

**De Anza Links HOA**  
**Violation Process & Penalty Policy**  
*Approved April 17, 2020*

I. **Friendly Reminder**

In most cases, and when appropriate, as determined by the Association Manager, the first notification to a Homeowner of their violation of the CC&R's or a Rule will be by means of a "**Friendly Reminder**" (postcard or letter) requesting compliance with the Governing Documents within a specified period of time. The Association Manager will issue the Reminder.

II. **Notice of Violation**

If the Homeowner fails to cure the violation within the time requested in the **Friendly Reminder**, the Association, thru the Management Company, will provide written **Notice of the Violation** together with a request to cease and desist from the alleged violation(s) to the Homeowner of the Lot which may be sent via regular mail and shall specify the relevant facts relating to the violation

Pursuant to ARS §33-1803, the Notice of Violation shall include a written statement signed by the complaining Member or the Property Manager which contains:

1. The Name of the complaining party or Property Manager;
2. The provision or provisions in the Declaration or Rules that has allegedly been violated; and
3. The date or dates of the alleged violations.

If the Homeowner is leasing his/her home, the Association may provide a copy of the Notice of Violation to the Homeowner's tenant. The Board may begin the process with the **Notice of Violation**, bypassing the **Friendly Reminder**. The Board may deviate from any guidelines herein based on the application of the factors contained in paragraph VI below.

III. **Definition – Continuing Violation(s)**

Each day a violation(s) continues after notice to cease has been given by the Board through the Management Company to the Homeowner constitutes a separate violation and can be subject to a fine.

IV. **Notice of Hearing**

In its discretion, the Board may decide to send the Homeowner a written "**Notice of Hearing**". The notice should contain:

- a. The nature of the alleged violation(s);
- b. The time and place of the hearing, which shall be not less than seven (7) days from the date of the notice;

- c. An invitation to attend the hearing and produce any statement, evidence, and witnesses on his or her behalf; and
- d. The proposed sanction to be imposed, which includes the imposition of a fine and the payment of any attorney fees incurred by the Association-
- e. After notice and an opportunity to be heard, the Board of Directors may impose reasonable monetary penalties on members for violations of the Declaration or Rules of the Association.

V. **Hearing**

- a. The hearing shall be held pursuant to the Notice of Hearing. The complaining Member and the Homeowner shall be afforded a reasonable opportunity to be heard. In cases in which a complaining Homeowner initiated the process, the Board shall evaluate the proof according to protocol adopted by the Board.
- b. Before any sanction becomes effective, the Association shall submit proof of the notice and the invitation to be heard.
- c. Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered into the Homeowner's lot file.
- d. The notice requirement is satisfied if the Homeowner appears at the meeting.
- e. The minutes of the meeting shall contain a written statement of the results of the hearing and the sanctions. (If the hearing is held before the Covenants Committee, then sanctions, if any, are to be recommended to the Board.)

VI. **Imposition of Fines or any other Sanction(s)**

- a. Fines – At the conclusion of the hearing, the Homeowner may be excused from the hearing and the Board of Directors shall deliberate on the amount of the fine to be imposed, if any, based on:
  - The seriousness of the violation(s)
  - Whether this is a first violation or a continuing violation(s)
  - Whether the type of offense poses a danger to property or any person
  - Any other extenuating circumstances and whether the Homeowner agrees in good faith to correct the violation(s) within the time specified by the Board of Directors
  - Whether the amount is sufficient to obtain compliance based on the facts
  - Impact on property values
  - After the Board of Directors determines the amount of the fine, the Board of Directors shall send notice to the Homeowner of the amount of the fine and its due date
  - The Board of Directors is empowered to impose a fine for each day that the violation(s) continues. **See ATTACHMENT A – Fines Guidelines**
  - **The attached *Fines Guidelines* are not binding. The Board of Directors may impose a fine in any reasonable amount, based on the application of the factors above.**

- b. Costs – Homeowners to whom certified mail notices are sent shall be assessed the Management Company’s charge to the Association for the mailings. Owners may also be assessed an administrative processing charge in an amount established by the Board.

**VII. Request for Reconsideration to the Board of Directors**

- a. The Homeowner may request reconsideration by the Board of Directors.
- b. In order to schedule an appearance before the Board, the Homeowner must submit a written request to the Association Manager within seven (7) days of receipt of notice of the sanctions.
- c. The meeting shall be scheduled and the Homeowner notified of the date, time and location via **certified and regular mail**.
- d. The meeting will be held in **Executive Session** pursuant to the Notice of Hearing and the Homeowner shall be afforded a reasonable opportunity to be heard.
- e. At the end conclusion of the meeting, the Homeowner 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 Board shall send a written notice to the Homeowner of its ruling.
- g. The ruling of the Board will be final.

**VIII. Payment of the Fine and/or Penalties**

The Board shall advise the Homeowner 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 from the Homeowner.

# ATTACHMENT A

## ***FINES GUIDELINES***

1. No fine shall be assessed until the Homeowner, who has committed a violation, has been given the due written notice and an opportunity for a hearing.
2. Presumptive fines are as follows:

• Parking in unauthorized space	\$ 25
• Parking on property, other than driveway	\$100
• Debris on Owners' lot	\$ 25
• Failure to submit ARC request for approval or to comply with corrective action	\$100
3. The Board shall also have the authority to increase the presumptive fines above for additional violations of the same nature.
4. Charges for the late payment of assessments are limited to the greater of fifteen dollars (\$15) or ten percent (10%) of the amount of the unpaid assessment and may be imposed only after the association has provided notice that the assessment is overdue or provided notice that the assessment is considered overdue after a certain date. Any monies paid by the member for an unpaid assessment shall be applied first to the principal amount unpaid and then to the interest accrued.
5. Monetary fines for other violation(s) of the governing documents (CC&R's) and/or Rules and Regulations of the Association may be as follows:

• First violation	\$ 25
• Second violation (of the same nature)	\$ 50
• Third violation (of the same nature)	\$100
• Each violation after the third (of the same nature)	\$250
5. An additional fine that accrues each day may be assessed after the aforementioned fines have been assessed if the violation is a continuing one (**Example:** A Homeowner installs an improvement without ARC approval. A first violation fine of \$100 assessed. If the violation continues uncorrected, an additional fine in a reasonable amount would be assessed for each day until the violation ceases. The Homeowner ultimately corrects the violation. The Homeowner installs another improvement without ARC approval. A second violation fine of \$100 is assessed. If the violation continues uncorrected, an additional daily fine could be imposed until the violation ceases.)
6. The amounts of the:
  1. presumptive fines above;
  2. other fines;
  3. daily fines; and
  4. increasing fines of similar violations are mere guidelines.

The Board shall have the specific authority to deviate from these guidelines by applying the factor below

- The seriousness of the violation(s)
- Whether this is a first violation or a continuing violation(s)

- Whether the type of offense poses a danger to property or any person
  - Whether the Homeowner agrees, in good faith, to correct the violation within the time specified by the Board of Directors
  - Whether the amount is sufficient to obtain compliance based on the facts
  - Impact on property values
  - Any extenuating circumstances
7. The Board may impose non-monetary penalties in lieu of or in addition to the fines above including, but not limited to, the suspension of Member voting rights pursuant to Arizona statutes.
  8. It is the obligation of the Homeowner to advise the Association in writing (email acceptable) that the violation has been remediated