

PONDEROSA TRAILS HOMEOWNERS ASSOCIATION, INC.

ENFORCEMENT PROCEDURES

Effective: October 1, 2022

Revised July 12, 2023

Pursuant to Section 3.10(3) and Section 3.10(7) of Article III of the Bylaws of Ponderosa Trails Homeowners Association, Inc. (as amended, the “Bylaws”) and Section 6.1(G) of Article 6 and Section 11.1 of Article 11 of the Declaration of Homeowner Benefits and Covenants, Conditions and Restrictions for Ponderosa Trails, recorded at Docket 2093, Page 308, records of Coconino County, Arizona (as amended, the “Declaration”), the following Enforcement Procedures shall be followed by the Ponderosa Trails Homeowners Association, Inc. (the “Association”) for violations of the Declaration, the Bylaws, the Association Rules, the Architectural Committee Rules and the other governing documents of the Association (together, the “Project Documents”) and fines shall be imposed according to the procedures set forth as follows. Effective as of the Effective Date set forth above, these Enforcement Procedures supersede the Enforcement Policy adopted November 17, 2021.

COMPLAINT/VIOLATION PROCESS:

Any member, Board member or agent of the Association may file a Complaint against a member of the Association for violation of any provision of the Association Project Documents by such member, his or her 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 an officer of the Association or (ii) by the Association’s management company. A copy or record of all Complaints shall be provided to the Board.

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 there is reason to believe that the conditions complained about actually exist, it shall attempt to contact the Tract Owner and try to resolve the Complaint informally via email.

If the violation is informally resolved, the Enforcement Person shall document in writing for the related Tract 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 followed.

COURTESY NOTICE:

In the event the Enforcement Person or its agent determines that a violation of the Association's Project Documents exists, a written Courtesy Notice may be sent by first class mail to the Owner at the mailing address as it appears on the records of the Association at the time of notice. No fine will be imposed with this notice. Consistent with Arizona law as may be amended, the Courtesy Notice shall include at a minimum the following information:

- The provision of the Project Documents that has allegedly 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 (typically fifteen (15) days from the date of the Courtesy Notice) or in the case of a violation that is not a continuing one, that any future violation of the same provision of the Project Documents will result in sanctions being imposed pursuant to these Enforcement Procedures;
- A description of the process the Owner must follow to contest the violation notice; and
- Notice of the Owner's right to petition for an administrative hearing with the Arizona Department of Real Estate pursuant to A.R.S. § 32-2199.01.

VIOLATION NOTICE:

If the violation is not corrected within the period set forth in the Courtesy Notice, a Violation Notice may be sent to the Owner via first class mail. The Violation Notice shall include at a minimum the following information:

- The provision of the Project Documents that has been violated;
- The date of the violation or the date the violation was observed;
- A demand that the violation ceases;
- The action required to abate the violation;
- The date of any Courtesy Notice;
- The date by which the violation must be corrected typically fifteen (15) days from the date of the Violation Notice) or in the case of a violation that is not a continuing one, that any future violation of the same provision of the Project Documents will result in sanctions being imposed pursuant to these Enforcement Procedures;
- The right of the Owner to petition for an administrative hearing on the violation in the Arizona Department of Real Estate pursuant to Arizona Revised Statutes § 32-2199.01; and
- Notice that a fine in an amount to be determined in accordance with the Fine Schedule may be imposed for failure to correct the violation by the required deadline.

FINE NOTICE:

Notwithstanding the foregoing, the Board in its sole discretion may determine that due to the nature of the violation a Courtesy Notice and/or a Violation Notice will not be sent to the Owner and may commence the enforcement process with the mailing of a Fine Notice. If a Violation Notice has been sent and the violation has not been corrected by the date set forth in the Violation Notice, or if the Board decides not to send either or both of such notices, the Board may impose a fine pursuant to the then effective Fine Schedule and send the Owner a Fine Notice which shall include the following information:

- The provision of the Project Documents that has 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;
- A statement notifying the Owner of the Owner's "RIGHT OF APPEAL" 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;
- A statement that in the event the violation is not cured by the date fifteen (15) calendar days after the date of the Fine Notice (or by such other date as the Board determines appropriate), the Board of Directors will impose a specified fine effective as of such date and additional fines as set forth in the Fine Schedule if the violation is not cured as set forth in the Fine Notice;
- A copy of the Fine Schedule;
- If applicable, any requirements or special instructions for compliance;
- A statement informing the owner of the Association's right to seek legal and/or equitable action to collect the fine and/or to remedy the noticed violation of the Association Project Documents; and
- The right of the Owner to petition for an administrative hearing on the violation in the Arizona Department of Real Estate pursuant to Arizona Revised Statutes § 32-2199.01.

The Fine Notice will be mailed first class mail.

