would also like you to consider how you would be impacted if your neighbor or several neighbors broke these rules.

The board and our attorney met with Cliff Rose residents at a meeting held to take questions and comments from any resident regarding our proposed new Covenants, Conditions & Restrictions (CC&R's). Approximately 25 homeowners attended.

Catherine Craig, board president, called the meeting to order at 6:00 p.m. After introductions, Catherine explained the purpose of the meeting which was to go into detail regarding the suggested new CC&R's and address any concerns, comments and issues our residents had. Multiple other residents sent in their questions and concerns to CONTACTCLIFFROSE@GMAIL.COM. Other residents had been on the Nextdoor site with their concerns. Catherine explained that Nextdoor is not a site used by the Cliff Rose Board.

Catherine explained that our attorney, Jason Miller, would first go over in more detail what the changes are so far and that all questions should be held until the end of his discussion.

Jason Miller is the Prescott Managing Attorney of the law firm of Carpenter, Hazlewood, Delgado & Bolen, has worked with Homeowner's Associations for over 15 years. He has been working closely with the Board on our new proposed CC&R's.

Jason explained that proposing new CC&R's is a process and we need to hear from the community as to what works and what doesn't. We need the feedback of our residents and nothing is set in stone. There may be future revisions after the March 12 meeting.

Jason went on to discuss the thinking as to why the board wants to redo the old CC&R's which were created and recorded in 1987—over three decades ago. Over the decades, many Arizona laws have changed. We need to modernize our CC&R's to bring them current and in line with the new laws and issues presented to the HOA. This process is all about helping our community to run more smoothly.

An example he mentioned is our assessment management process. The existing CC&R's are woefully inadequate and behind the times relative to delinquency dates, assessment increases, rules, etc.

This raised questions from residents about why we raised our dues last year; some felt the most recent increase (\$14.00 a year) was too much.

Catherine explained in some detail that all HOA costs have gone up and some large unanticipated ones have come in. For example, the road to our RV lot had to be redone in 2018. We spent over \$13,000 on it. Also in 2019, we were asked to do major work on the fire mitigation in the common areas, which has already cost us over \$16,000. Jason reminded everyone that Arizona State Law allows an increase of no more than 20% a year.

Other examples that Jason discussed included the display of signs on owner premises. All Cliff Rose residents must follow the Arizona State law on this. We also need to clarify the restrictions on short-term home leases, to specify a six-month minimum on rentals.

Upon conclusion of Jason's explanation of the CC&R's, the board took questions from the residents.

Cliff Rose Common Area and RV park:

Q) Why are we spending so much on maintenance? Why is the entire membership supporting less than 10% of those that can afford to have an RV? Our CC&R's state that these areas are supposed to be left in a natural state.

A) While our CC&R's state that the common areas should be left in a natural state, we still have an obligation to maintain these so as to not cause any fire hazards. The RV lot is considered part of the common areas.

Keeping the common areas "natural" does not mean "wild." We have spent money to thin out CR140 and plan on spending money address CR 294 (finances permitting) at the end of this year. Trees have died and had to be removed and/or replaced. Weed whacking of some common areas will reduce issues. The RV lot and its approach roads need maintenance.

CC&R's and Rules & Regulations:

Q) What is the motivation for moving the Rules & Regulations into the CC&R's?

A) Catherine said that the current CC&R's have a provision for R&Rs. She was mistaken; they are in the current By-Laws.

Q) Are we planning on changing the CC&R's and R&R every time the State of Arizona makes changes?

A) No, but we do need to bring our CC&R's into Arizona's current laws. As stated earlier, our CC&R's have not been updated in over 30 years.

Q) Why do we need to spend money to update the CC&R's? Why can't the board make changes to the CC&R's themselves instead of having a lawyer do it?

A) The CC&R's is a recorded legal document and this must be done by an attorney.

Short-Term Rentals:

Q) What kind of penalties can the board assess? Can short-term rentals be grandfathered in?

A) Under our current CC&Rs, the Board can file a lawsuit and order the resident to stop violating the CC&Rs. Under the Proposed CC&Rs, there would be a minimum six-month lease with the requirement that the entire lot would have to be leased.

