

# **Compliance, Enforcement, and Fine Policy**

Palms RV Resort Lot Owners Association Board of Directors

**Effective 02/01/2024**

By Resolution dated 12/02/2019, the Board of Directors (Board) of the Palms RV Resort Lot Owners Association (LOA) adopted a Compliance Policy pursuant to the Declaration of Covenants, Conditions, & Restrictions (CC&Rs) and Arizona Revised Statutes 33-1803, which authorize the Board to impose monetary penalties for violations of the CC&R, Architectural Review Guidelines, and all other rules and regulations of the LOA. The prior policy has been clarified and updated as follows:

**A. Enforcement Steps-** Once a violation has been reported or observed and found by Management or the Board to be a valid violation, the following steps will take place and this policy enforced. Further, any violations of City, State, or other applicable law may be reported to appropriate authorities for additional or separate action.

The Resort Manager will have authority to apply this policy.

**1. Courtesy Letter –** In most instances, Management will provide the Owner with a courtesy letter/form requesting correction of the alleged violation(s). In instances of repeat violations in a season of the same provision, a courtesy letter will not be issued each time.

The courtesy letter/form will state:

- a. The nature, description and location of the violation(s);
- b. Citation to the provision(s) in the LOA document(s) violated;
- c. The date the violation(s);
- d. The potential sanction which may be imposed;
- e. The actions(s) required to correct the violation(s); and
- f. A time period for compliance shall be stated, but not to exceed fourteen calendar (14) days from the date of the letter. For issues related to immediate threats to safety, security, and health, immediate corrective action is expected subject to any limitations under Arizona law, to accelerate the timeframes for correction and response under this Policy.

**2. Notice of Violation** – If the violation is not resolved within the time period stated in the “Courtesy Letter” (or any extension agreed, in writing, by the Management), Management will send the Owner a Notice of Violation as outlined in Article 8.3 of CC&R. Management is encouraged to use additional notification measure when needed or desired, but such is not mandatory. The official notice will state:

- a. The information provided in Courtesy Letter stated above in subsections a. thru f.; and
- b. For conditions of property violations:
  - (i.) The process and address to contest the violations(s) by responding via certified mail to the LOA in writing within twenty-one (21) days from the date of the Notice;
  - (ii.) A statement that unless the condition of property violations(s) is corrected within 21 days, or such time as established by the Board after a hearing, whichever date is later, fines will be imposed as set forth in this Policy;
  - (iii.) After the 21 days of the violation not being corrected and when a hearing is not requested, the notice will state the fine that will be immediately imposed, and
  - (iv.) A statement that the Owner at any time has the option of petitioning the state real estate department for a hearing pursuant to Arizona Revised Statutes section 32-2199-01 if the dispute is within the jurisdiction of such department, or
- c. For violations not related to conditions of property, the fine amount or sanction imposed, their opportunity for a BOD hearing on a date, time, and place specified; and
- d. Information pertaining to the manner in which the penalty shall be enforced.

**3. Response to Correspondence Contesting Notice of Violation for Condition of Property (as specified in 2.b. above)-** The LOA must provide the following additional information within 10 days to any response received by a member timely contesting the Notice of Violation.

- a. The first and last name of the person or persons who observed the violation.
- b. Any other evidence the LOA has they may want to release to the member. The extent of release is optional or any additional evidence.

**4. Request for Hearing –** If the Owner requests a Hearing within twenty-one (21) days of the Notice of Violation, the Board of Directors will conduct the hearing on the date, place, and time Notice was provided for or, as reasonable, was modified. The Owner will be given an opportunity to appear and be heard orally or in writing.

**5. Board's Decision –**

- a. After the Owner has received Notice of Violation as outlined in 2. above and given an opportunity to be heard through such Notice (or their election to have a hearing before the State Real Estate Department in 2. f. above), the Board will affirm whether the violation occurred.
- b. If such violation is sustained after review of any documents provided pursuant to 3. or any other additional information received or gathered, the Board will impose a sanction and/or fine as outlined in section B. below, as well as the date monetary fine and/or other sanction accrues or commences. The fine accrual effective date will not begin prior to 15 days from Notice of Violation or prior to five days after hearing.
- c. In imposing fines and sanctions, the Board will consider multiple factors, including the seriousness of the violation(s), potential harm to person or property values, likelihood or achieving compliance,

repeat or continuing violations(s), and any other extenuating or exacerbating circumstances.

