



## ***Provisions of the Declaration of Covenants*** ***ENFORCEMENT POLICY***

The Board of Directors has adopted the following procedures and practices for the enforcement of the provisions of the Declaration of Covenants, Conditions, and Restrictions, Modification Guidelines and for the elimination of violations of the Declaration and the rules approved by the Board.

These procedures were adopted in an effort to encourage owners to comply with the Association's governing documents.

**ACC Approvals** - Architectural Control Committee (ACC) approvals are valid for 1 Year. The plan approved must be completed within the time frame agreed to by the ACC, but no later than 1 year after the approval date.

The Enforcement policy is as follows:

1. **PROCESS OF NOTIFICATION** – Prior to imposing a fine, the Board of Directors or Architectural Control Committee (ACC) must give an owner a written notice of Violation, acceptable statement of how to remediate the situation, and given an opportunity to correct the violation.

The following steps must be followed with supporting documentation kept on file in order to impose a fine:

- A. **First Notice** – As soon as reasonably possible after a violation is discovered, the ACC is authorized to send notice to the owner and resident, if different than the owner, of the discovered violation by Hand Delivering, First-Class Mail and or by Certified Mail, Return Receipt Requested (the "First Notice").

A First Notice need not be sent if the alleged violator has previously received a "First Notice" relating to a similar Violation within six (6) months of the occurrence of the current Violation and was given a reasonable opportunity to correct the prior Violation. If the alleged violator was given notice and an opportunity to correct the prior similar Violation within the previous six (6) months, the Board may proceed with impose sanctions without notice to the Owner other than the Notice of Fine Application described below.

The First Notice shall contain the following information:

1. Reference to the provision(s) of the Covenants or adopted rules which has been violated;
2. The nature, description and location of the violation, including any property damage caused by the Owner
3. Information on what specifically must be done to correct the violation
4. The amount of the proposed fine or the amount claimed to be due from the owner for property damage;
5. A copy of this policy.
6. A statement that not later than (60) days from the date of the Owner's receipt of the First Notice, that one of the following actions must be taken to avoid suspension of membership privileges and the imposition of fines:
  - a. The violation must be corrected, or
  - b. A written request for a hearing must be submitted to the Board of Directors with a Copy to the ACC within 15 days of notice.
    - (i) A statement that if none of the actions set forth in are timely taken by the Owner, the Owner's membership privileges will be suspended and an applicable fine will be imposed and will become part of the owners assessment obligation.
    - (ii) A statement that the violation may be referred to legal counsel and that any Attorney's fees and costs will be charged to the Owner as an assessment if none of the actions are taken by the Owner within the allotted period.



- B. Notice of Fine Application** – Where the Board of Directors has observed the violation uncorrected and has not received a written request for a hearing within (15)day period noted in the First Notice, the ACC, after approval of the Board of Directors, shall notify the owner and the violator (if different than the owner) that a fine is being applied to the Owner's assessment obligation and their voting rights and membership privileges will be suspended.

The Notice of Fine Application shall contain the following information:

1. The nature of the violation and date of original notice to correct or desist actions
2. A statement that their voting rights and membership privileges are suspended.
  - (a) A fine in the amount of fifty dollars (\$50) is being applied against the owner's account for not curing the violation within the specified period of time contained in the previous notice;
  - (b) All future fines will be according to this regulation
  - (c) A statement that there is no limit to the number of fine applications for separate violations, which may occur, and that the matter may be referred to legal counsel for further enforcement measures if not corrected.

- C. HEARING/APPEAL/DUE PROCESS** – The following steps should be provided in the case where a homeowner has been given appropriate notice of a violation and has submitted to the Board of Directors management company a written request for a hearing or a written appeal to the application of a fine within the specified period of time:

- A. **Hearing** – If the owner timely requests a hearing within 15 Days from date of notice of violation or Notice of Fines imposed to challenge the proposed action or timely appeals a fine application, a hearing before the Board of Directors composed of not less than three (3) nor more than five (5) Board members) shall be held in executive session affording the owner a reasonable opportunity to be heard.

