

High Country West Homeowners Association Policy and Practices For Member Discipline

I Purpose of the Policy

The purpose of this policy is to define the notification and appeals process for a property owner that may be or has been found to be in violation of the Governing Documents (defined as all CC&Rs, Bylaws, Rules, Policies and Architectural Guidelines) of the High Country West Homeowners Association. This policy also defines the Monetary Penalty Schedule for each outstanding violation. The following policy will apply to all violations and infractions of the Governing Documents.

The ultimate objective of this policy is to achieve voluntary compliance by all owners and residents for the benefit of the entire community.

II Notification of Disciplinary Action

The High Country West Board of Directors, manager, or committee appointed by the Board may note any violations discovered during drive-through or by personal knowledge of any of its members or representatives. Owners may also report violations to management or the Board of Directors by submitting a written notice describing the violation. The High Country West Architectural Committee (hereafter referred to as the “Committee”) is responsible for the monitoring of architectural improvements or modifications within High Country West for compliance with the Governing Documents of the Association.

At the time a violation is noted or reported, the Association may, but is not required, to contact a property owner by phone or in-person warning of a violation by the owner, family, tenants or guests. In the alternative, the Association shall contact the property owner in writing at his or her last known address as shown in the Home Owners Association’s records. The notice will contain a description of the violation, instructions regarding response to the notice and correction of the violation.

Under circumstances involving conduct that constitutes (a) an immediate and unreasonable infringement of, or threat to, the safety or quiet enjoyment of neighboring owners; (b) a traffic or fire hazard; (c) a threat of material damage to, or destruction of, the common area or other Lots, or (d) the status of any prior violation(s) for the same or similar offense, the Association, in its sole discretion, may forego an initial warning and contact the appropriate civil authorities, undertake immediate corrective action, and conduct a hearing as soon thereafter as possible, without a courtesy warning.

Property owners are responsible not only for their own conduct, but also for the conduct of their families, tenants, invitees, contractors, pets and guests. The Association will initiate and direct all warnings and disciplinary procedures to the property owner who is responsible for the person committing the violation.

- (a) After the initial courtesy warning above (if one is issued), if the violation continues or is repeated, the Association will send a second notice of violation and call to a hearing. No discipline shall be imposed upon a property owner under this policy until the Board has reviewed all documentation and a finding related to the violation and the owner has been called to a hearing. The review of findings will be during a scheduled hearing before the Board of Directors. Written notice of the hearing will be given to the property owner at least ten (10) days prior to the date of the hearing. Delivery of the notice will be via First Class Certified Mail, Return Receipt.

The notice of hearing (second notice) will specify the nature of the alleged violation / complaint against the property owner, the proposed discipline, and the time, date and place the Board meeting will be held. The notice will also inform the property owner that he or she will have the right to attend the Board meeting and address the Board, either orally or in writing. After review, the Board will determine whether any discipline will be imposed and, if so, what the discipline will be.

- (b) The Board's review of findings need not be conducted according to technical rules related to evidence and witnesses. Any relevant evidence may be considered, and the Board may determine if it is the sort of evidence on which reasonable persons ordinarily rely in the conduct of their affairs, regardless of the existence of any common law or statutory rule which might make the admission of such evidence improper in court. Irrelevant or repetitious evidence may be excluded.
- (c) The property owner shall have the right, as is reasonable in the circumstances, to present information to the Board in his or her own behalf, to call and examine witnesses, to introduce exhibits, to rebut the evidence against him or her, and to present such oral and written evidence and argument as he or she wishes. The property owner may choose not to attend the hearing and may instead submit any evidence or statements to the Board in writing.