- d. After the Board decides, what, if any, monetary fine or sanctions to impose, it will notify the Owner in writing to the Owner's address on file with the LOA Office\* of its decision. The notice will state that payment is due within fifteen (15) days. Monetary fines assessed on a daily basis (see B. below) must be paid on or before the 5<sup>th</sup> of the month following the month of assessment and unpaid fines are subject to late fees, interest, and collection action as permitted under the CC&Rs and Arizona Law.
- e. The Board decision is final and binding upon the Owner.

6. If the Owner fails to pay or comply with any sanction, the Board may seek legal action for damages, injunctive relief, or both. Owner will be liable for costs specified in Article 8.10.C.

## **B. Fines, Suspension of Rights, and Corrective Action**

Pursuant to the authority granted in CC&R, Article 8, Section 8.10, Imposition of Sanctions; Article 10, 10.6 and 10.7; Article 16, 16.3, Enforcement, and in accordance with Arizona Revised Statutes 33-1803, the following fines, suspension, and corrective action will be imposed and/or initiated.

- 1. Fines:
  - a. Once steps have been followed above for violations of the Rules and Regulations, ARC guidelines, and/or any other governing documents, monetary fines will be \$25.00 per violation, per day, for the duration of noncompliance(s). However, for violations of Article 5, Section 5.19 of the CC&Rs as further discussed in A.3.i. of the Rules and Regulations (currently h.), each violation will result in a fine of 200% of the rental fee for entire rental period, with a minimum penalty of \$100 a day, \$500 a week, and \$2000 a month depending on the terms of the rental in violation.
  - b. The accumulation of monetary fines imposed on daily basis shall be charged the last day of the month of the violation. Payment is due by the 5<sup>th</sup>

of subsequent month and shall be considered past due if not paid by the 20<sup>th</sup> of that same subsequent month.

- c. If the fine due is not paid by the 20<sup>th</sup> of the subsequent month of the violation, then a late penalty will be assessed of 10% of the amount owed, but a minimum of \$15.
- d. All fines will be paid to the LOA office and applied to the principal amount first, if not paid in full. Owners will receive a receipt and the money shall be put in the general LOA fund.
- e. The levying and collection of fines does not relieve the Homeowner of the duty to correct the violation.
- f. Payment of the fine does not grant a variance for the violation. All violations must be corrected to come into compliance. The Board may waive portions of fines in extraordinary circumstances, upon correction of the violation.

## 2. Suspension of Owner Rights:

- a. In addition to the imposition of fines for violations, the Board of Directors and/or Manager may temporarily suspend any or all of the Owner's member rights, including the right to use the Common Facilities, voting, purchase of tickets to events, etc. as deemed reasonable and appropriate to the offense.
- b. Customarily, but not limited to, such suspension will be in instances where imposed fines have not been paid the third month after the violation, which is the month after the fine is due; egregious violations such that harm the safety and security of the Resort; and repeat offenders that have failed to take corrective action.

## 3. Corrective Action:

- a. According to authority in the CC&R cited above, corrective action may be required for any violation of Architectural Controls set in governing documents.

- b. The Architectural Review Committee (ARC) may require, in addition to any fine imposed, the Owner to take any action necessary to remedy any noncompliance with submissions approved by the Committee or requirements of the CC&R. See CC&R 10.6 and 10.7. Procedures are discussed in C. below.
4. Commence a legal action for damages, injunctive relief, or both.

**C. Enforcement of Compliance with Architectural Review Committee (ARC) Plans and Specifications –**

1. Section 10.7 of the CC&Rs provides that when the ARC determines noncompliance with plans and specifications it approved, the Owner has sixty (60) days from the date of notice by the ARC to correct the noncompliance.
2. If the Owner does not correct the defect, the Board will send the Owner a Notice of Deficiency to the Owner's address on file with the LOA Office\* that outlines the problem and sets a date for a hearing before the Board or the ARC to determine whether there is noncompliance, the nature of noncompliance, and estimated cost of correcting or removing the violation.
3. The hearing will be conducted per Section 10.7. A letter will be sent to the Owner of the final determination. If the Board finds noncompliance, the Owner shall correct the defect no later than forty-five (45) days from the date the Board notifies the Owner of its decision.
4. If the Owner does not comply within that period, the Board may seek legal relief as discussed in this Section; another Owner may seek private action; and/or fines can be assessed per B. above with accrual date beginning at the date the Board makes its decision at the hearing in 3. above.

\*It is the responsibility of the Owner to assure correct updated mailing address is on file with the LOA. Any notice defined herein shall be considered appropriately sent if mailed to the Owner's address on file with the LOA.