

Coyote Creek Homeowners' Association

ENFORCEMENT GUIDELINES

Violations of the Community Documents and Association Rules

REVISED
12/12/2018

Section 2.6 of the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Coyote Creek (hereinafter the "CC&Rs") covers any failure of an Owner to comply with the CC&Rs or Association Rules (including but not limited to the Design Guidelines of the Design Review Committee [hereinafter "DRC"]), any such failure being hereinafter referred to as a "Violation". This document provides guidelines regarding a process for use by the Homeowners' Association (hereinafter "HOA") and Board of Directors (hereinafter "The Board") for addressing such Violations.

This process is designed to provide both the Association and any Property Owner (hereinafter "Owner") charged with a Violation with the opportunity to resolve said Violation without having to resort to fines and legal action. Should the Association and an Owner be unable to resolve a Violation, this document also provides guidelines to address such eventuality.

Owner Violations generally come to the attention of the HOA through reports by neighbors to the DRC or the Board, or by Management Company observations in its monthly drive-through of the Community. It is the intent of the HOA and the Board to deal in a prompt and neighborly manner with regard to all violation situations. A phone call from the Management Company to the Owner is the logical and most timely first step in this process. This allows the owner to be aware of the rule to be enforced, to take action prior to receiving a letter and the Management Company can gauge the attitude of the owner and offer some help to try to mediate the situation prior to a more formal action. This phone call should specifically detail the alleged Violation; suggest possible solutions for Owner consideration; and provide a reasonable time for completion and resolution of the issue.

In all instances where a phone call has been completed or a message left for an Owner, the Management Company is requested to keep a written log of the conversation, agreements or refusals.

If the Management Company and Owner come to agreement as to the existence of a Violation or resolution of the Violation, then a letter confirming such agreement and resolution should be issued by the Management Company, thereby closing the file on the Violation.

If initial phone contact results in a non-response or an aggressive reaction or refusal to address the violation detailed in the phone call then the Violation will be elevated for action by the Board of Directors which will follow Guidelines for handling such situations.

Coyote Creek Homeowners' Association
Guidelines Related to Owner Violations That Have Been Elevated
for Action by the Board

Upon notice from the Management Company that an Owner Violation that has been attempted to be handled by phone contact and/or written follow-up has not been resolved, the Board will proceed as follows:

I. KNOWLEDGE OF VIOLATION

In order for the Board to be able to fully and accurately assess an alleged Violation that has been elevated to its attention, the Association's manager and/ the President or other designated Board members will collect information and material for presentation to and review by the Board. This information and material will include any pertinent evidence of the existence of said Violation that can be obtained without violating any of the rights of an Owner.

At the Board's discretion, it may by-pass the "First Board Notification" letter stage and begin the process with the "Notice of Hearing."

Fining and Enforcement Policy dated December 12, 2018 shall govern and be enforced for homes under the construction phase that must abide by the Construction agreement rules.

II. FIRST BOARD NOTIFICATION

Preferably, and is expected in most cases, the first official Board contact to an Owner of a Violation will be a letter wherein the Owner will again be asked to remedy or correct the Violation within a reasonable period of time. However, if a situation requires immediate attention or is egregious, the Board may bypass this letter and begin the notice process with an official Notice of Violation (see below).

III. OFFICIAL NOTICE OF VIOLATION

A written Notice of Violation will be given if (i) an Owner has ignored or failed to remedy or respond to a friendly reminder letter within a reasonable or requested period of time; or (ii) a Violation requires immediate action and/or a Violation is so egregious that time is of the essence. The Notice of Violation shall be made by letter, except in cases where time is of the essence. In such case the Association manager will attempt to contact the Owner by phone prior to sending the Notice of Violation.

A Notice of Violation letter shall contain the following information and be sent by Certified Mail, Return Receipt Requested.:

1. The nature of the alleged violation and the date observed.
2. The provision of the CC&Rs or Association Rules that has allegedly been violated.
3. The name of the person or persons who observed the Violation.
4. The steps that the Owner must follow to resolve the Violation, including the date by which such resolution must be completed and, if necessary, an order to cease and desist any activity related to the Violation.
5. The steps that the Owner must take to respond in writing to the Notice of Violation. (See Section IV, (a) below.)
6. The steps that the Owner may take to contest the Notice of Violation. (See Section IV (b), below).
7. The Association address to which future written correspondence shall be sent by the Owner.

