

Arizona Madera at Rita Ranch Association

Violation and Fine Guidelines

ARIZONA MADERA AT RITA RANCH ASSOCIATION (Association) Board of Directors (Board), pursuant to Arizona Revised Statutes 33-1803, provides that the Association's Board is entitled to impose fines for violation(s) of the Declaration of Covenants, Conditions and Restrictions (CC&Rs), Design Guidelines and any other applicable rules adopted by the Board of Directors. The procedure for imposing fines for such violation(s) is set forth below. This policy is presumptive for all violations. At its discretion, the Board may deviate from the policy depending on the facts and circumstances of an individual violation.

- I. **"Friendly Reminder"** In most cases, and when appropriate as determined by the Managing Company (Manager) or the Board, the first notification to an Owner of their violation of the CC&Rs or a rule will be by means of a "friendly reminder" letter. The Manager will issue the letter.
- II. **"Notice of Violation"** – A written "Notice of Violation(s)", together with a request to cease and desist from the alleged violation(s), may be sent to the Owner via regular mail and shall specify the relevant facts relating to the violation including the required cease and desist by date. The Manager will issue the "Notice of Violation" letter.
- III. **"Continuing Violation(s)"** – Violation(s) remaining in place past the specified cease and desist by date constitute a "Continuing Violation(s)" for which the Owner can be subject to a fine. The Manager will issue any letters associated with "Continuing Violation(s)".
- IV. **"Notice of Hearing"** – At its discretion, the Board may decide to send the Owner a written "Notice of Hearing" at any step in the Violation/Notification process. The notification shall contain the following information and will be issued by the Manager:
 - A. The nature of the alleged violation(s).
 - B. The time and place of the hearing, which shall be not less than fifteen (15) days from the post date of the notice.
 - C. An invitation to attend the hearing and produce any statement, evidence, and witnesses on the Owners behalf.
 - D. Any proposed sanction(s) to be levied, which may include the imposition of a fine and the payment of any attorney fees incurred by the Association.
 - E. The Manager will issue the letter.

As an alternative to the "Notice of Hearing" process, the Board may put the burden on the Owner to request a hearing within a defined deadline. In the event the Owner does not request a hearing within a timely manner, the Board may impose a fine without a hearing being held.

- V. **"Hearing"** - The hearing shall be held pursuant to the submittal of a "Notice of Hearing" letter and may include the following:
 - A. The hearing shall be attended by the Manager and a majority of the Board including the President.
 - B. The complaining individual (Board member or other Owner) and the offending Owner shall be afforded a reasonable opportunity to present statements and/or evidence. In cases in which the complaining individual is another Owner (e.g., not of the Board), the Board shall evaluate all statements according to protocols as adopted by the Board.
 - C. Before any sanction is imposed, the Manager shall submit proof of the "Notice of Violation" and "Notice of Hearing" letters. Such proof shall be deemed adequate if a copy of the notifications, together with a statement of the date and manner of delivery, is entered into the Owner's Lot file or sent to the most recent address of record for the Owner as maintained by the Association.
 - D. The Owner is on notice of the violation and potential for fines if they attend the hearing .

- E. The Manager shall document minutes or record the hearing which shall contain a summary of the results of the hearing and the sanctions, if any, to be imposed.

If the Owner is leasing the home, the Manager may provide a copy of the Notice of Violation(s) to the Owner's tenant. At the Board's discretion and based upon the relevant circumstances, the Board may begin the process with the "Notice of Violation" or the "Notice of Hearing". The Board may deviate from any guidelines herein based on the application of the factors contained in paragraph VI below.

Whether the Association begins the process with a Friendly Reminder, Notice of Violation or Notice of Hearing, the initial communication to the Owner shall contain:

- A. The Name of the Complaining Individual (Manager, Board or other Owner);
- B. The provision or provisions in the CC&Rs, Design Guidelines and any other applicable rule or regulation that has allegedly been violated.
- C. The date or dates of the alleged violation(s).
- D. How to appeal the alleged violation.
- E. Notice of the Owner's options to petition for a hearing on the matter.

VI. Imposition of Fine and any other Sanctions.

Fines – At the conclusion of the hearing, the Owner may be excused from the hearing and the Board shall deliberate on the amount of the fine, if any, to be imposed based on:

- A. The seriousness of the violation(s).
- B. Whether this is a first violation or a continuing violation(s).
- C. Whether the type of offense poses a danger to property or any person(s).
- D. Any other extenuating circumstances such as hardship.
- E. Whether the Owner agrees in good faith to correct the violation(s) within the time specified by the Board.
- F. Whether the amount is sufficient to obtain compliance, based on the facts.
- G. Impact on property values.

Expense reimbursement – Owners to whom certified mail notices are sent shall be assessed the Manager's charge to the Association for the mailings. Owners may also be assessed any other relevant administrative or legal fees incurred by the Manager, Association or Board.

- VII. "Notice of Fine(s)/Sanction(s)"** – After the Board establishes the amount of the fine(s) or sanction(s) to be imposed, the Manager shall send notice to the Owner of the amount of the fine(s) to be established and their due date or sanction(s) to be levied and their expiration date. At its discretion, the Board is empowered to impose a fine for each day that the violation(s) continues past the cease and desist by date. SEE X. FINE GUIDELINES.

VIII. Request for Reconsideration of the Board

- A. The Owner may request reconsideration of the Board.
- B. To request an appearance before the Board, the Owner must submit a written request to the Manager within ten (10) days of the post-date of the "Notice of Fine(s)/Sanction(s)" notice.
- C. The Manager shall schedule the meeting and notify the Owner of the date, time, and location via certified and regular mail.
- D. The meeting will be held in Board Executive Session pursuant to the "Notice of Hearing" and the Owner shall be afforded a reasonable opportunity to be heard.
- E. At the conclusion of the meeting, the Owner may be excused from the meeting and the Board shall issue a ruling on whether the sanction stands, is modified, or is rescinded.
- F. The Manager shall send a written notice to the Owner of the Board's ruling.
- G. The ruling of the Board will be final.

VIII. Payment of the Fine and /or Penalties. The Manager shall advise the Owner that any fine, which is not paid within fifteen (15) days of its due date, is delinquent and subject to late fees and interest the same as any other assessment, subject to applicable Arizona Law.

IX. Collection. Fines and penalties will be collected by the Manager from the Owners.

X. Fine Guidelines. The below Fine Guidelines are not binding. The Board may impose a fine in any reasonable amount, based on the application of the factors above. No fine shall be assessed until the Owner who has committed the violation has been given due written notice and an opportunity for a hearing.

A. Presumptive Fines, with the addition of fines for second and subsequent violations in accordance with Section # below, are as follows:

- i. Parking: \$25
- ii. Failure to submit for approval for or to comply with ARC request for corrective action: \$100
- iii. Violations associated with a rental property: \$250

The Board shall have the authority to increase the presumptive fines above for additional violations of the same nature.

B. Monetary fine for other violation(s) of the CC&Rs, Design Guidelines or other applicable rules/regulations of the Association are as follows:

- i. First violation: \$25
- ii. Second violation (of the same nature): \$50
- iii. Third violation (of the same nature): \$100
- iv. Each violation after the third (of the same nature): \$250

DATED this 9 day of Nov., 2022.

Arizona Madera HOMEOWNERS ASSOCIATION

BY: Leboah F. Wilson, President

Attest: Jessie Wilson, Secretary