

**PIMA ACRES PROPERTY OWNERS ASSOCIATION**

**Enforcement Procedures**

**Adopted: February 15, 2018**

**Effective: February 15, 2018**

The Enforcement Procedures for violations of the CC&R's, the Bylaws, the Rules and Regulations, the Architectural Guidelines and the other governing documents of the Association shall be imposed according to the procedures set forth as follows:

**COURTESY NOTICE:**

In the event the Board or its agent determines that a violation of the Association's governing documents exists, a written notice may be delivered in person, or sent to the member at the mailing address as it appears on the records of the Association at the time of notice. No fine will be imposed with this notice. The Courtesy Notice shall include at a minimum the following information:

- The nature of the violation;
- The date of the violation or the date the violation was observed;
- The date (a maximum of 14 days from notice date) by which the violation must be corrected; and
- The process the member must follow to contest the violation including the address the member must send the appeal request to.

**VIOLATION NOTICE:**

If the violation is not corrected within the period set forth in the Courtesy Notice, a Violation Notice may be sent. The Violation Notice shall include at a minimum the following information:

- The provision of the governing documents that has been violated;
- The date of the violation or the date the violation was observed;
- The first and last name of the person or persons who observed the violation;
- The date of any Courtesy Notice;
- The date (maximum of an additional 14 days) by which the violation must be corrected;
- The process the member must follow to contest the violation including the address the member must send the appeal request to; and
- The fact that a fine to be determined by the Board of Directors may be imposed for failure to correct the violation by the required deadline.

**FINE NOTICE:**

Depending on the violation, the Board in its sole discretion may determine that a Courtesy Notice and/or a Violation Notice will not be sent to the member and may commence the enforcement process with the mailing of a Fine Notice. If the violation has not been corrected by the date set

forth in any Violation Notice, or the Board decides not to send either or both of such notices, the Board may impose a fine pursuant to the then effective Fine Schedule and send the member a Fine Notice which shall include the following information:

- The provision of the governing documents that has been violated;
- The date of the violation or the date the violation was observed;
- The first and last name of the person or persons who observed the violation;
- The dates of any Courtesy Notice and Violation Notice;
- The date by which the violation must be corrected;
- The process the member must follow to contest the violation including the address the member must send the appeal request to;
- A statement that in the event the violation is not cured by the date ten (10) calendar days after the date of the Fine Notice (or by such other date as the Board determines appropriate), the Board of Directors will impose a fine effective as of such date;
- If applicable, any requirements or special instructions for compliance;
- A statement informing the owner of the Association's right to seek legal and/or equitable action to collect the fine and/or to remedy the noticed violation of the Association governing documents.

#### **APPEAL PROCESS:**

Any member who has received a Courtesy, Violation, or Fine Notice shall have the opportunity to appear before the Board to appeal the Board's decision that a violation exists. Such appeal right shall be deemed waived if not timely exercised by the member. The appeal process shall be as follows:

- Within twenty-one (21) calendar days following the date of a Courtesy, Violation, or Fine Notice, the member may appeal the violation by sending the Board an appeal request in writing via certified mail, return receipt requested. If the written appeal request is not received within such twenty-one (21) day period, the member's right of appeal shall terminate as of the end of the twenty-first (21<sup>st</sup>) day.
- The Board may set an appeal hearing to consider the member's appeal request and shall provide the member written notice of the appeal hearing date, time, and location. Appeal hearings shall be held in an Executive Session meeting of the Board. The member shall have the right to appear at the appeal hearing in person or by a representative and to present all pertinent supporting information. In the event the member fails to appear in person or by representative at such scheduled hearing, his or her appeal right shall be deemed waived.
- After completion of the appeal hearing, the Board will make its decision. The member will be informed in writing of such decision within seven (7) days from the date of the appeal hearing.
- If the Board chooses not to hold an appeal hearing, the member will be informed in writing of the Board's decision within twenty (20) days from the date of the member's appeal request.
- The failure of the Board to send the member written notice of the Board's decision on the member's appeal shall not be deemed the Board's grant of the member's appeal.

- In the event the appeal is denied, unless otherwise stated in the Board's written decision, the effective date of the fine shall be retroactive to the date set forth in the Fine Notice.
- All decisions of the Board as to an appeal hearing are final and may not be appealed.

#### **FINES:**

- A fine may be assessed in accordance with the then effective Fine Schedule for an uncorrected violation of the governing documents of the Association.
- In the event of a subsequent violation by a member of the same provision of the governing documents within twelve (12) months of a previous violation of such provision, all fines for each such violation shall be doubled and a fine will be assessed for each violation that has occurred during that period.
- The Board of Directors will determine the period for corrective action of a violation on a case-by-case basis.
- Fines are cumulative and will continue without further written notice until the violation is corrected. The violation will be deemed corrected as of the date the member notifies the Board of the correction thereof unless the Board subsequently determines that the violation has not been corrected or that such date is not correct.
- At any time, the Board may exercise the option to pursue corrective action through legal means.

#### **FINE SCHEDULE:**

##### **Fines for Violations relating to Architectural Restrictions and Design Guidelines**

- The fine for commencing any new construction on a vacant lot without prior review and written authorization from either the Board of Directors or the Design Review Committee shall be no less than \$1,000.00 and no greater than \$5,000.00, as determined by the Board in its sole discretion. Commencing construction includes, without limitation, cutting down and/or removing trees on any lot without authorization in writing from the Association.
- The fine for exterior improvements to a house commenced and/or completed without the prior review and written authorization of the Design Review Committee shall be no less than \$500.00 and no greater than \$5,000.00, as determined by the Board in its sole discretion. This includes, without, limitation, installation of fencing, landscaping, sheds, driveway extensions and any other improvements deemed applicable by the Design Review Committee.
- The fine for new construction work not completed in a timely manner per the Design Guidelines shall be \$500.00 per month.
- Such other fines as the Board shall determine from time to time to be reasonable for violations of architectural restrictions or the Design Guidelines.
- Depending on the violation, the Board may determine that an Initial Violation Notice and/or a Second Violation will not be sent to the member.

## **Fines for Other Violations**

- The initial fine amount shall be **\$50.00**.
- If the violation has not been corrected within fifteen (15) days after the effective date of the imposition of the initial fine, the member shall be assessed an additional fine of **\$100.00**.
- If the violation has not been corrected within thirty (30) days after the effective date of the imposition of the initial fine, the member shall be assessed an additional fine of **\$100.00** and shall be assessed an additional fine of **\$100.00** every fifteen (15) days thereafter until the violation is corrected.
- In lieu of such stepped fine schedule, the Board may in its sole discretion impose (i) a daily fine of **\$25.00** for each day a violation continues where the Board determines that due to the nature of the violation such a daily fine is more appropriate; or (ii) a reasonable lump sum fine that the Board determines is appropriate due to the nature of the violation.

## **GENERAL:**

These Enforcement Procedures are intended as a guideline for the Association. The Board retains the right to vary the enforcement process when it in its sole discretion determines that any such variance is appropriate. The Board further retains the right to amend or replace all or any portion of these Enforcement Procedures. The assessment of fines by the Association does not relieve the member from the obligation to correct the violations or comply with Association governing documents. These Enforcement Procedures and the remedies set forth herein do not constitute an election of remedies by the Association which reserves all such remedies available at law and in equity. The Association shall have the right to enforce the Association governing documents through any other remedies available to the Association concurrently with the Enforcement Procedures set forth herein.