



Third Walnut Creek Mutual

THE GOVERNING DOCUMENTS COMMITTEE OF THE THIRD WALNUT CREEK BOARD OF DIRECTORS HAS PREPARED:

FAQ's about TWCM's Revised and Restated CC&Rs October 2, 2017

1. What are CC&Rs?

Covenants, Conditions and Restrictions: The rules of the community that we accept and agree to follow when we buy into a Homeowners Association.

CC&Rs form the basic framework for the joint ownership of property. Typically, CC&Rs are a lengthy document that details use restrictions, grants powers to the Homeowners Association (HOA) and provides a method for paying for commonly owned improvements. These are the rules governing the use of real property and all the assets owned in common. CC&Rs adhere to California Corporate Law and the Davis-Stirling Act passed by the California legislature in 1985 and implemented in 1986. Davis-Stirling underwent a major reorganization and update in 2014.

CC&Rs are recorded with the county and are part of our ownership and title documents for our individual condominium and our part of our common interest development. Legally, CC&Rs take precedence over By-Laws and Policies.

2. What is the relationship between the By-Laws and the CC&Rs?

By-Laws govern the Third Walnut Creek Mutual (TWCM), our corporation.
CC&Rs spell out the responsibilities, duties, and rules for the residents.

3. What is the goal of Third Walnut Creek Mutual's CC&Rs Revision and Restatement project?

TWCM's Board of Directors' goal is the adoption of a single version of CC&Rs updated to be consistent with current civil and corporate laws governing California HOAs. Our goal is for all residents and projects of Third Mutual to have the same rules and procedures wherever we live in Third Mutual.



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There are 24 projects in TWCM and now each has its own CC&Rs. These governing documents have general similarities but some have significant differences and deficiencies, being written in the 1970's and 80's and often by the original construction corporations.

4. Why is adoption of the new CC&Rs important?

- a. Most, if not all, CC&Rs are out of date and have not been revised for a number of years.
- b. Rules and regulations should be the same for all members everywhere in our Mutual to resolve existing inconsistencies. Adopting consistent CC&Rs will assure common operating and financial principals.

Common Interest Developments in California are governed by a group of provisions in the California Civil code known as the Davis-Stirling Act. Originally created in 1985 and enacted on January 1, 1986, Davis-Stirling has been revised over the years. The Act underwent a comprehensive update and revision in 2014.

As a result of the Davis-Stirling Act, most of the existing CC&R's, originally written and adopted in the 1970's and 1980's need to be updated to reflect current legal requirements.

5. How Can the Revised and Restated CC&Rs be Adopted?

Most current Project CC&Rs require 75% approval vote of all condominium owners of the Project for any change to the CC&Rs. This is a double envelope closed ballot vote.

6. How was this Draft of Revised and Restated CC&Rs prepared?

TWCM retained legal counsel with significant experience and expertise with Davis-Stirling to prepare a draft combining a questionnaire given to Board members Summer of 2016, present legal requirements and best practices in condominium operations and governance.

These best practices reflect the experience of other developments and support effective financial and operational administration. An example of "best practices" is the inclusion of resident/owner insurance requirements that will protect the project and its common owners from unexpected losses not caused by the common owners.



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CC&Rs contain a number of issues that affect the daily life of residents. In order to get resident input on these issues, the Governing Documents Committee of the Board established a task force of 18 residents, 6 of them Board members. This task force was divided into 4 groups to allow for in-depth discussion, each with a facilitator who set up the number and times of group meetings and took notes on the group's discussions and presented those ideas at monthly Governing Documents Committee meetings.

Based on ongoing input from the task force and discussions at the Governing Documents Committee meetings, 4 drafts were prepared and circulated among the task force.

Each small group met multiple times during the winter and spring to discuss the initial draft CC&Rs, then the entire task force met with legal counsel writing the CC&Rs for a total of 5 hours. The 4th draft, with some small edits, was accepted by consensus by the Task Force and then the Governing Documents Committee at the July 25 Committee meeting, sent to the Board and accepted in its draft form at the August Board meeting.

Not everyone on the Task Force agreed on all issues under discussion but agreed that this draft should be distributed to all members for more input, discussion and feedback.

7. Will Project-based budgeting be affected? Will monthly dues become standardized for everyone in TWCM?

NO.

One of the key components of the restated CC&Rs is that monthly dues (the coupon) and expenditures will continue to be project based. The new CC&Rs will not change the current budgeting and reserve practices for each project or the current oversight of the operating and reserve budgets by your Project Director.