If the Owner is leasing or renting a home, the Association may furnish a copy of the Notice of Violation to the Owner's tenant.

IV. OWNER RESPONSE

(a) In accordance with Arizona Revised Statute 33-1803 (C) an Owner who receives a written Notice of Violation pertaining to an alleged Violation of the CC&Rs or the Association Rules may provide the

Association with a written response by sending the response by Certified Mail, Return Receipt Requested to the Association within ten (10) business days after the date of the Notice.

Within ten (10) business days after receipt of the Certified Mail containing the response from the Owner, the Association shall respond to the Owner. The Association's response will confirm, retract or modify its position regarding the Violation, depending upon the information provided by the Owner in the certified letter.

(b) In accordance with Arizona Revised Statute 33-1803 (E), an Owner who receives a written Notice of Violation pertaining to an alleged Violation of the CC&Rs or the Association Rules may contest the alleged Violation by providing evidence or the Owner's rationale in support of the conditions which constitute the alleged Violation by sending a written response to the Association by Certified Mail within ten (10) business days after the date of the Notice.

Within ten (10) business days after receipt of the Certified Mail containing the contest of the Violation from the Owner, the Association shall respond to the Owner. The Association's response will confirm, retract or modify its position regarding the Violation, depending upon the information provided by the Owner in the certified letter.

V. NOTICE OF HEARING

In the event the Violation continues past the period allowed in the original Notice of Violation and/or subsequent communications between the Association and an Owner, or if the same rule or provision of the CC&Rs or Association Rules is subsequently violated, the Association may schedule a Hearing and shall send a written Notice of Hearing by Certified Mail, Return Receipt Requested to the Owner.

A Notice of Hearing letter shall contain the following information and be sent by Certified Mail, Return Receipt Requested.:

1. The nature of the alleged Violation and the date observed.
2. The provision of the CC&Rs or Association Rules that has allegedly been violated.
3. The name of the person or persons who observed the Violation.
4. The time and place of the Hearing, which shall be not less than twenty (20) days from the date of the notice.
5. An invitation for the Owner to attend the hearing and produce any statement, evidence, and witness on his/her behalf. A statement shall also be included that, while the Owner is afforded an opportunity to attend the hearing as per State Statute, it is not a mandatory requirement, and that any evidence and testimony regarding the alleged Violation provided to the Association in advance of the Hearing date will be reviewed at that time. The Owner will be further advised that the hearing will be held and conducted with or without the Owner's attendance.
6. Any proposed fine to be imposed, including whether attorney fees or other costs incurred by the Association shall be included.
7. The process the Owner must follow to contest the notice. (See Section IV (b), above.)
8. A statement that, in accordance with State Statute, the hearing will be held in a closed session with the Board unless the Owner requests that it be held in an open session.

VI. HEARING PROCEDURE

The following procedure will apply to all hearings:

- a) The hearing shall be held pursuant to the Notice of Hearing.
- b) The Owner, if present, shall be afforded a “reasonable” opportunity to be heard.
- c) The Association shall present to the Owner all accumulated evidence, observations and any witness testimony, as appropriate.
- d) The Owner, if present, shall be provided a reasonable opportunity to review all evidence, and question any witness.
- e) Board members shall ask questions for clarification and/or to obtain additional facts, but shall not express any opinions on the Violation or imply or render any decision.
- f) The Owner shall be asked for any final comment before the Board closes the hearing.
- g) The Owner shall be informed that a decision will be issued in writing within ten (10) days after the date of the hearing.
- h) The Owner shall be excused, and the Board shall consider its decision in a closed executive session.
- i) The minutes of the hearing shall contain a written summary of the results of the hearing.

VII. IMPOSITION OF FINES AND OTHER SANCTIONS

The Board shall, in Executive Session, deliberate on the alleged Violation solely on the basis of the evidence and testimony presented and reviewed at the hearing, together with the amount of the fine to be imposed, if any, based on the following (not an inclusive list, and other factors may be considered as needed) :

- The seriousness of the Violation.
- Whether this is the first Violation or a continuing Violation.
- Whether the type of Violation poses a danger to property or any person.
- Any other extenuating circumstances and whether the Owner agrees in good faith to correct the Violation within the time specified by the Board.
- Whether a specified fine is sufficient to obtain compliance, based on the facts at hand.

After the Board determines the amount of the fine, the Board will send notice to the Owner (by Certified Mail, Return Receipt Requested) of the amount of such fine and its due date.