NOTICES FOR SUBSEQUENT VIOLATIONS OF THE SAME ASSOCIATION PROJECT DOCUMENT PROVISION WITHIN A SIX-MONTH PERIOD:

It is noted that the Association violates on a six-month reoccurring violation standard. Therefore, notwithstanding the foregoing provisions of these Enforcement Procedures, in the event of a subsequent violation by an Owner of the same provision of the Association Project Documents within six months of the date of the prior violation of such provision, the following shall apply:

1. if the Association has sent the Owner a Courtesy Notice as to such prior violation, the Association shall not be required to send the Owner a Courtesy Notice as to such repeat violation and shall start the notice process by sending a Violation Notice;
2. if the Association has sent the Owner a Violation Notice or a Fine Notice as to such prior violation, the Association shall not be required to send the Owner a Courtesy Notice or a Violation Notice as to such repeat violation and shall start the notice process by sending a Fine Notice; and
3. no cure period shall be included in any Fine Notice sent to an Owner for a subsequent violation by of the same provision of the Association Project Documents, and the noticed fine shall be effective as of the date of the Fine Notice subject to the Owner's appeal rights hereunder.

APPEAL PROCESS:

Any Owner who has received a Fine Notice shall have the opportunity to appear before or to the Board at the hearing as set forth in the Fine Notice to appeal the Board's decision that a violation exists and the imposition of fines therefor. The appeal process shall be as follows:

- Within sixty (60) calendar days following the date of the Fine Notice, the Owner may appeal the violation decision in writing (via the Owner's email address registered with the Association or certified letter) to the Board and request a hearing on the matter. The appeal request shall be addressed to the address of the Association set forth in the initial violation notice or emailed to pthoaappeals@sterlingrem.com . If the written hearing request is not received within such sixty (60) day period, the Owner's right of appeal shall terminate. If the appeal request is received as required above, any costs of enforcement and fines will be held in abeyance pending the hearing and lack of success by the Owner at the hearing will result in the accrued enforcement costs and fines becoming due and payable. Hearings will take place at the next regularly scheduled Board of Directors meeting held following the date of the Association's receipt of the written appeal and hearing request.
- The Owner shall have the right to appear at the hearing in person, virtually e.g. Zoom, GoToMeeting, etc.), or by a representative and to present any statement, evidence and witnesses and other pertinent information supporting the existence of extenuating circumstances which require deviation from enforcement of the provisions of the Project Documents.
- An Owner who timely exercises his or her appeal right shall be provided a written notice via the Owner's email address registered with the Association or certified mail 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 Owner fails to appear in person, virtually or by representative at such scheduled hearing, his or her appeal right shall be deemed waived.
- After completion of the hearing, the Board will excuse the Owner and, subject to the provisions of Arizona Revised Statutes § 33-1804(A)(5), will make its decision in Executive Session. The Owner will be informed in writing via the Owner's email address registered with the Association of such decision within ten (10) calendar days from the date of the hearing.
- In the event the Board confirms the violation, unless otherwise stated in the Board's written decision, the Owner must bring the violation into compliance within ten (10) days of the date of the Board's notice to the Owner of the Board's decision. If the violation is not corrected within ten (10) days after the date of the Board's notice to the Owner of the Board's decision, the fines set forth in the Fine Notice shall be imposed as set forth therein until the violation is corrected.
- **ALL DECISIONS OF THE BOARD AS TO THE HEARING ARE FINAL AND MAY NOT BE APPEALED.**

FINE POLICY:

- A fine may be assessed in accordance with the then effective Fine Schedule for an uncorrected violation of the Project Documents of the Association.
- The Board of Directors will determine the period for corrective action of a violation on a case-by-case basis.
- Fines are cumulative and will continue in accordance with the Fine Schedule without further written notice until the violation is corrected. The violation will be deemed corrected as of the date the Owner notifies the Board of the correction thereof unless the Board subsequently determines that the violation has not been corrected or that such date is not correct.

FINE SCHEDULE:

General Fine Schedule Provisions:

- Notwithstanding the provisions of this Fine Schedule, the Board at its sole discretion, may at any time, assess a fine in an amount up to \$2,000 for any incident the Board deems to be egregious, dangerous, that may threaten the life, health, safety, or welfare of any person, resident or Owner, or that causes detriment or damage to any Association or other Owner's property. The Board may levy this fine despite any past violation history or lack thereof.
- The Board of Directors shall consider the fines set forth in this Fine Policy and schedule to constitute damages sustained by the Association that are intended to compensate the Association for the administrative burden of addressing the violation and the adverse impact of the violation on the community.
- The Board of Directors reserves the right to deviate from the fine amounts set forth herein if, after a hearing on the matter, the Board finds good cause to modify the amount of the fine levied in a particular case. The Board also reserves the right to pursue any and all other remedies set forth in the Declaration at the same time or in lieu of levying the fines set forth in this Fine Policy.
- The Association retains the right to recover from the Owner the legal costs and fees incurred by the Association in enforcing the Association Project Documents.

