Prescott Summit Property Owners Association

**Enforcement Procedures**

**Adopted: March 15, 2018**

**Effective: April 01, 2018**

The Enforcement Procedures for violations of the Declaration, the Bylaws, the Rules and Regulations and the other governing documents of the Prescott Summit Property Owners Association shall be imposed according to the procedures set forth as follows:

##### **Complaint / Violation Process**:

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, the property address and the identity of the alleged violator, if known. A Complaint from a member is considered filed when the written Complaint is received by a member of the Board or the Board President.

Any Complaint received by the Board shall be forwarded to the Board’s President. As used herein the term “Board” means the Association’s Board of Directors or Board President. In all cases who ever receives the Complaint, the recipient thereof must forward a copy of the Complaint to the Board. Upon its receipt of a Complaint, the Board 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 Board determines that there is reason to believe that the conditions complained about actually exist it shall attempt to contact the property owner and try to resolve the Complaint informally.

If the violation is informally resolved, the Board shall document in writing for the related property file what the alleged violation was and how the issue was resolved. If the Board is unable to resolve the violation informally, the following enforcement process will begin.

**COURTESY NOTICE:**

In the event the Board determines that a violation of the Association’s governing documents exists and such violation is not informally resolved, a written notice may be sent by first class mail to the Property 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. The Courtesy Notice shall include at a minimum the following information:

* The provisions of the governing documents that have been violated;
* The date of the violation or the date the violation was observed;
* The date by which the violation must be corrected. After ten (10) calendar days from the date of the Courtesy Notice, fines will begin to be assessed if violation has not been addressed.
* A description of the process the property owner must follow to contest the violation notice.
* If there are any issues the Board should be made aware of, the property owner is encouraged to contact the Board at the time of receipt of the courtesy notice so that a workable schedule may be agreed to between the owner and the Board. The mutually agreed to schedule will be signed by both parties.

**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 property owner via first class mail. The Violation Notice shall include at a minimum the following information:

* The provision of the governing documents that has been violated;
* The date of the violation or the date the violation was observed;
* The date of any Courtesy Notice;
* The date by which the violation must be corrected;
* The right of the property owner to petition for an administrative hearing on the violation in the Arizona Department of Real Estate pursuant to Arizona Revised Statutes Section 32-2199.01; and
* The fact that a fine to be determined by the Board of Directors may be imposed for failure to correct the violation by the required deadline.

**FINE NOTICE:**

Depending on the violation, the Board in its sole discretion may determine that a Courtesy Notice and/or a Violation Notice will not be sent to the property owner and may commence the enforcement process with the mailing of a Fine Notice. If the violation has not been corrected by the date set forth in any Violation Notice, or 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 property owner a Fine Notice which shall include the following information:

* The provision of the governing documents that has been violated and 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 dates the Courtesy Notice and the Violation Notice, if any, were sent to the property owner;
* The right of the property owner 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 ten (10) 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 governing documents; and
* The right of the property owner to petition for an administrative hearing on the violation in the Arizona Department of Real Estate pursuant to Arizona Revised Statutes Section 32-2199.01.

The Fine Notice will be mailed certified mail, return receipt requested, and first class mail.

**APPEAL PROCESS:**

Any property owner who has received a Fine 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 property owner. The appeal process shall be as follows:

* Within ten (10) calendar days following the date of the Fine Notice, the property owner 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 property owner’s right of appeal shall terminate as of the end of the tenth day.
* The property owner shall have the right to appear at the hearing in person or by a representative and to present all pertinent supporting information.
* A property owner 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 property owner 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 property owner will be informed in writing of such decision within ten (10) calendar 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 fine shall be retroactive to the date set forth in the Fine Notice.
* All decisions of the Board as to an appeal hearing are final and may not be appealed.

**FINES:**

* A fine may be assessed in accordance with the then effective Fine Schedule for an uncorrected violation of the governing documents of the Association.
* In the event of a subsequent violation by a property owner of the same provision of the governing documents within twelve (12) months of a previous violation of such provision, all fines for each such violation shall be doubled and a fine will be assessed for each violation that has occurred during that period.
* 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 without further written notice until the violation is corrected. The violation will be deemed corrected as of the date the property 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.
* At any time, the Board may exercise the option to pursue corrective action through legal means.

**FINE SCHEDULE:**

* **Level 1 Infraction(s)**:

Examples to include but not limited to;

 Parking in yard..

 Lights not working on required mailboxes.

 Failure to control pet noise.

 Not obeying leash laws.

Within 10 calendar days of non-compliance - $50.00

Within 15 calendar days of non-compliance - $100.00

Within 30 calendar days of non-compliance - $150.00

 If violation(s) not resolved after 30 calendar days there will be an additional fine of $10.00

 per day levied.

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* **Level 2 Infraction(s):**

Examples to include but not limited to;

 Failure to receive approval of any exterior changes to your home and yard area.

 Failure to abide by CCR’s, Bylaws, and Design Guidelines before construction of new

 home.

Within 10 calendar days of non-compliance - $150.00

Within 15 calendar days of non-compliance - $300.00

Within 30 calendar days of non-compliance - $450.00

If violation(s) not resolved after 30 calendar days there will be an additional fine of 25.00

per day levied.

* **Level 3 infraction(s)**

Examples to include but not limited to:

 Failure to maintain vegetation on property per CCR’s - Article II, Section 5.

 Failure to come into compliance with Firewise standards.

 Home requires extreme maintenance or repairs.

Within 10 calendar days of non-compliance - $150.00

Within 15 calendar days of non-compliance - $450.00

Within 30 calendar days of non-compliance - $750.00

If violation(s) not resolved after 30 calendar days there will be an additional fine of $25.00

per day levied.

**GENERAL:**

These Enforcement Procedures are intended as a guideline for the Association. 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 property owner from the obligation to correct the violations or comply with Association governing 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 governing documents through any other remedies available to the Association concurrently with the Enforcement Procedures set forth herein.