

CC&R WORKING GROUP REPORT ON THE COMMENTS/CONCERNS EXPRESSED DURING THREE (3) TOWN HALL MEETINGS

Town Hall meetings were held by the Pueblo Del Sol Property Owners' Association CC&R Working Group on 31 March, 6 April and 11 April 2015 at the Fry Fire Station Training Room. Not counting the Working Group or Board of Director members, only a total of 32 different attendees attended the combined three meetings. Some attended all three; others just 1 or 2.

A paragraph-by-paragraph review of the proposed, undated Covenants, Conditions And Restrictions (CC&Rs) as compared to the current CC&Rs was conducted.

Recommended changes and general concerns, listed below, are keyed to the proposed CC&R paragraphs. General grammatical corrections (e.g. change "his" to "his/hers" to be gender neutral) and formatting comments are not included below.

- I. Introduction: No concerns
- II. Paragraph 1. (Definitions):
 - a. List in alphabetical order
 - b. Add & define the term "members/membership" as used in para 2d & 14b to be the same as "owner"
 - c. Expand the definition of By-Laws (para 1e) as to deriving its authority from the CC&Rs
- III. Paragraph 2. (Real Property): see comment II.b above to define members.
- IV. Paragraph 3. (Structures):
 - a. In line 2, the phrase "improvement of any kind" is too broad and goes beyond the concept of structures. It needs to be eliminated.
 - b. The expressed concern is that the removal of para 3a (swimming pools) and para 3b (concrete driveways, etc) would require the Environmental Control Committee (ECC) to grant approval. Consensus was to leave them in as currently written unless there is a legal reason for their deletion.
- V. Paragraph 4. (Environmental Control Committee): The addition of the section within paragraph 4 pertaining to ECC rules is confusing. If the "Committee may" promulgate said rules, it is not mandatory that they do so and the original sentence would suffice. Recommend that "may" be changed to "will" thus requiring the ECC to promulgate rules which would be available to the membership.
- VI. Paragraph 5. (Temporary Structures): The consensus was there should be a section stating that one could have visitors stay in a Recreational Vehicle on one's property for a period not to exceed 30 days. The inclusion of such a statement would also preclude any approval or involvement by the ECC.
- VII. Paragraph 6. (Single Family Residence): No concerns
- VIII. Paragraph 7. (Set-back Requirements): Unless the CC&R restrictions are greater than the county's, the paragraph should simply state that the set-backs will be in compliance with current, county regulations.
- IX. Paragraph 8. (Residential Restrictions):
 - a. The change is wording from "public view" was considered too restrictive and not in keeping with desires/considerations of the members. Change to simply read "as seen from the street."
 - b. As many home owners have propane tanks, which may be visible from the street, it was recommended that "propane tanks" be added to para 8c.
- X. Paragraph 9. (Lot Subdivisions): No concerns
- XI. Paragraph 10. (Common Area Restrictions): Although our Association has no

facilities in the Common Area, the revised paragraphs 10.a.1 and 10.a.2 were left as a contingency.

XII. Paragraph 11. (Lot Restrictions):

a. Although the same as the current para 11c, the revised para 11a caused a problem for some. The single sentence seems to have two different intentions: 1. to prevent erosion and 2. encourage the growth of indigenous ground cover. As some indigenous plants can be considered a weed, the consensus was to delete "encourage the growth of indigenous ground cover." as too vague and unnecessary.

b. Consensus was to eliminate para 11.d.2 regarding residential signs as it is too restrictive and, in many cases, signs of that size are not visible from the street.

c. Renumber the proposed para 11g thru 11n to become 11e thru 11k. There are no missing paragraphs, just numbered incorrectly.

d. Consensus was that paragraph 11g is in need of drastic re-write. There are 3 separate issues which should be sub-paragraphs within paragraph 11.