- (d) Should the property owner choose to attend and to submit evidence or statements to the Board but is unable to attend on the date specified, the owner may submit a written request for postponement. The request must include the reason(s) for the postponement and must be hand-delivered to the High Country West Property Manager's Office at least five (5) business days prior to the scheduled meeting. Postponement requests will be received by the Property Manager's Office only during normal business hours. The request for postponement shall be considered approved unless otherwise notified in writing by the Property Manager. The review of findings will be rescheduled for the subsequent Board of Director's meeting. The property owner is limited to one (1) request for postponement.
- (e) The review of findings shall be made in executive session and the Board shall exclude witnesses (other than the accused property owner and the person(s) committing the violation) from the executive session except for the time during which they are testifying.
- (f) Unless the amount at stake exceeds the maximum limit of the small claims court, no party shall be entitled to legal counsel during the executive session.

III **Remedies of the Board**

Article XII of the High Country West Declaration of Restrictions governs all enforcement procedures.

If the Board concludes the alleged violation occurred, the Board may impose monetary penalties and suspend membership rights, including voting and common area privileges.

The Board shall inform the Owner by written notice of any disciplinary judgments imposed within fifteen (15) days of the decision, or within such other time period as may be provided in Civil Code Section 5855, as amended from time to time. However, the effective date of discipline imposed shall not be any earlier than five (5) days after the date of the meeting or until receipt of written notice of decision, whichever occurs later. An Owner shall be deemed to have received a notice of decision two (2) business days after mailing such notice. Delivery of the document will be pursuant to Civil Code Section 4040 (First Class Certified Mail, Return Receipt).

IV
Monetary Penalty Schedule

For every month or fractional month after the Board of Directors has issued the discipline directive, for continuing and uninterrupted violations (e.g., architectural violations), an increasing fine will be assessed until the violation has been remedied, without further notice and hearing. The maximum fine will be one hundred dollars (\$100.00) for the first month and will increase by fifty dollars (\$50.00) for each subsequent month up to a maximum monthly fine of Three Hundred Dollars (\$300.00). A fine will be assessed until the continuing violation has been resolved to the satisfaction of the Board of Directors.

Maximum Penalty Schedule:

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| First Month ----- | \$100.00 |
| Second Month ----- | \$150.00 (\$100 + \$50) |
| Third Month ----- | \$200.00 (\$100 + \$50 + \$50) |
| Fourth Month ----- | \$250.00 (\$100 + \$50 + \$50 + \$50) |
| Fifth Month ----- | \$300.00 (maximum monthly) |
| Sixth Month ----- | \$300.00 (maximum monthly) |
| Repeated Violation ---- | Add \$50 (e.g., 2nd violation is \$150; 3rd violation is \$200) (maximum monthly not to exceed \$300.00) |

Failure to return completed Violation Notification “Resolution Response Form” -- \$50.00

All fine(s) will be added monthly to the homeowner’s assessment bill. If the cumulative amount of the fine has not been paid in full at the end of six months, court action to collect may be initiated. After six months the Board reserves the right to take any other form of legal action it deems necessary to gain compliance. Nothing shall prevent the Board from initiating legal action prior to the six month period if the Board believes it is necessary to do so to protect the Association’s rights or other interests. The Board may refer a matter to the Association’s legal counsel at any time. If required by Civil Code sections 5925, alternative dispute resolution will be offered. If a lawsuit is filed, the owner may be liable for the Association’s legal costs and fees.

The Board may also add to the fine or penalty the Association’s actual out-of-pocket costs for investigating or correcting the violation, or to achieve the property owner’s compliance with the Association’s Governing Documents. Assessed out-of-pocket cost (fee) for not responding to a Violation Notification letter by returning the Resolution Response Form shall not exceed an amount of fifty dollars (\$50.00). The fee will cover additional costs incurred by the Association for the investigation and administration related to the violation.

A property owner may have multiple fines issued concurrently for multiple violations. Each violation will be considered as separate actions against the property owner.

If the same or similar violation recurs, the recurring violation will be considered a repeated violation subject to increasing fines after notice and hearing. The Board may notify the offending homeowner of the recurrence and continue the fine schedule from the prior violation.