A) Currently, the CC&R's are not drafted that way, but if it is appropriate, we could add that.

Q) How does the system work if there is a violation?

A) The board needs the help of all our residents in identifying when a residents is renting out their home illegally. Our residents are our "eyes." Any resident can make a complaint to our HOAMCO representative (Ashley Beumer). Ashley will verify the violation and send out a violation letter to the resident. If the matter needs to be escalated, the Compliance Officer will be notified and would investigate the matter further.

Home-based Businesses:

Q) What is the definition of home-based businesses? Does the board have its own definition?

A) The idea is to limit businesses which would infringe on a neighbor's ability to enjoy their home. If you cannot tell from the outside that a business is being conducted, chances are you would not break this rule. The Board can also grant variances.

Miscellaneous Questions:

Q) Is the board getting more restrictive or are we just cleaning things up?

A) Catherine explained why we came up with certain restrictions; that any new CC&R's must be voted upon and that rules have to be reasonable.

We receive complaints, as Board members, throughout the year. Most residents just give us their input over time. As Board members, we receive phone calls or emails from residents complaining about a certain situation, sometimes involving their neighbors. If we can apply existing rules, we act. If not, there is room for change and/or improvement.

Q) Is the board/management really getting a lot of complaints about homeowners?

A) Yes. This was also confirmed by two ex-Board members present.

General Statement by a homeowner:

Q) Why have the dues doubled (an increase of \$44) in Cliff Rose over the last 18 years?

A) The cost of everything we do in Cliff Rose has risen substantially: landscaping, management costs, attorney fees, fire prevention cleanup in common areas; tree trimming. The HOA receives almost all its income in January and we draw down on that account all year. We spread the income throughout the year, trying to anticipate issues and money expenditures. Each year, we produce a budget which is largely based on prior years.

Insurance Coverage:

Q) Can you explain the rationale of the mandate that homeowners have to carry their own Homeowner's insurance?

A) Jason responded that this is a common practice. That there is a danger of not having insurance, i.e., what happens to your property could also affect what happens to your neighbor's property – think fire, wind, water issues.

Q) Why is the language about working on vehicles and emergency vehicle repairs so restrictive?

A) The resident has a garage in the back of his house (which abuts natural Common Area CR294) and feels that the language is too restrictive. He is an auto enthusiast and bought this property specifically because of the garage.

The language is restrictive due to possible noise, odor and unsightly property issues which the property may impose on its neighbors.

Article V-1-L states: Except for emergency vehicle repairs, no vehicle shall be constructed, reconstructed or repaired upon a LOT or COMMON AREA. No inoperable, unlicensed or unused vehicle may be stored or parked on any LOT or COMMON AREA so as to be visible from any areas as designated by the BOARD, no vehicle may be parked, maintained, constructed, reconstructed or repaired on any COMMON AREA.

Common Areas:

Q) Do we have a large amount of common areas that we could possibly build on?

A) Yes, we have a large amount of Common Area - around 23 acres. But we have no intention to build anything. Catherine explained where our common areas were (there is a map on our website), that we have to maintain all the areas and that considering the terrain, it would not be practical to do any building now or in the future.

ARC:

Issue/Question

The following section was removed from the Current CC&Rs:

Article V-1-A -- "In the event the Board or its designated committee fails to approve or disapprove such design and location within thirty (30) days after such plans and specifications are submitted, approval will not be required, and this Article will have been deemed fully complied with."

A) Jason explained that we could change the wording on this if the residents would prefer. He said the rule benefits the homeowner if we have a 30-day requirement. The Board does not like the default to "approved" but believe that the Member should not have to wait indefinitely. The Board prefers to default to "declined" and are contemplating a change in the ARC submission process to ensure a response from the ARC within a week so as to assure the Member that the ARC is working on the request.

Q) Who gets the requests from homeowners wanting to make changes to their homes/ landscaping?