1. The restrictions on storing and maintaining vehicles was considered too restrictive and not in keeping with the ambience of our Association. The term "junk motor vehicle" is a redundant, catch-all phrase for the previously described vehicles and should be deleted.

2. The use of SUVs and company cars were not included in the exemption given pick-up trucks as commercial vehicles.

3. The last sentence regarding "mobile homes", etc should stand alone for clarity and emphasis.

e. The phrase "from time to time" in the last sentence of para 11.g should be deleted as rules are in effect or they are not.

XIII. Paragraph 12. (Reserved Rights by Declarant): No concerns

XIV. Paragraph 13. (Neat & Good Order of Premises):

a. The term "weeds" was considered open to interpretation and should be replaced by the term "overgrowth".

b. Change "within five (5) days" to read "within ten (10) business days" to more accurately reflect mailing times and general business practices.

XV. Paragraph 14. (The Association):

a. The difference between actions by "the Association" and "the Board" seem to be blurred throughout this section. Members thought "the Association" implied all Owners who would vote on actions affecting the Association. If so, the Association should delegate to the Board of Directors the authority to act on its behalf. Thus, there needs to be a new paragraph stating what the Board of Directors should do as a minimum.

b. Paragraph 14c states the Association in fulfilling its duties "shall" do the subsequent activities. However, the subset paragraphs 14.c.8 and 14.c.10 state the Association "may" do the listed activities. Recommend these two sub-paragraphs be made a separate paragraph within paragraph 14.

c. In the first line of para 14.c.2 delete the addition of "as the Association" which appears to be a typographical error.

d. In para 14.c.2 delete the term "workmen's compensation insurance" as the Association has no employees.

e. In para 14.c.8 change the term "employ" to "contract" for consistency and clarity.

f. Paragraphs 14.c.11 and 14d need to be separate paragraphs as they pertain to the Board of Directors and not the Association.

g. As the term "Association" was deleted from the start of para 14.c.9 as being understood, it should also be deleted from para 14.c.12 and 14.c.14.

h. There was consensus that a maximum, annual assessment on One Hundred Dollars (\$100.00) per Lot should be added. It was acknowledged by those present that eventually there might be a need for more than \$100.00 per Lot; but, either an increase through the specified, special voting procedures or an update/revision to the CC&Rs could meet that future need.

XVI. Paragraph 15. (Delivery Notices): Change "twenty-four (24) hours" to read "within ten (10) business days" to reflect current mailing times and general business practices.

XVII. Paragraph 16. (Declaration Amendment): Although members now know there is no state law requiring votes by the Association to re-validate the CC&Rs every 15 years, there was a "dig-in-your-heels" attitude by some at the Town Hall meetings to maintain the 15 year review. Eventually, it was determined there were a few who thought if there was not a mandatory 15 year review, apathy would allow the CC&Rs to exist into perpetuity without change. Another few wanted the 15 year opportunity to end the CC&Rs and indirectly the Association by not revalidating them. The fact that a 2/3 vote by the Owners can change, amend or eliminate the CC&Rs made no difference to either group.

XVIII. Paragraph 17. (Deeds of Conveyance): No concerns

XIX. Paragraph 18. (Enforcement): No concerns

XX. Paragraph 19. (Provision Independence): No concerns

XXI. Paragraph 20. (Superiority of Provisions): No concerns

XXII. Paragraph 21. (Amendment): This paragraph from the current CC&Rs was deleted due to the revision of para 16. However, the last sentence "Any such amendment shall be effective upon recordation in the Office of the Recorder of the County of Cochise." was not included in the revised paragraph 16. The quoted sentence should be added to the new paragraph 16.

An expansion of this report will be provided to the Association's legal advisors for information and use in providing a new/corrected proposed CC&R for vote by the Owners as soon as possible.

Sincerely submitted by the CC&R Working Group: Gayle Tullis, Eriscene Stokes, Kevin Mills, Jeri Ligon and Duane Brofer on 5 May 2015.