Fines for Violations of Section 8.4 of the Declaration – “Noxious or Offensive Activities”:

- If the violation of Section 8.4 has not been corrected within fifteen (15) calendar days after the date of the related Fine Notice, the Owner shall be assessed a fine of \$320.00, and
- If the violation has not been corrected within fifteen (15) calendar days after the effective date of the imposition of the initial fine, the Owner shall be assessed an additional fine of \$320.00.
- If the violation has not been corrected within thirty (30) calendar days after the effective date of the imposition of the initial fine, the Owner shall be assessed an additional fine of \$320.00 and shall be assessed an additional fine of \$320.00 every fifteen (15) calendar days thereafter until the violation is corrected.

Fines for Violations of Section 8.7 of the Declaration – “Animals”:

- If the violation of Section 8.7 has not been corrected within fifteen (15) calendar days after the date of the related Fine Notice, the Owner shall be assessed a fine of \$100.00, and

- If the violation has not been corrected within fifteen (15) calendar days after the effective date of the imposition of the initial fine, the Owner shall be assessed an additional fine of \$100.00.
- If the violation has not been corrected within thirty (30) calendar days after the effective date of the imposition of the initial fine, the Owner shall be assessed an additional fine of \$100.00 and shall be assessed an additional fine of \$100.00 every fifteen (15) calendar days thereafter until the violation is corrected.

Fines for Violations of Section 8.23 of the Declaration – “Commercial and Recreational Vehicles”:

- If the violation of Section 8.23 has not been corrected within fifteen (15) calendar days after the date of the related Fine Notice, the Owner shall be assessed a fine of \$400.00, and
- If the violation has not been corrected within fifteen (15) calendar days after the effective date of the imposition of the initial fine, the Owner shall be assessed an additional fine of \$400.00.
- If the violation has not been corrected within thirty (30) calendar days after the effective date of the imposition of the initial fine, the Owner shall be assessed an additional fine of \$400.00 and shall be assessed an additional fine of \$400.00 every fifteen (15) calendar days thereafter until the violation is corrected.

Fines for Violations of All Other Provisions of the Project Documents:

- The initial fine amount shall be \$25.00.
- If the violation has not been corrected within fifteen (15) calendar days after the effective date of the imposition of the initial fine, the Owner shall be assessed an additional fine of \$50.00.
- If the violation has not been corrected within thirty (30) calendar days after the effective date of the imposition of the initial fine, the Owner shall be assessed an additional fine of \$100.00 and shall be assessed an additional fine of \$100.00 every fifteen (15) calendar days thereafter until the violation is corrected.
- At any time, in lieu of such stepped fine schedule, the Board may impose (i) a daily fine in the amount of \$50.00 for each day a violation continues where the Board determines that due to the nature of the violation such a daily fine is appropriate or (ii) a reasonable lump sum fine that the Board determines is appropriate due to the nature of the violation.

Fines for Subsequent Violations of the Same Association Project Document Provision within a Six-month Period:

Notwithstanding the foregoing provisions of these Enforcement Procedures, in the event of a subsequent violation by an Owner of the same provision of the Association Project Documents within six months of the date of the prior violation of such provision, the amount of each of the fines for a subsequent violation by such Owner of the same provision of the Association Project Documents shall be two times the amounts of the fines for the initial violation or such other amount as determined appropriate by the Board

GENERAL:

These Enforcement Procedures are intended as a guideline for the Association. Excepting only the amounts set forth in the Fine Schedule as to any particular violation by an Owner, the Board retains the right to vary the enforcement process when it in its sole discretion determines that any such variance is appropriate. The Board further retains the right to amend or replace all or any portion of these Enforcement Procedures. The assessment of fines by the Association does not relieve the Owner from the obligation to correct the violations or comply with Association Project Documents. These Enforcement Procedures and the remedies set forth herein do not constitute an election of remedies by the Association which reserves all such remedies available at law and in equity. The Association shall have the right to enforce the Association Project Documents through any other remedies available to the Association concurrently with the Enforcement Procedures set forth herein and may at any time exercise the option to pursue corrective action through legal means. All enforcement costs and charges incurred by the Association in carrying out these Enforcement Procedures shall be posted on the Owner's ledger and be payable by such Owner upon demand from the Association.

IN WITNESS WHEREOF, these Enforcements Procedures of Ponderosa Trails Homeowners Association, Inc. are adopted as revised on July 12, 2023.

President
Ponderosa Trails Homeowners Association, Inc.

SECRETARY'S CERTIFICATE

The undersigned does hereby certify that:

He/She is the duly appointed or elected Secretary of the Ponderosa Trails Homeowners Association, Inc., an Arizona nonprofit corporation; and

The foregoing Enforcement Procedures constitute the Enforcement Procedures of Ponderosa Trails Homeowners Association, Inc. as revised by the Board of Directors of Ponderosa Trails Homeowners Association, Inc. at a duly called and held Board meeting on July 12, 2023.

The foregoing Enforcement Procedures were sent to all of the Owners of record by mail and/or e-mail blast on _____.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand as of this _____ day of _____ 2023.

Secretary
Ponderosa Trails Homeowners Association, Inc.