A) The ARC director (Olivia Lee) receives all requests; if she is out of town or on vacation, Olivia needs to have a backup committee member handle the request. To date, there has been no problem with anyone who has submitted a request receiving a timely answer (within 30 days). For the most part, requests are handled in a very short time. There always needs to be a response. We may add some language in the new CC&R's that requires a notification to the homeowner acknowledging their submission.

Proposed CC&R's:

Q) When will we have something we can read and when will we vote on this? How do we envision the vote will go?

A) This is a process – probably this summer. We cannot predict the vote.

HOA Dues:

Q) Our dues increased in 2018. Will they be going up every year? Nine years ago the dues were \$70 a year. We have a surplus, why do the dues have to go up?

A) We have money in our Reserves – that is a State law. The dues rise occasionally because our costs on everything goes up, i.e., paper, postage, landscaping, management fees. Prior Boards did not do any Fire Mitigation work in Common Areas, which we are now attending to. Almost all money received in January is spent by December – our reserves have not grown much in past years. Keep in mind that every board member is handling two jobs. Because the board consists of only five members (instead of 9), we have to rely on HOAMCO to do more. As our costs go up, so must our dues.

RV Lot:

Q) Why are we paying a monthly extermination fee for the RV lot users? There is a gadget called "Rid-A-Rat" that the users of the RV lot could purchase for themselves. It is their responsibility.

A) The board will look into this.

Common Area Between Homes:

A resident said that because a homeowner behind her had no proper runoff from rain, her own property had been flooded out several times. She was forced to put up a retaining wall between the properties at a cost of \$10,000. She asked if the easement between properties is considered common area.

We looked up the address on <http://gis.yavapai.us/v4/>. It showed that the property is surrounded by private property (no common area abutted this address). The property owner was shown a map of Cliff Rose Common Areas at the meeting, so she was aware of this before she left the meeting room.

Issue: Class B Voting. Article III-Section 3-B:

Class "B" membership shall cease and be converted to Class "A" membership when the total votes outstanding in the Class "A" equal the total votes outstanding in the Class "B" membership.

There are currently no Class "B" members as defined above. They have all been converted.

However, in the same section it says the Declarant shall "retain the exclusive right to, without review of the architectural review committee or the BOARD, perform and complete the initial construction of improvements on each LOT of the PROPERTY in a manner consistent with DECLARANT'S past construction activities through and including the date of final inspection/certificate of occupancy for each LOT still owned by DECLARANTS or their successors or assigns and shall maintain control over concept and development of subsequent phases of construction. The ASSOCIATION may not override these development rights.

A) Remove the definition of Class "B" (in Section a above) and change Class "B" to "Declarant.

Q) Why "may not be annexed into Cliff Rose" in Article 1 below?

Article 1 [Definitions] - Section 15:

Section 15: "PROPERTY" or "PROPERTIES" shall mean and refer to that certain real property described on the plats listed herein at Exhibit A and such additional real property as may hereafter be subjected to this DECLARATION pursuant to the provisions herein. Notwithstanding the foregoing, Tract C as shown on Cliff Rose – Unit 3, Phase C PAD, recorded at book 31 of maps, pages 22-23, records of Yavapai County, Arizona, also known as APN 105-09-295B, C, & D, may not be annexed into Cliff Rose a Planned Area Development nor subjected to this DECLARATION without the express consent of the owner of such parcel.

A) The Declarant/original owner/builder of Cliff Rose wanted to set this land aside and make sure it was not incorporated into Cliff Rose.

Q) Will there be any grandfathering involved in the new CC&R's?

A) Probably not, but there could be depending on the Article/Section, etc.

Issue: CC&R Mailing:

Several residents said that they did not receive the mailing of the proposed CC&R's.

A) The board will look into this to make sure we have their current addresses. The board has put a request on Nextdoor and our website asking those who did not receive the mailing to update their contact information. <https://www.cliffrosehoa.org/contact-info-change-form>.

Transfer Fee:

Q) What is a transfer fee?

A) Jason explained that it is there for the Association to recoup monies for all we have to do when a property is transferred to a new owner. We are capped at \$400. The Association makes no money on this fee.

