



## VACTOR RANCH COMMUNITY ASSOCIATION ENFORCEMENT POLICY

This Enforcement Policy has been duly adopted by the Board of Directors of Vactor Ranch Community Association (the "Association") pursuant to ARS §33-1803 of the Arizona Planned Communities Act and Section 8.03 of the Declaration of Covenants, Conditions and Restrictions of Vactor Ranch (the "CC&Rs").

1. Reporting a Violation. See attached Exhibit A.
2. Courtesy Notification. If the condition of a Lot is in violation of the CC&Rs or the Association's Rules, as noted by or reported to the Association, the community manager will contact the Owner in writing (via email, hand delivery or U.S. Postal Service). The Owner will be informed of the violation and asked to correct it within a reasonable time based upon the seriousness of the violation, but not more than 30 days. If the violation warrants an immediate notice of violation in the opinion of the community manager, the courtesy notification will be omitted.
3. Notice of Violation. If the Owner fails to correct the violation on his/her Lot as requested in the courtesy notification or has not made alternative arrangements with the Association for compliance, or if the courtesy notification has been deemed omitted as set forth in Paragraph 2 above, a notice of violation will be sent to the Owner (via first class mail) with a timetable for corrective action, which will be at least 21 calendar days from the date of the notice. If the Owner is renting the Lot, the Association may provide a copy of the notice of violation(s) to the Owner's tenant; however, the Owner is the party responsible to the Association for violations of the CC&Rs or Rules involving his/her Lot or the occupants of the Lot.
4. Contents of Notice of Violation. The Association's notice of violation shall provide at least the following information:
  - a. The rule or restriction that allegedly has been violated.
  - b. The date of the violation or the date the violation was observed.
  - c. A copy of this Enforcement Policy to assure the Owner is aware of the process he/she must follow to contest the notice.
  - d. Notice of the Owner's option to petition for an administrative hearing on the matter in the Arizona Department of Real Estate pursuant to ARS §41-2198.01.
5. Contesting the Notice of Violation. If the Owner wishes to contest the notice of violation, he/she shall provide a written response by certified mail within 21 calendar days after the date of the Association's notice of violation, which shall include a request for any additional information he/she requires. This response shall be sent to the management company at the address shown on the notice of violation.

6. Response by Association to Owner. Within 10 business days after receipt of the Owner's response, the community manager shall respond to the Owner with a written explanation regarding the notice of violation, and shall provide any additional information the Owner reasonably requires in addition to the first and last name of the person(s) who observed the violation.

7. Alternative Enforcement Options. After the procedures in Paragraphs 5-6 are completed, or after the 21-day response period set forth in the first notice of violation (if the Owner has not responded in accordance with the procedures in this Enforcement Policy), the Board may choose to follow the procedures set forth in Section 4.04 of the CC&Rs and use "self help" to correct the violation(s) on the Lot. Alternatively, the Board may refer the matter directly to the Association's attorney for further action in accordance with Section 8.03(A) of the CC&Rs. If the Board elects to use self-help or to refer the matter to the Association's attorney, Paragraphs 8-17 below do not apply.

8. Notice of Hearing. After the procedure in Paragraphs 5-6 is completed and if the non-compliance still has not been cured, or if the Owner subsequently violates the same rule or restriction, the Association may send the Owner a "Notice of Hearing" via certified mail, return receipt requested and first class mail, wherein the Owner will be invited to attend the next Board meeting and have an opportunity to be heard before further enforcement action is taken, which may include the imposition of a monetary penalty. The date, time and location of the hearing shall be stated in the Notice of Hearing.<sup>1</sup>

9. Designated Representative. An Owner may present to the Board (prior to or at the hearing) written notification that another person is the Owner's designated representative. A designated representative may speak on behalf of the Owner.

10. Procedure for Hearing. The hearing will be held in executive session prior to the beginning of the open Board meeting or at a special Board meeting, unless the Owner requests the hearing takes place in an open meeting. Procedure for the hearing will be set by the Board of Directors. The Owner and his/her designated representative will be informed of the procedure before the hearing begins. The Owner and/or his/her designated representative will be given an opportunity to present supporting documentation and testimony to show cause why further enforcement action should not be authorized by the Board, which could include the levy of a monetary penalty and/or referral of the matter to the Association's attorney.

11. Proof of Delivery of Notice. Proof of delivery to the Owner of the Notice of Hearing 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 minutes of the hearing, by the officer, director, or agent who mailed or delivered the Notice.

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<sup>1</sup> Before the community manager sends a Notice of Hearing, the Board members must be consulted and a day shall be chosen when a Board Quorum (currently at least 3 Board members) can be present.

13. Imposition of Monetary Penalty. At the conclusion of the hearing, the Board will excuse the Owner and determine whether a violation has occurred, whether a monetary penalty should be imposed, the amount of such monetary penalty, which may be based on:

- a. the seriousness of the violation;
- b. the effect that the violation has on other residents;
- c. whether this is a first violation or a continuing violation;
- d. whether the type of offense poses a danger to property or any person;
- e. whether the Owner agrees to abate the violation within the time specified by the Board;
- f. any other factors deemed relevant by the Board of Directors.

