

THE VILLAGE AT UNIVERSITY HEIGHTS HOMEOWNERS ASSOCIATION

ENFORCEMENT PROCESS

Revised Effective March 1, 2015

IMPOSITION OF MONETARY PENALTIES.

The Board has adopted a formal procedure for dealing with violations of the Association's governing documents. That formal procedure sets forth in detail: (i) how complaints of violations are made, (ii) how complaints are reviewed and verified, (iii) how and when letters are sent to members requesting compliance with the violated rule or regulation, (iv) how and when Notice of Violation letters including assessments of monetary penalties are sent to members, (v) how a member against whom a monetary penalty has been assessed may request a hearing before the Board, (vi) how monetary penalties accrue and (vii) the Association's rights and methods of collecting monetary penalties. The Board retains the right to amend this policy from time to time as it deems appropriate subject, of course, to the terms of the governing documents of the Association and applicable law.

COMPLAINT/VIOLATION PROCESS

A. Any member, Board member or agent of the Association may file a Complaint against another member for violation of any provision of the Association governing documents by the member, his family, tenants or guests. A Complaint must be in writing, must be signed (unless submitted via e-mail) and dated and must include a description of the alleged violation and the identity of the alleged violator, if known. A Complaint from a member is considered filed when the written Complaint is received (i) by a member of the Board or a Board member or (ii) by the Association's management company. A copy or record of all Complaints shall be provided to the Board.

B. Any Complaint received by the Association shall be forwarded to the Association's Enforcement Person. As used herein the term "Enforcement Person" means the Association's management company, if any, or if none, the Board. In all cases where an Enforcement Person other than the Board receives the Complaint, the recipient thereof shall forward a copy of the Complaint to the Board. Upon its receipt of a Complaint, the Enforcement Person shall take the following action (i) immediately if it determines that the complained of situation constitutes an emergency requiring immediate action, or (ii) within ten (10) business days of its receipt of a Complaint if it determines that the complained of situation does not constitute an emergency requiring immediate action.

1. Conduct an investigation of the Complaint to confirm that there is reason to believe that the conditions complained about actually exist, and
2. If the Enforcement Person determines that there is reason to believe that the conditions complained about actually exist it shall attempt to contact the unit owner and try to resolve the Complaint informally.

If the violation is informally resolved, the Enforcement Person shall document in writing for the related unit file what the alleged violation was and how the issue was resolved. If the Enforcement Person is unable to resolve the violation informally, the following enforcement process shall be begun.

INITIAL VIOLATION NOTICE:

In the event the Board or its agent determines that a violation of the Association's governing documents exists and such violation is not informally resolved, a written notice will be sent to the member at the mailing address as it appears on the records of the Association at the time of notice. The initial Violation Notice shall include at a minimum the following information:

- The provisions of the documents that have 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 by which the violation must be corrected; and
- The process the owner must follow to contest the notice.

SECOND VIOLATION NOTICE:

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

- The nature and date of the violation and the date of the first notice;
- The date by which the violation must be corrected;
- The fact that a monetary penalty to be determined by the Board may be imposed for failure to correct the violation by the required deadline; and
- The right of the member to appeal the Board's decision that a violation has occurred and the manner in which such appeal must be requested or it will be deemed waived.

MONETARY PENALTY NOTICE:

If the violation has not been corrected by the date set forth in the second Violation Notice and either (i) the member has waived the member's right to appeal the Board's decision that a violation has occurred or (ii) a hearing has been held and the Board has upheld its decision that a violation has occurred, the Board may impose a monetary penalty and send the member a Monetary Penalty Notice which shall include the following information:

- The nature and date of the violation;
- The dates the first and second Violation Notices were sent to the member;
- A statement that the Board of Directors has imposed a monetary penalty for failure to correct the violation by the required deadline;
- If applicable, any requirements or special instructions for compliance;
- A statement that monetary penalties will continue to be imposed and will continue without further notice as set forth in the Monetary Penalty Notice until the violation is corrected;
- A statement informing the owner of the Association's right to seek legal and/or equitable action to collect the monetary penalty and/or to remedy the noticed violation of the Association governing documents.

APPEAL PROCESS:

Any member who has received a second Violation 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 ten (10) calendar days following the date of the second Violation Notice, the member may appeal the violation decision in writing to the Board and request a hearing on the matter. If the written hearing request is not received within such ten (10) day period, the member's right of appeal shall terminate as of the end of the tenth day.

