



**ARMORY PARK DEL SOL HOMEOWNERS ASSOCIATION
RULES AND REGULATIONS PERTAINING TO
SECTION 7.18 (PARKING) OF DECLARATION OF COVENANTS, CONDITIONS AND
RESTRICTIONS (CC&Rs)**

The Armory Park del Sol Homeowners Association (APDs) Declaration of Protective Covenants, Conditions and Restrictions (CC&Rs), recorded on October 4, 2000 in the Pima County Recorder's Office at 20001930195, Docket 11397, page 474 *et seq.* states in Article 7, Section 7.18:

***"Parking.** Except as provided in the Association Rules, (i) there shall be no parking on any streets except where designated by the Developer, (ii) each Unit Estate shall contain one parking space in addition to a two-car garage or carport; or in the alternative the Unit Estate shall contain a three-car garage or carport, and (iii) there shall be no parking by Owners, but only by guests, on 3rd Avenue and on 16th Street, and in designated guest parking spaces."*

Section 7.19 of the Declaration provides the rule-making authority for the Board, stating:

***"Association Rules.** So long as the Declarant or Developer owns at least one (1) Lot, the Developer (and thereafter, the Association) shall have the right to promulgate rules and regulations ("Association Rules") with respect to use, maintenance, care and other matters relating to Common Areas or any other subject which is within the authority of the Board pursuant to this Declaration or the Articles or Bylaws of the Association."*

In the Transition Agreement signed by the Declarant and the APdS President and notarized on February 28, 2011, the Declarant relinquished control of the Association to the homeowner-elected Board of Directors. Section 2.3 of the CC&Rs provides authority to the Board to manage the affairs of the Association, and Section 3.1 of the APdS Bylaws states that the affairs of the corporation will be managed by the Board of Directors. Arizona Revised Statutes (ARS §10-3302 and §10-3801) support the ability of Boards of nonprofit corporations to establish policies and rules to manage the affairs of the corporation. Further, case law (*Beachwood Villas Condo. v Poor, Lamden v La Jolla Shores Clubdominium Homeowners Assn*) has established the validity of rules enacted by a Board of Directors, and courts will generally uphold decisions made by the governing board of an owners' association.

Arizona has adopted the *Reinstatement (Third) of Property: Servitude, 6.13* which states that Boards of common interest community associations have the duty to "treat members fairly" and "act reasonably in the exercise of its discretionary powers, including rule-making, enforcement and design control powers."

Since the transition of the HOA to homeowner control, issues of concern have been identified relating to this parking, and the APdS Board seeks to clarify and better define these issues by adopting Rules regarding parking by those who live in Armory Park del Sol.

While in most cases, the Board may not implement rules that contradict or deviate from the CC&Rs, Section 7.18 specifically provides the Board with rule-making discretion related to parking by stating "Except as provided in the Association Rules...". This phrase indicates that the parking restrictions that follow are the "default" restrictions but are subject to the Association's rule-making authority.

The APdS Board has used its rule-making authority judiciously. In 2012, the Board implemented rules to clarify and better define the Third Amendment of the CC&Rs. The Board understands and supports its responsibility to manage the Association in a responsible, reasonable and fair manner.

RULES

Definitions

Section 7.18 states that "there shall be no parking by Owners, but only by guests...". Section 1 of the CC&Rs defines Owner as:

"Owner" shall mean Declarant and any person or entity which holds title in fee simple to all or any interest in a Lot.

The CC&Rs do not define guest, but do define Resident as:

"Resident" shall mean any person who resides in the Unit so long as said person is so residing."

Rule 1. For the purpose of parking rules, an Owner is defined as the person(s) or entity named on the Unit's Deed or Title. A Resident is defined as a person who resides in the Unit at least thirty days during the twelve month period following, including but not limited to spouses,

family members and domestic partners defined in the Third Amendment Rules. A guest is a person who is not an Owner or Resident.

Interior Parking

Rule 2. Parking on the “interior” designated spaces (Ott Ave., Southern Pacific Ave., Union Pacific Ave.) is restricted to guests. Owners and Residents may not park vehicles owned or leased by the Owner or Resident in these areas other than for loading and unloading vehicles and only for so long as reasonable necessary to complete the loading or unloading of the vehicle. In any case, no Owner or Resident vehicle may be parked in the interior designated spaces overnight.

3rd Ave/16th St. Parking

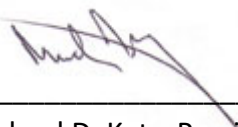
Rule 3. In lieu of the additional Unit Estate parking space for Owners and Residents with a two car garage or carport, those Owners and Residents may park one vehicle (of a type permitted in the CC&Rs) on the east side of 3rd Ave. or the north side of 16th St. Owners and Residents may not park non-functioning or unlicensed vehicles (including vehicles with expired license tags), commercial vehicles, recreational vehicles, motor homes, trailers, vehicles with trailers, boats or storage containers. Vehicle repairs may not be performed on Owner or Resident vehicles parked on 3rd Ave. and 16th St. except for jump starting, battery replacement, or changing a tire. Nothing in these Rules permits any vehicle otherwise specifically prohibited in the CC&Rs.

Rule 4. APdS currently is not exercising any right to regulate Owner and Resident parking on the west side of 3rd Ave. and the south side of 16th St.

The effective date of these rules is October 15, 2016

Dated this 13th day of October, 2016

Armory Park del Sol Homeowners Association

By:  _____
Michael D. Katz, President

Witnessed by: _____
Melinda Ford, Manager