Q) Can a two-story home be built in Cliff Rose.

A) No. There are a few two-story homes in Cliff Rose now, but they were apparently built in the early years of our Association prior to the change to the current CC&R's and Rules & Regulations.

The current CC&R's, Article V-Section 1-M states that the buildings shall not exceed two (2) stories.

The current R&Rs state that dwellings with more than one story above grade level are not permitted. A walkout basement is permitted.

Firewise:

Q) Are we doing to continue to be a Firewise Community? What do we need to do? Can we include in the new CC&R's something about this? Would any insurance company give us a discount if we were classified as Firewise?

A) If anything were to be put into the new CC&R's about Firewise, it would put undue pressure on the current board and all future Boards as well as residents/members. It is unclear that insurance companies would offer any discounts to Cliff Rose members if the Cliff Rose Community were Firewise compliant.

CC&R's:

Q) What happens if we do not get the 75% approval we need to pass the new CC&R's? Will the new rules be set in stone for all future boards? For the next pass on the CC&R's, can we get a 'red-lined' version with the changes?

A) They will not pass.

A) We cannot guarantee what future boards will do.

A) Yes.

Late Fees:

Q) Article IV-Section 9: Effect of Non-Payment: A. Any assessment, or any installment of an assessment, which is not paid within fifteen (15) days after it first became due shall be deemed delinquent and shall bear interest from the date of delinquency, at the rate of twelve percent (12%) per annum.

A) We send the Annual Assessment bill out in December. It is not "due" until the end of January. Add 15 days to that and the Member has 45 days to pay the assessment. Keep in mind that we have the ability to waive fees or set up payment plans to help.

Final words from Jason Miller:

Your board is NOT looking for any power over the community; they are not trying to overreach their authority.

Final words from Catherine Craig:

If anyone has any concerns, comments, issues questions, etc., please notify the board via our CLIFFROSEHOA@GMAIL.COM email. We will not respond to any questions on NEXTDOOR.

BELOW ARE QUESTIONS THAT WERE EMAILED TO THE BOARD

Q) Why is it that we have to mail our yearly dues to a company in California? There must be someone locally capable of taking care of the Cliff Rose account dollars and/or budget. Why are our Prescott dollars are going out of state?

A) Cliff Rose dues are mailed to a Nevada Processing Center (not California). Banks use Automated Clearing Houses (ACH) to mass process checks from various banks - this is similar. The money is deposited into Alliance bank in Ariz. From that account we make payments for services. A portion is spent here in Prescott (landscaping, mailing, printing, etc.). Some payments go to national companies.

As for "someone locally capable of taking care of the Cliff Rose account dollars and/or budget," that is what HOAMCO does. They do our accounting and help with the budget.

Q) With respect to the air BNB topic, we are in favor of a minimum six-month lease requirement and not grandfathering in the existing ones.

We have an air BNB next door. We do not like the constant flow of strangers that come and go every few days. We find it very unsettling. It also diminishes our sense of security, by not knowing who's next door.

Q) The exterior lighting regulations do not seem to be enforced. Exterior lighting should kept to a minimum and should be pointed down to the owner's property only. The concept of "light trespass" seems to have been forgotten. Maximum size bulb regulations seem to be ignored by some homeowners.

A) This issue would be handled under Rules & Regs (not CC&Rs). We have purchased a light meter to have an objective way to assess "light trespass" or bulb brightness.

Q) Given our desire to lower our carbon footprint, I would like to suggest we examine all CCRs regarding shade awnings (either fixed or adjustable) that would limit sunlight (and thus heat gain) on exterior windows. Shading of east and west windows, and south-facing windows during summer months, could reduce the air conditioning load.

A) The HOA does allow awnings and shades (adjustable or stationary). Several homes have them including ours. However, this topic would not appear in the CC&Rs, it would fall under the jurisdiction of the Architectural Review Committee. The ARC is defined in the CC&Rs. They would assess variables like color, material, placement on the property, etc.

Q) Article I, Section 8: what does "if their successors and assigns should require more than one undeveloped lot" mean? That sentence didn't make sense in the original CC&Rs.