- The member shall have the right to appear at the hearing in person or by a representative and to present all pertinent supporting information.
- A member who timely exercises his or her appeal right shall be provided a written notice of the time, date and place of scheduled appeal hearing which shall be conducted in an Executive Session meeting of the Board. 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.
- In the event the appeal is denied, unless otherwise stated in the Board's written decision, the effective date of the monetary penalty shall be retroactive to the date set forth in the Monetary Penalty Notice.
- All decisions of the Board as to an appeal hearing are final and may not be appealed.

Any monetary penalties imposed by the Board upon a member hereunder shall be payable by the member and shall be enforceable by the Association in accordance with the Association governing documents and applicable Arizona law.

This Complaint/Violation Process and the actions of the officers, directors and agents of the Association in compliance herewith are governed by, and subject to, the terms of the governing documents of the Association and applicable law. In the event of any conflict between the terms hereof and the terms of the governing documents of the Association, the terms of the governing documents of the Association shall govern. In the event of any conflict between the terms of the governing documents of the Association and applicable law, the applicable law shall govern. The Board retains the right at any time and from time to time to amend this Complaint/Violation Process and vary its enforcement actions taken hereunder as it determines appropriate.

OTHER REMEDIES.

Upon the violation by a member of the Association's governing documents, the Association's remedies are not limited to the imposition of monetary penalties. Additional remedies include the following:

A. **Entitlement to Relief.** Subject to applicable laws, the Association may (i) commence a personal legal action against a member to recover sums due, for damages or for injunctive relief or (ii) commence any action for any other relief authorized by the Association's governing documents or available at law or in equity. In no case may any member withhold any assessment due and payable to the Association, or take (or omit) other action in violation of the governing documents, as a measure to enforce such member's position, or for any other reason.

B. **Enforcement.** The Association may enforce the documents in any manner provided for in the Association governing documents, by law or in equity, including, but not limited to:

(a) Imposing reasonable monetary penalties after notice and an opportunity to be heard is given to the unit owner or other violator. A unit owner shall be personally responsible for payment of any monetary penalties levied or imposed against a lessee or occupant of the Owner's Unit or by any invitee of the unit owner or any lessee or occupant;

(b) Suspending a unit owner's right to vote;

(c) Suspending any Person's right to use any facilities within the Common Elements; provided, however, nothing herein shall authorize the Board to limit the use of a Common Element for ingress and egress to and from a unit;

(d) Suspending any services provided by the Association to a unit owner or the owner's unit if the unit owner is more than fifteen (15) days delinquent in paying any assessment or other charge owed to the Association;

(e) Exercising self-help or taking action to abate any violation of the Association governing documents in an emergency situation;

(f) Requiring a unit owner, at the unit owner's expense, to remove any improvement installed or constructed in such owner's unit or in any limited common element allocated to the owner's unit in violation of the Declaration and to restore the unit or the limited common element to its previous condition and, upon failure of the unit owner to do so, the Board or its designee shall have the right to enter the unit or limited common element, remove the violation and restore the property to substantially the same condition as previously existed and any such action shall not be deemed a trespass;

(g) Without liability to any person, prohibiting any contractor, subcontractor, agent, employee or other invitee of a unit owner who fails to comply with the terms and provisions of the Association governing documents from continuing or performing any further activities of the Development;

(h) Towing vehicles which are parked in violation of the Declaration or these rules;

(i) Filing a suit at law or in equity to enjoin a violation of the Association governing documents, to compel compliance with the Association governing documents, to recover monetary penalties or money damages or to obtain such other relief as to which the Association may be entitled; and

(j) Recording a written notice of a violation of any restriction or provision of, the Association governing documents. The notice shall be executed and acknowledged by an officer of the Association and shall contain substantially the following information: (i) the legal description of the unit against which the notice is being recorded; (ii) a brief description of the nature of the violation; and (iii) a statement of the specific steps which must be taken by the unit owner to cure the violation. Recordation of a Notice of Violation shall serve as a notice to the unit owner and to any subsequent purchaser of the unit that there is a violation of the provisions of the Association governing documents.

All rights and remedies of the Association under the Association governing documents or at law or in equity are cumulative, and the exercise of one right or remedy shall not waive the Association's right to exercise another right or remedy. The failure of the Association or an owner to take enforcement action with respect to a violation of the Association governing documents shall not constitute or be deemed a waiver of the right of the Association or any owner to enforce the Association governing documents in the future.

C. Costs of Proceeding and Attorneys' Fees. Any costs incurred by the Association in enforcing the Declaration or the other Association governing documents shall be the obligation of the owner of the unit against which enforcement is sought. Such costs shall include, but not be limited to, reasonable attorneys' fees, whether or not suit is filed.