

**RESOLUTION OF THE BOARD OF DIRECTORS
CASA DEL CIELO HOMEOWNERS ASSOCIATION
ADOPTED January 7, 2021**

This resolution is adopted by the Board of Directors of CASA DEL CIELO HOMEOWNERS ASSOCIATION pursuant to Arizona Revised Statutes §33-1242, which provides that the Association's Board of Directors is entitled to impose fines for violation(s) of the Declaration of Covenants, Conditions and Restrictions (CC&Rs) and any rules adopted by the Board of Directors. The procedure for imposing fines for such violation(s) is set forth below and supersedes any other such procedure previously adopted by the Board. This policy is presumptive for all violations. In its discretion, the Board may deviate from the policy depending on the facts and circumstances of an individual violation. Written notice will be sent to the Homeowner(s) at the mailing address as it appears on the records of the Association at the time of notice.

- I. FIRST NOTICE: “Friendly Reminder”** - in most cases, and when appropriate as determined by the Association Manager or the Board, the first notification to a Homeowner of their violation of the CC&Rs or a rule, will be by means of a “friendly reminder” letter. The Association Manager will issue the letter - **NO FINE IMPOSED.**
- a. The notice shall include:
- The nature & date of the violation.
 - The date for correction of the violation.

If the violation is not corrected within the time period specified in the first notice, a second notice will be sent. The second notice shall be a Notice of Violation letter with a **monetary penalty imposed**, to be determined by the Board.

EXCEPTION: FAILURE TO SUBMIT AN ARCHITECTURAL REQUEST AND RECEIVE DESIGN REVIEW BOARD (DRB) APPROVAL PRIOR TO WORK COMMENCING WILL RESULT IN APPLICATION OF CC&R 9.7 WHICH ALLOWS THE DRB TO ASSESS A FINE OF UP TO \$100 PER DAY.

- II. SECOND NOTICE: “Notice of Violation”** - A written “**Notice of Violation(s)**” may be sent to the Homeowner of the property via regular mail and email and shall specify the relevant facts relating to the violation. Pursuant to ARS §33-1242, the **Notice of Violation** shall include a written statement signed by the Property Manager that contains:
- a. The notice shall include:
- The name of the complaining HOA Member or Property Manager.
 - The nature and date of the violation.
 - The date for correction of the violation.
 - The fact that a monetary penalty has been imposed and the amount of the monetary penalty.
 - The manner in which the Homeowner will be provided an opportunity to be heard with respect to the violation and for the monetary penalty.
 - The Association may impose future monetary penalties for failure to correct the violation by the stated deadline or for repeated violations of the same rule, as determined by the Board.

If the violation is not corrected within the given date or if the same violation reoccurs within a 90-day period of the previously written notice, a third notice will be sent with a **\$75.00 monetary penalty**.

III. THIRD NOTICE: “Continuing Violation” - Each day a violation(s) continues after notice to cease has been given by the Board to the Homeowner constitutes a separate violation(s) and can be subject to a fine.

a. The notice shall include:

- The nature and date of the violation.
- The date for correction of the violation.
- The fact that a monetary penalty has been imposed and the amount of the monetary penalty.
- The manner in which the Homeowner will be provided an opportunity to be heard with respect to the violation and for the monetary penalty.

Definition - Continuing Violation: each day a violation(s) continues after notice to cease has been given by the Board to the Homeowner constitutes a separate violation(s) and can be subject to a fine.

If the violation is not corrected within the given date or if the same violation reoccurs with a 90-day period of the previously written notice, a fourth notice will be sent with a **\$100.00 FINE**.

IV. FOURTH NOTICE:

a. The notice shall include:

- The nature and date of the violation.
- The date for correction of the violation.
- The fact that a monetary penalty has been imposed and the amount of the monetary penalty.
- The manner in which the Homeowner will be provided with an opportunity to be heard with respect to the violation and/or the monetary penalty.
- The fact that a monetary penalty will be imposed for failure to correct the violation or for repeated violations of the same rule as determined by the Board and the fact that the Association legal counsel may be asked to pursue compliance.