Such hearing shall be held no later than the 30th day after the date of the Board of Directors receives the Owner's request for a hearing. The Board of Directors shall send notice to the owner of a mutually agreed time, date and place of a hearing with an invitation to attend and produce any statements, evidence, and witnesses in support of the owner's challenge to the proposed fine application or violation. Such notice shall be sent no later than the 10th day before the date of the hearing.

Either the Board or the Owner can request one (1) postponement for a period of not more than ten (10) days. The minutes of the meeting shall contain a written statement of the Owner's reason for non-compliance and the results of the hearing (whether the fine is applied or not).

- B. **Decision** - The decision of the Board of Directors will be made in executive session after the homeowner has been excused from the meeting.
- C. **Notification of Hearing Decision** – Within thirty (30) days of the hearing the Board of Directors shall send notice as to their decision providing a support response for their decision. Any reasonable extension of time required by the Board of Directors shall also be noted in the response.
- D. **Waiver of fines (Correspondence)** – Contained within any correspondence sent to a homeowner, where a fine is applied, will be a notation to the homeowner that they may request waiver of the fine by appealing to the Board of Directors in writing after the violation is corrected.



**D. FINES AND OTHER FEES**

**A. Fining Schedule** – The imposition of fines per incident type will be on the following basis:

1. First Violation - \$50.00 per incident type
2. Additional violations / continuing non compliance
  - a. \$30 / Month or \$1 / Day for each day the Violation continues to exist past the date of notification of Fines up to 90 Days.
  - b. \$60/Month assessed at 1<sup>st</sup> of the month (no daily amounts apply) inspection where the violation per incident type has not been corrected.
3. Non- Receipt of Certified mail does not remove the liability of the fines from the owner.
4. Number of Fines – There is no limit to the number of fine applications for separate violations or the number of fines which may occur.

**B. Administrative and Legal Fees** – Any administrative and/or attorney's fees and any related charges incurred by the Association to enforce an owner's compliance with the Association's governing documents, including, without limitations, the administration of this policy as to a particular violation, shall become part of the violating owner's assessment obligation. The imposition of fines will be in addition to and not exclusive of any other rights or remedies of the Association as created by the Declaration or this Policy.

**C. Billing of Fines** – Fines will be billed each 6 months (July 1<sup>st</sup> and with the Annual Statement) and will be considered past due effective the processing rules of the Annual Statement.

**E. CORRECTION OF VIOLATION DURING ENFORCEMENT** – An owner may correct or eliminate a violation at any time during the pendency of any procedure prescribed by this Policy.

Upon notification to the ACC and verification that the violation has been corrected or eliminated, the violation will be deemed no longer to exist.

- A. Unless proper appeal process is followed and fines removed at the discretion of the Board of Directors, the owner will remain liable for the costs and fines under this Policy, which costs and fines, if not paid fines remain as part of the owners Assessment.
- B. All rules for Assessment collection apply as to late fees, legal costs, liens etc. at the Annual Statement Billing cycle.

**F. Pre-existing violations** - All known violations will receive a notice of non Compliance at the adoption of this Resolution. Notice will be given that all fines on pre-existing violations will become effective January 1, 2009.

**G. Grandfather Clause** – Any approval for structures, renovations, changes to property etc , previously obtained from the developer and not already implemented must be brought to the attention of the ACC within 60 days of the adoption and notification of this regulation by processing a "ACC Request Form" for review

The ACC Request must also contain a signature and statement from the developer defining the exception to the ACC and Covenant regulations or the request will be denied. No verbal notification will be accepted.

This policy was adopted by resolution by the Board of Directors on August 12<sup>th</sup>, 2008  
This Policy effective January 1, 2009.

This document was created with Win2PDF available at <http://www.win2pdf.com>.  
The unregistered version of Win2PDF is for evaluation or non-commercial use only.  
This page will not be added after purchasing Win2PDF.