14. Procedure if Owner or Representative Does Not Appear. If the Owner or his/her designated representative does not appear at the hearing, they shall be deemed to have waived their right to a hearing, and the Board may levy a monetary penalty, take other enforcement action, and/or refer the matter to the Association's attorney for further action.

15. Schedule of Monetary Penalties:

- a. If the Board determines that a monetary penalty is appropriate, the Owner will be charged \$100 as an initial penalty. If the infraction continues unresolved, the monetary penalty shall be increased by \$100 per month until resolved, i.e. first month = \$100, second month = \$200, third month = \$300. When total unpaid monetary penalties reach \$800, the account may be referred for collection and all collection fees and costs shall be added to the amount due.
- b. Monetary penalties for speeding and other repetitive violations shall be imposed per infraction rather than per month.
- c. Monetary penalties for violations that require timely compliance, such as overgrown weeds, shall be imposed weekly but the Board will follow the same schedule of increasing the amount of the penalty each month (i.e., first through fourth week = \$25 per week, fifth through eight week = \$50 per week, ninth week to twelfth week = \$75 per week).
- d. As an additional sanction, the Board may require the Owner to reimburse the Association for any attorney fees or other costs incurred by the Association which relate to the violation and/or the hearing.
- e. The Board may impose a monetary penalty for any subsequent violations within the ensuing twelve months by the Owner of the same rule or restriction that was the subject of the hearing, without the necessity of holding another hearing;

16. Board's Decision. Notice shall be sent to the Owner within 10 business days after the date of the hearing, stating the Board's decision, including the amount of any monetary penalty or other enforcement action that may have been imposed by the Board, and its due date or date of implementation.

17. Delinquency of Penalty. Any monetary penalty imposed, which has not been paid within 30 days after its stated due date, shall be delinquent, and a late charge of \$15.00 or 10% of the penalty, whichever is greater, shall be added to the penalty.

18. Collection of Penalties. The Association shall have a lien for penalties and associated late charges, attorney fees and costs, imposed for violation of an Association rule or restriction, after the entry of a judgment in a civil suit for penalties, late charges and associated attorney fees and costs, by a court of competent jurisdiction, and the recording of that judgment in the office of the Pima County Recorder. This lien shall be effective on conveyance of any interest in the subject Lot. The Association may collect the amounts due under the judgment prior to conveyance of the Lot, by any lawful means.

19. Cumulative Rights and Remedies. All rights and remedies of the Association at law or in equity are cumulative, and the exercise of one right or remedy shall not waive the Association's right to exercise another right or remedy. This means that the Association's Board can decide to bring a lawsuit against an Owner to enforce an applicable Association rule, restriction or statute in addition to or instead of imposing a monetary penalty. This also means that all pertinent provisions of the Declaration also apply.

This Enforcement Policy is effective as of January 13, 2020 and supersedes all previous Board resolutions and policies pertaining to the imposition of fines and other enforcement measures.

Approved and DATED this 13 day of January 2020.

Board of Directors  
VACTOR RANCH COMMUNITY ASSOCIATION  
an Arizona non-profit corporation

Reviewed and Restated to conform to current laws and best practices, January 6, 2020:  
Carolyn B. Goldschmidt, Esq, Attorney at Law, Goldschmidt & Shupe  
6700 North Oracle Road, Suite 240, Tucson, AZ 85704

## **EXHIBIT A**

## **Procedures for Reporting Violations**

1. Complaints may be filed with the management company for Vactor Ranch Community Association (as of this date, Pinehurst Properties) by any Board member and by any resident. The procedures to be followed and the management company's response will vary according to the following guidelines.
  
2. A Board member may unilaterally file a complaint directly to the community manager, except for full house painting or major renovations (see below). A Board member's complaint MUST include the following information, at a minimum:
  - a. Lot number or property address or both, Owner name if known or description of violator
  - b. Provision of the community documents that has allegedly been violated
  - c. Date of violation or date violation observed
  - d. Immediacy needed to resolve, reason(s) and expected resolution date
  - e. First and last name of person observing violation
  - f. Documentation and description identifying the violation, preferably including photo

The community manager shall either depend on photo or perform its own inspection. Community manager shall then, if justified, send courtesy notification and/or a notice of violation per Enforcement Policy.

3. Resident complaints shall include the same information as for Board member complaints above, but shall always include a photo or an additional witness contact and shall be reviewed by the community manager for authenticity and relevance. If approved, complaint with all criteria submitted shall be forwarded to the Association President for approval or shall be referred to the entire Board before enforcement action is taken.
  
4. If full house painting or major renovation is requested, at least three Board members must concur in writing. Complainant may be one of the three.
  
5. The management company shall keep a Violations Log, which shall be made available to Board members upon request and prior to each Board meeting.