Section 8 of these restated CC&Rs states that assessments are to be used exclusively for Project costs (Project operating costs and Project reserves) and Mutual wide expenses (insurance, office administration, legal, MOD, etc.)

8. Do the restated CC&Rs change the Mutual's banking arrangements?

No.



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Currently, each project maintains 2 separate bank accounts for operating funds and reserve funds. The Mutual has explicit obligations to maintain Project based financing. At present, that entails MOD accounting department managing 48 separate checking and reserves and CDARS accounts.

Section 8.6 is a placeholder of sorts to give the Board discretion at some future time to change this practice and maintain a single general account if doing so would benefit all members while preserving Project based financials.

9. Do the new CC&R's change the requirements regarding individual member usage of Project Common Area?

They bring the mutual into compliance with Davis-Stirling and laws governing commonly owned area. In general, the approval by double envelope vote of 67% of Members of a Project is required before the Board may grant exclusive use of any portion of the Project Common Area to an individual Member.

Because the State is encouraging solar energy, these newly revised CC&Rs remove the requisite 67% approval vote of each Project's Members to alter Common Area roof to install solar panels.

10. Why do the CC&Rs cover "Mutual Common Area"? Is there any "Mutual Common Area" right now?

No. There is no Mutual Common Area at this time. All Common Area is Project Common Area. This term is included in the CC&Rs in the event the Mutual acquires Common Area in the future, a situation that has occurred in other Mutuals in Rossmoor.

11. Are there changes to the Maintenance Obligations of Owners and Projects?

Section 6.2 does not attempt to change the existing obligation of owners to maintain, repair and replace their living space or Unit from the walls, in, and maintain their Exclusive Use Common Area as defined in the CC&Rs.

The Project still has the obligation to repair and replace the Project's Common Area and the unaltered Exclusive Use Common Area. Approved alterations of Exclusive Use Common Area are covered in the Maintenance Policies. Please review the Section 1 definitions in the CC&Rs of the terms "Unit"; "Common Area"; and "Exclusive Use Common Area."

These terms are important to understanding your rights and obligations as an Owner and a TWCM Member.



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12. Are barbecues and open flames addressed in these CC&Rs?

No. This issue will be discussed and addressed by the TWCM Board in the new future.

13. Why do the CC&Rs include a Power of Attorney in Section 13.8?

TWCM's lawyer has indicated this section is no longer necessary and recommends the Board delete it.

14. Are other changes to this draft being recommended?

Yes.

a. TWCM's lawyer recommends the Board delete Section 8.18 relating to the waiver of homestead protections. State Statutes are sufficient.

b. In response to concerns raised by members, TWCM's lawyer proposes amending the language regarding Project withdrawal in Section 2.13 to be more flexible.

These, and other changes will be considered by the Mutual's Board of Directors as part of the approval process of the final version of the CC&Rs that will then be sent to all Members for a vote.

15. What happens if I don't comply with the new CC&R's?

It depends. In many cases, members' existing situation is "grandfathered" in. For example, the new CC&Rs limit pets to a total of 2. However, if you presently have 3 pets, they continue to live with you but cannot be replaced beyond 2 total pets.

Please review specific provisions of the CC&Rs that may concern you directly.

16. Why do these CC&Rs require Members to carry property insurance?

Section 10.6 requires Owners to maintain property insurance and personal liability insurance. This helps protect all Project Members from the negative financial impact of property damage or personal injury caused by a single Member for which that Member is legally responsible.

This insurance is widely available.



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17. What is covered by the Mutual's property insurance?

The Mutual obtains property insurance as part of a master property insurance policy procured by the Golden Rain Foundation. This policy covers fire and other specified risks of direct physical loss, excluding earthquake.

Section 10.2.1 describes coverage for permanently affixed improvements situated in Units and states that upgrades, additions or replacements of permanently affixed improvements to Units must be insured by Members *unless the Member has obtained written approval from the Mutual to make the alteration.*

18. As a Concerned Owner and TWCM member, what is my role?

a. Read the documents and make notes on any specifics that you want clarified or discussed.

b. Attend any one of the four mutual wide meetings we are holding so you can ask questions and listen to explanations provided by our legal counsel who drafted these CC&Rs.

This is a draft to begin our discussion with residents; **this is NOT the final document.** Your comments and questions will be reviewed at upcoming TWCM Board of Directors meetings as part of their discussion and agreement on a final version of the CC&Rs. That final document will be mailed to you with your ballot.

TWCM Board wants the CC&Rs to reflect the views of as many residents as possible and is committed to an open and transparent process.