A) The definition "declarants" only applies to Savage and if he requires multiple lots for development of a new section, such as Raindagger. If he builds a home on an existing single open lot, he is just a builder. We will verify with our lawyer.

Q) Article I, Section Article III, Section 3, Item B: Delete everything after the 2nd sentence. The Declarant's development rights must follow the CC&Rs, rules, regulations and by-laws.

Article III-1-B: DECLARANTS and their successors in interest shall, until completion of all phases of the project, retain the exclusive right to, without review of the architectural review committee or the BOARD, perform and complete the initial construction of improvements on each LOT of the PROPERTY in a manner consistent with DECLARANT'S past construction activities through and including the date of final inspection/certificate of occupancy for each LOT still owned by DECLARANTS or their successors or assigns and shall maintain control over concept and development of subsequent phases of construction. The ASSOCIATION may not override these development rights

A) "Must follow?" Isn't that determined in the CC&Rs? Isn't that what this document is written to determine? Savage/Declarant has 12 lots, the HOA has 427 lots.

Q) Article IV, Section 2: delete everything after ...for enforcing the terms of this Declaration. It is not up to the HOA to assess or use funds for the other items referenced. The use of funds for "any other proper association purpose is too broad.

A) We don't think every use of funds can be named or anticipated, therefore "any other PROPER ASSOCIATION PURPOSE" should be kept.

Q) Article IV, Section 9 Item C: If the delinquency is not paid within 30 days you can proceed with claim of lien. 10 days is too short of a time.

A) According to our Assessment Collection Policy - no sooner than sixty (60) days beyond the due date, the Association will send a notice of Intent to Lien to the Owner making formal demand for immediate payment for all outstanding amounts. Ninety (90) days after the due date, if an Owner fails to pay in full the entire amount covered by an Intent to Lien notice by the date specified, a written notice of lien will be prepared and recorded with the County Recorder pursuant to A.R.S. 33-1807 (or A.R.S. 33-1256 for condominiums). A lien fee will be charged to the Owner's account. We think ninety (90) days warning is long enough that another Ten (10) days is insignificant.

Q) Article IV, Section 11: Remove this paragraph altogether. Fees for the transfer and disclosure are regulated by State Statute.

A) It is not required that a seller/buyer go through a Title company to receive the Disclosure Statements. This section is saying that regarding CR HOA they will be charged for the disclosure statements and that the fee can be part of a lien. We want to keep it. We can remove the "fee in such amount as is established by the BOARD from time to time" since that is \$400 per AZ State Statue.

Q) Article V, Section 1 D: 1st sentence, remove "and no personal shall engage in raising household pets....." This should be left up to the City Code and not the HOA. Provided the noise and odor provisions of the CC&Rs are not violated this should not be an issue.

A) We will check with the lawyer. Would this fall under running a business from your home?

Q) Article V, Section 1 F: Remove this paragraph in its entirety.

A) We want to keep this in its entirety. This signage section has proven necessary in the past. Limiting what political signs can go up for how long, limiting the number of signs on someone's front lawn has been beneficial for Cliff Rose

Q) Article V, Section K: add "as visible from the front or side, an owner should be able to keep items behind a fence so long as not visible.

A) Rules typically limit owners' actions. There is no need to now list what is allowable.

Q) Article V, Section M: Remove and change to read, not more than two stories.

A) We want to keep our limitation of not more than 1 story above grade level. This does not remove the possibility of a 2-story house – just has to be below street level (with basement walkout). Most of Cliff Rose has been built, it has a certain style throughout. Putting in a 2 story (above the grade level) would stick out like a sore thumb. The idea is to keep the neighborhood looking compatible.

Q) ADD a Section to Article V that prohibits Air BnB, or the like short-term occupancy (Unless Section S covers that).

A) We need to re-Check with lawyer (might be defaulting to City code). It is covered in the Proposed CC&Rs, under Article V, Section S: must be for a minimum term of six consecutive months. AB: ARS 0-500.39 Limits on regulation of vacation rentals and short-term rentals.

