

## **VERDE SANTA FE COMMUNITY ASSOCIATION**

### **PROVISIONS IN VERDE SANTA FE COMMUNITY ASSOCIATION DOCUMENTS THAT HAVE BEEN CHANGED, EXPANDED OR SUPERSEDED BY GOVERNMENT LAWS, RULES OR ORDINANCES**

*Unless otherwise noted, references to ARS are to the Arizona Revised Statutes.*

*References to Articles in the CC&Rs are to Articles in the Declaration of Covenants, Conditions, Restrictions and Easements for Verde Santa Fe, Yavapai County, Arizona. They do not refer to Articles in the CC&Rs of the four Neighborhood Associations.*

#### **AGE RESTRICTED LOTS**

The Second Amendment to the CC&Rs declares certain lots within Verde Santa Fe to be age-restricted lots that are intended to qualify as “housing for older persons”. The “Housing for Older Persons Act of 1995” (HOPA) exempts “housing for older persons” from the Fair Housing Act’s prohibitions against discrimination because of familial status, which is one or more persons under the age of 18 living with parent or legal guardian. HOPA requires that a community seeking to claim the 55 and older exemption show three factors:

1. that the housing be intended and operated for persons 55 years of age or older;
2. that at least 80% of the occupied units be occupied by at least one person who is 55 years of age or older; and
3. the community publish and adhere to policies and procedures that demonstrate its intent to qualify for the exemption.

The community must also comply with rules issued by the Department of Housing and Urban Development (HUD) for the verification of occupancy.

If the lots do not meet HOPA’s requirements, they could lose their discrimination exemption and would not be able to restrict the age of residents.

#### **CONFLICT OF INTEREST**

ARS Section 33-1811 states if any action taken by the board of directors would benefit any member of the board or any person who is a parent, grandparent, spouse, child or sibling of a board member, or any person who is a parent or spouse of those persons, that board member must declare a conflict of interest for that issue in an open meeting before the board discusses or takes action on the issue. After declaring a conflict of interest, the board member may vote on the issue. The association documents do not address conflict of interest.

### **FLAG POLES & FLAGS**

ARS Section 33-1808, Sub-sections A & B, state that an association may adopt reasonable rules regarding the placement and manner of display of certain flags. The association may also regulate the location and size of a flagpole but may not prohibit them. The flags that may be flown are the American and military flags, U.S. army, navy, air force, marine corps or coast guard, flown in a manner consistent with the federal flag code, the POW/MIA flag, Arizona state and Arizona Indians nations flags.

This supersedes the flag pole provisions of Article 3.10 of the CC&Rs.

### **FORECLOSURE**

ARS Section 33-1807, Sub-section A, states that an association may only foreclose an assessment lien if the owner has been delinquent for one year or if the delinquent dues, excluding late fees, collection charges, attorney's fees, reach \$1,200, whichever comes first.

This expands on the foreclosure provisions of Article 6.8.5 of the CC&Rs.

### **PARKING IN STREET OR DRIVEWAY BY PUBLIC SERVICE OR PUBLIC SAFETY VEHICLES**

ARS Section 33-1809 states that an association may not prohibit a resident from parking a motor vehicle on a street or driveway if the vehicle is required to be available at designated periods at the person's residence as a condition of employment and either of the following applies:

a. the resident is employed by a public service corporation, regulated by the corporation commission, or a municipal utility and is required to prepare for emergency deployments of personnel and equipment for repair or maintenance of natural gas, electrical, telecommunications or water infrastructure. The vehicle must have a gross vehicle weight rating of 20,000 pounds or less, be owned or operated by the public service corporation or municipal utility and must bear an official emblem or other visible designation of the corporation.

b. the resident is employed by a public safety agency, including police, fire or ambulance service. The vehicle must have a gross vehicle weight rating of 10,000 pounds or less and must bear an official emblem or other visible designation of the agency.

This expands the provisions of Article 3.25.3 of the CC&Rs.

## **PETS**

Yavapai County ordinance 2000-3-B-4 defines ‘nuisance barking’ by a dog as 8-10 minutes of consecutive barking or several short bursts within an hour that equal 8-10 minutes. This expands on Article 3.20 of the CC&Rs that states that pets shall not be permitted to make an unreasonable amount of noise or create a nuisance.

## **PROXY VOTING**

ARS Section 33-1812 prohibits proxy voting after the period of Declarant control has ended, i.e. when control of the association is turned over to the members. Instead, Members who are not present at a Regular or Special Meeting of the Members may vote by absentee ballot. The number of absentee ballots may be included when determining a quorum for a Regular or Special Meeting of the Members. Any and all references to proxy voting in the association documents are no longer valid.

## **REMOVAL OF A BOARD MEMBER**

ARS Section 33-1813 states that, in associations of 1,000 or fewer members, the board must call a special meeting of the members within 30 days after receiving a petition calling for the removal of a board member that is signed by members representing at least 25% of the total votes or members representing 100 votes, whichever is less. A quorum for this special meeting is 20% of the total votes. Only one recall effort may be made against any director during that director’s term of office.