If the Homeowner is leasing his/her home, the Association may provide a copy of the Notice of Violation(s) to the Homeowner's tenant. In the Board's discretion and based on the facts, the Board may begin the process with the Notice of Violation or Notice of Hearing. The Board may deviate from any guidelines herein based on the application of the factors contained in paragraph V below.

- V. **"Notice of Hearing"** - In its discretion, the Board may decide to send the Homeowner a written **"Notice of Hearing."** Based on the facts, the Board may start the process with the Notice of Hearing.
- a. The notice should contain:
- The nature of the alleged violation(s);
 - The time and place of the hearing, which shall be not less than seven (7) days from the date of the notice;
 - An invitation to attend the hearing and produce any statement, evidence, and witnesses on his or her behalf;
 - The proposed sanction to be imposed, which includes the imposition of a fine and the payment of any attorney fees incurred by the Association.

In the alternative, the Board may put the burden on the Homeowner to request a hearing within a defined deadline. The Board may impose a fine without a hearing in the event the Homeowner does not timely request a hearing.

VI. **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 any, to be recommended to the Board.

VII. **Imposition of Fine and any other Sanctions.**

- (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. Homeowners may also be assessed an administrative processing charge in an amount established by the Board.

VIII. 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 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.

IX. Uncured Violations:

- a. Violations that remain uncured will be disclosed on resale.
- b. Violations that remain uncured will receive a "demand to pay fine by certain date" letter instituted by legal counsel.
- c. Continued disregard will initiate the filing of a lawsuit in Superior Court for injunction (Court order to comply)
- d. If permitted by the Declaration, a Notice of Violation will be made against the Lot.

IX. 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.

X. Collection: fines and penalties will be collected from the Owners.

XI. Effective Date: the effective date of this resolution is 7 Jan., 2021.

DATED this 7 th day of Jan 2021.

CASA DEL CEILO HOMEOWNERS ASSOCIATION

By: Maane E. Imker, President

Attest: Dorez Hantz, Secretary

ATTACHMENT A - FINES GUIDELINES

1. No fine shall be assessed until the Homeowner who has committed a violation has been given due written notice and an opportunity for a hearing.

EXCEPTION: FAILURE TO SUBMIT AN ARCHITECTURAL REQUEST AND RECEIVE DESIGN REVIEW BOARD (DRB) APPROVAL PRIOR TO WORK COMMENCING WILL RESULT IN THE APPLICATION OF CC&R 9.7 WHICH ALLOWS THE DRB TO ASSESS A FINE OF UP TO \$100 PER DAY.

Presumptive fine examples include, but are not limited to the following:

- Failure to pick up animal waste: \$50.00 (within CDC or its common areas/surrounding hardscapes)
 - Inoperable vehicles: \$100.00
 - Parking or storing Recreational Vehicles or Boats visible from neighboring property: \$150.00
 - Failure to comply with ARCH request for corrective action: \$100.00
 - Sorts equipment left unattended and not in use on the property: \$25.00
 - Weeds/landscape: \$25.00
 - Trashcans: \$10.00 per day
 - Patio/ courtyard clutter: \$25.00
 - Noise: \$50.00
 - Vandalism: \$400.00 and/or cost to cure
 - Rental violations: \$250.00 or the amount of the rent.
 - Speeding within the community/driving in an unsafe manner: \$50.00
2. The Board shall also have the authority to increase the presumptive fines above for additional violations of the same nature.

3. Monetary fines for other violation(s) of the governing documents and/or rules and regulations of the Association may be as follows:

- First violation \$0
- Second violation (of the same nature) \$50
- Third violation (of the same nature) \$75
- Each violation after the third (of the same nature) \$100

4. 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 factors 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(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.

5. 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 Homeowner voting rights; the suspension of the use of amenities; or placing violation stickers on wrongfully parked vehicles.

6. It is the obligation of the Homeowner to advise the Association in writing that the violation has ceased or been remedied.