Q) ADD a Section to Article V that restricts rental properties to no more than 15% or?? of the total homes in Cliff Rose. (fashion this after the Viewpoint HOA) This is super important as we have a "middle class" neighborhood with the prices just right to attract a lot of investors. I currently have 2 rentals directly to the South of me and 2 to the North of me. A duplex across the street is up for sale and will likely be a rental or short-term rental. Too many rentals can keep the home values down.

A) Other HOA communities have Rental Restriction policies. One HOA community has had it in place since 2005. A lot of work would have to be done to make sure we have a list of rental properties.

Q) Article IX Section 3 A: Amendments should require 75% of the voting membership

A): We don't see any compelling reason to change this number from 67%.

Q) Also Add: The CC&Rs shall run with the land and bind the land for a term of 10 years from this Declaration after which they are automatically extended for successive periods of ten years. Any amendment will require approval of 75% of Lot owners.

A) We see no reason to limit to 10 years and re-extend for another 10 years indefinitely and we already set amendment approval at 67% (Article IX Section 3 A).

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**At the time of the CC&R Meeting, the Board had not been able to address the
Following questions. We list them here for your review.**
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Article IX, Section 12: Delete in its entirety - It costs \$30 per document to record, plus the administrative costs of the HOA manager to do this. It is burdensome and not necessary since you inspect and review documents at resale.

Q) Article III, Section 3, Sub. B: As Class "B" members are defined, are there still any? Why is this part necessary? If there are any, why are they not bound by the same rules regarding architectural review, etc.? I would not want to see a structure that is not in keeping with the community appearance. If this class of membership is still necessary, perhaps architectural review is appropriate and a statement such as: "Approval shall not be unreasonably withheld," may be appropriate and included.

Article IV, Section 1: Why are declarants exempt from paying assessments if other owners of unimproved lots are not exempt? Are other owners of unimproved lots exempt? Section 7 of this Article states that annual and special assessments are "Fixed at a uniform rate for ALL LOTS" (my emphasis).

Article IV, Section 9, Sub. D: States: "The ASSOCIATION shall have the power to bid... and the purchase" Since the association has, among other powers, the power to force foreclosure, is this a conflict of interest? If not, why is it not?

Article IV, Section 10: States that "No owner may exempt himself from any assessment ... and no offset shall be permitted for any reason" This does not state that Class "B" members are exempt. Is this in conflict with Article IV, Section 1 above? Why not?

Article V, Section I: Throughout this document the term "LOT" has been used and understood as per the definition in Article I. In this section we see the term "PROPERTY" used several times. Why is "PROPERTY" used and not "LOT" in conjunction with "COMMON AREA" as elsewhere? NOTE: "PROPERTY" is also used in Article V, Sections I and R, Article VII, Section 1A, Article X, Section 4, Article IX, Section 3B, and Article IX, Section 10B, these are not separately raised.

Article V, Section I: This article excludes baby-sitting services as a trade or business. Are licensed, or unlicensed, day-care centers also excluded from the meaning of a business?

Article IX, Section 8: "Any written notice or document ... shall have been deemed to be delivered seventy-two hours after it was deposited in the U.S. Mail". We should be so lucky to have such efficient mail service. In our experience with a local historical organization, mailing and receiving between 225 and 300 pieces of first-class mail each month, delivery from any Prescott-area address to another Prescott-area address is a minimum of three days, (72 hours) not including Saturdays, Sundays, or Holidays. Mail from another State often takes six days or longer. (How often have you received an Amazon Prime delivery in the promised two days?). A more reasonable time period is five business days and it should specify First-Class mail. I recently received a reminder to pay my dues to a professional organization by first-class mail. The dues notice had gone out third-class mail and had arrived only two days earlier!

Article IX, Section 9: In the first sentence "property" is not in all caps. Is this a typo or is there a different meaning used here?

Given our desire to lower our carbon footprint, I would like to suggest we examine all CCRs regarding shade awnings (either fixed or adjustable) that would limit sunlight (and thus heat gain) on exterior windows. Shading of east and west windows, and south-facing windows during summer months, could reduce the air conditioning load.