This supersedes Article 4.3 of the By Laws.

## **SATELLITE DISHES & ANTENNAS**

Federal Communications Commission (F.C.C.) Rule 47 C.F.R. Section 1.4000 prohibits restrictions that:

1. unreasonably delay or prevent the installation, maintenance or use of direct-to-home satellite dishes that are less than 1 meter in diameter, TV antennas and wireless cable antennas;
2. unreasonably increases the cost of installation, maintenance or use; or
3. precludes reception of an acceptable quality signal.

This supersedes the satellite dish provisions of Article 3.10 of the CC&Rs. Appendix G, Antenna Design Criteria, of the Verde Santa Fe Architectural Rules and Association Rules, dated January 1, 2009, provides current information.

## **SIGNS - CAUTION SIGNS FOR CHILDREN PLAYING**

*This document is only a guide and should not be relied on for legal matters.  
It has not been reviewed for accuracy by an attorney*

ARS Section 33-1808, Sub-section D, states than an association cannot prohibit the temporary use of signs cautioning that children are playing in the area. This type of sign was not listed as permitted in Article 3.22 of the CC&Rs.

### **SIGNS - COMMERCIAL SIGNAGE**

ARS Section 33-1815 states that, after an association has approved a commercial sign on properties zoned for commercial use, the association may not revoke or modify such approval if the sign's owner or operator has received approval from the local or county governing body with jurisdiction over the sign. This type of sign was not listed as permitted in Article 3.22 of the CC&Rs. There are presently no signs of this type in Verde Santa Fe.

### **SIGNS – FOR LEASE/RENT SIGNS**

ARS Section 33-1808, Sub-section (F)(3) prohibits the association from banning “For Lease” or “For Rent” signs. The association may require the sign to conform to industry standards not exceeding 18” by 24”.

This supersedes Article 3.22 of the CC&Rs.

### **SIGNS - FOR SALE SIGNS**

ARS Section 33-1808, Sub-section (F)(1), permits one ‘For Sale’ sign and one sign rider per lot, inside or outside, conforming to industry standards. The size of the sign may not exceed 18” x 24” and the size of the rider may not exceed 6” x 24”.

This supersedes Article 3.22.6 of the CC&Rs.

### **SIGNS – OPEN HOUSE SIGNS & HOURS**

ARS Section 33-1808, Sub-section (F)(2) states that associations cannot limit the hours for an open house, except they may prohibit them from being held before 8 a.m. or after 6 p.m. Although it is not specifically stated, this sub-section is being interpreted to mean that the association cannot limit the days on which an open house is held. The association may prohibit “Open House” signs from being placed in common areas.

This supersedes Article 3.22.5 of the CC&Rs.

### **SIGNS - POLITICAL SIGNS**

ARS Section 33-1808, Sub-section C, states that an association can regulate the size and number of political signs so long as the regulations are not more restrictive than the city, town or county ordinance.

Yavapai County Planning & Zoning Ordinance, Section 601, B.5 states that political signs on private property shall be exempt from obtaining permits and other provisions of the County Planning & Zoning Ordinance provided however, that such signs shall be erected no more than sixty (60) calendar days prior to the last day for casting ballots, and removed within ten (10) calendar days following the last day for casting ballots of the election to which they refer; and that the total sign area permitted for any individual sign shall not exceed thirty-two (32) square feet.

This supersedes Article 3.22 of the CC&Rs.

### **SOLAR ENERGY DEVICES**

ARS Section 33-1816 states that an association may not prohibit the installation or use of a solar energy device as defined in ARS Section 44-1761. An association may adopt reasonable rules regarding the placement of a device if the rules do not prevent the installation or impair the functioning of the device, restrict its use or adversely affect the cost or efficiency of the device.

This supersedes Article 3.32 of the CC&Rs. Appendix H, Solar Energy Devices, of the Verde Santa Fe Architectural Rules and Association Rules, dated January 1, 2009, provides current information.

For additional information on the laws and ordinances referred to in this document, click on the link below or paste it to your web browser:

Arizona Revised Statutes - <http://www.azleg.gov/ArizonaRevisedStatutes.asp>

Updated September 1, 2010

Federal Communications Commission Rule 47 C.F.R. Section 1.4000 Information Sheet - <http://www.fcc.gov/mb/facts/otard.html>

Implementation of the Housing for Older Persons Act of 1995 - [http://www.hud.gov/offices/fheo/library/hopa\\_final.pdf](http://www.hud.gov/offices/fheo/library/hopa_final.pdf)

Yavapai County Animal Control Ordinance 2000-3-B-4 - <http://www.co.yavapai.az.us/WorkArea/showcontent.aspx?id=21374>

Yavapai County Planning & Zoning Ordinance – <http://www.co.yavapai.az.us/uploadedFiles/Ordinances/zoningordinance.pdf>