VIII. REQUEST FOR RECONSIDERATION

If an Owner wishes to appeal the levying of a fine, the following shall apply:

- a) In order to schedule an appearance before the Board, the Owner must submit a written request to the Association within seven (7) days of receipt of notice of the Board's decision to impose a fine.
- b) The meeting during which the Owner will be present shall be scheduled and the Owner notified of the date, time and location by Certified Mail.
- c) The meeting will be held in Executive Session, unless requested otherwise by the Owner, and the Owner shall be afforded a reasonable opportunity to be heard.
- d) At the conclusion of the meeting, the Owner shall be excused from the meeting and the Board shall issue a ruling on whether the decision stands, will be modified or rescinded.
- e) The Board will send a written notice of its decision to the Owner.
- f) The ruling of the Board will be final.

IX. FINES

Any fines that are imposed with respect to any Violation should be imposed in a manner consistent with Sections 2.6 and 2.9 of the CC&Rs.

Fine Guidelines

The Board of Directors or Covenant Committee will observe the following procedures when imposing fines against homeowners for violations of the Covenants, Conditions and Restrictions (CC&R) of the Association.

The President or the Board of Directors may, at its sole and absolute discretion, waive the three notice required in the above paragraph, for any act it believes presents a clear and present danger to residents and guests

➤ Article 4, Section 1- Residential Purposes and Construction phase Violations
INITIAL FINE: \$250.00. An additional \$25.00 fine per occurrence and non-compliance after a ten (10) day notice has been given.

➤ Article 4, Section 2 & 3-Architrectural Review and Building Envelope
INITIAL FINE: \$250.00. An additional \$25.00 fine per occurrence and non-compliance after a ten (10) day notice has been given

➤ Article 11, Section 1-4 – Lot restrictions, Lighting, Window Coverings, Roofline Restrictions, Residence Size, Temporary and Other structures, Horses and Animals.
INITIAL FINE of \$25.00. An additional fine of \$25.00 per occurrence on non-compliance after a ten (10) day notice is given.

➤ Article 11, Section 6-9 – Utilities, aerial antennas, portable basketball hoops and signs.
INITIAL FINE of \$25.00. An additional fine of \$25.00 per occurrence on non-compliance after a ten (10) day notice is given.

➤ Article 11, Section 11, 21 & 22 – Parking, Trailers, RV, Boats, Motor Vehicles over 22 ft., or any Motor Vehicles blocking road, Parked on the landscape or yard and Commercial Vehicles
INITIAL FINE of \$25.00. An additional fine of \$25.00 per occurrence on non-compliance after a ten (10) day notice is given

➤ Article 11, Section 16 & 24 — Nuisances and Clotheslines
INITIAL FINE of \$25.00. An additional fine of \$25.00 per occurrence on non-compliance after a ten (10) day notice is given.

➤ Article 11, Section 5 — Trash Containers and Collection
INITIAL FINE of \$25.00. An additional fine of \$25.00 per occurrence on non-compliance after a ten (10) day notice is given.

➤ Article 11, Section 10 & 14 — Rental and No Business Use.
INITIAL FINE of \$100.00. An additional fine of \$25.00 per occurrence on non-compliance after a ten (10) day notice is given.

➤ Article 11, Section 19 — Noise
INITIAL FINE of \$25.00. An additional fine of \$25.00 per occurrence on non-compliance after a ten (10) day notice is given.

➤ Article 11, Section 19 – Shrubs, Trees and Grasses.
INITIAL FINE of \$25.00. An additional fine of \$25.00 per occurrence on non-compliance after a ten (10) day notice is given.

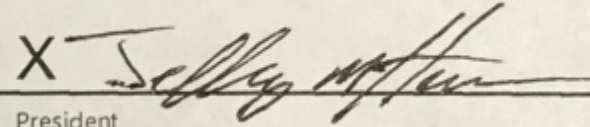
➤ Article 11, Section 28 – Addresses and Mailboxes.
INITIAL FINE of \$25.00. An additional fine of \$25.00 per occurrence on non-compliance after a ten (10) day notice is given.

Payment of Monetary Penalties

Any monetary penalty, if imposed, shall be due and payable and will be added to the homeowner's account balance.

This policy supersedes and replaces all previous policies, and shall become effective on April 1, 2019.

Confirmed this 20th day of February 2019 at a meeting of the Board of Directors.

X 

President

X 

Secretary