

ALISO SPRINGS PROPERTY OWNERS ASSOCIATION, INC.

RESOLUTION #8 OF THE BOARD OF DIRECTORS

RE: ENFORCEMENT POLICY

WHEREAS, Chapter 16 of the Arizona Revised Statutes, Section 33-1803(C), Arizona Planned Communities Act, sets forth the procedure the Association must follow before proceeding with any action to enforce the *Deed Restrictions for Aliso Springs Property Owners Association*, as amended (the "Restrictions"), and any Rules and Regulations (the "Rules"); and

WHEREAS, Chapter 16 of the Arizona Revised Statutes, Section 33-1803(B), Arizona Planned Communities Act, provides that after notice and an opportunity to be heard, the Association may impose reasonable monetary penalties on Lot Owners for violations of the Restrictions or Rules; and

WHEREAS, in accordance with the Arizona Planned Communities Act and the Restrictions, the Association's Board of Directors wishes to adopt a policy setting forth the Association's enforcement procedures.

NOW THEREFORE, LET IT BE HEREBY RESOLVED that the following policy pertaining to the enforcement of the Restrictions and Rules was duly adopted by the Association's Board of Directors, supersedes and replaces all previous enforcement policies adopted by the Board, and becomes effective as of the date shown on the Policy.

IN WITNESS WHEREOF, the undersigned certify that this Resolution was approved and adopted by the Board of Directors of the Aliso Springs Property Owners Association, Inc. at a duly held meeting on March 8, 2023.

**ALISO SPRINGS PROPERTY OWNERS ASSOCIATION,
INC., an Arizona non-profit corporation**

By: 

Karol Stubbs

Its: President

ATTEST:

By: 

Camille Luckadoo

Its: Secretary

ALISO SPRINGS PROPERTY OWNERS ASSOCIATION, INC.

ENFORCEMENT POLICY

Effective: March 8, 2023

1. Architectural Committee. The Restrictions task the Architectural Committee (the "Committee") with providing for "the maintenance of a high standard of architecture and construction in such a manner as to enhance the aesthetic properties and structural soundness of buildings and their appurtenances constructed at GT Ranches," determining whether the Owner(s) are complying with the terms and provisions of the Restrictions, and enforcing compliance in any manner the Committee deems reasonable and appropriate. The Committee is to be guided by and controlled by the Restrictions and may adopt further reasonable rules and regulations to carry out its duties.

2. Reporting a Violation. A potential violation may be noted in one of two general ways: 1) by submission of written complaint to the Committee by a Member of the Association, or 2) by report from the Committee based on regular inspections of the properties within GT Ranches. Complaints must be submitted in writing to the Committee. Verbal complaints about possible violations will not be accepted. The pertinent provision in the Arizona Planned Communities Act [A.R.S. §33-1803] requires that the name of person(s) observing the violation be revealed to the alleged violator. In addition, the complainant may be called upon to testify in Court as to the details of the violation, if legal action is necessary for enforcement.

3. Friendly Reminders. The Committee is authorized to contact the Owner via, phone, email, and/or mail to provide friendly notices and reminders about any concerning condition on the Lot or the activity or behavior that potentially could be a violation of the Restrictions or Rules, and to seek resolution of the issue within a time deemed appropriate by the Committee under the circumstances. The Committee may send as many reminders and otherwise engage in an exchange of communications with the Lot Owner as determined appropriate under the circumstances to facilitate correction of any concerning conditions or activities in lieu of initiating a formal violation process (below). There should be no indication in any friendly notices or reminders that a confirmed violation of the Restrictions or Rules has occurred.

4. Notice of Violation. Once the Committee determines that sufficient opportunity has been given for complete or substantial resolution of the concerning condition(s) or activity(ies), that complete or substantial resolution has not occurred, and that the condition(s) or activity(ies) constitute a violation of the Restrictions or Rules, the Committee will issue a written Notice of Violation to the Lot Owner with a timetable for corrective action, which will be at least 21 calendar days from the date of the Notice of Violation (unless there is an emergency that poses a significant risk of harm to person or property, or if the violation does not involve a condition on the Lot).

5. Contents of Notice of Violation. The Notice of Violation shall provide at least the following information:

A. The provision(s) of the Restrictions or Rules that allegedly has been violated.

- B. Action(s) required to cure violation(s).
- C. The date of the violation(s) or the date the violation(s) was/were observed.
- D. The first and last name of the person(s) who observed the violation(s).
- E. A copy of this Policy or where this Policy can be obtained (i.e. Association Website) to inform the Lot Owner of the process he or she must follow to contest the Notice of Violation.
- F. Notice of the Owner's option to petition for an administrative hearing on the matter in the Arizona Department of Real Estate pursuant to A.R.S. §32-2199.01.

6. Contesting the First Notice of Violation. If the Owner wishes to contest the Notice of Violation, he/she shall provide the Committee with a written response by certified mail within 21 calendar days after the date of the Notice of Violation, requesting any additional information he/she requires. This response shall be sent to the Association's address contained in the Notice of Violation.

7. Response by Committee to Owner. Within 10 business days after receipt of the Owner's response, the Committee will respond to the Owner as necessary to provide any additional information responsive or supplemental to items 5(A)-(F) and may otherwise address any other matters raised in the Lot Owner's Response.

8. Notice of Hearing or Referral to Attorney. If the violation has not been cured after completion of the Notice and Response procedures above, the Committee may refer the matter directly to the Association's attorney for further action. Alternatively, the Committee may send the Owner a "Notice of Hearing" via certified mail, return receipt requested (as well as first-class mail and/or email in the Committee's discretion), wherein the Owner will be invited to attend the next Committee Meeting for a Hearing before further enforcement action is taken. The date, time and location of the hearing shall be stated in the Notice of Hearing. The Hearing may also occur virtually or telephonically. The Notice of Hearing may also be included in the Notice of Violation in the discretion of the Committee.

9. Hearing. The hearing will take place at a Committee meeting called for that purpose. Such meeting will be closed to other Association members unless the Lot Owner requests that the meeting be open to all Association members.

10. Designated Representative. The Owner may present to the Committee (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.

11. Procedure for Hearing. Procedure for the Hearing will be set by the Committee. 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 the condition or activity does not constitute a violation of the Restrictions or Rules, and/or why a penalty should not be levied by the Board or other enforcement action taken.

12. 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 Committee meeting, by the officer, director, or agent who mailed or delivered the Notice of Hearing.

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

14. Amount of Monetary Penalty. The monetary penalty for each violation shall be in accordance with the Monetary Penalty Guidelines attached hereto as Exhibit "1." The Board shall have the sole discretion to adopt, repeal, or modify the Monetary Penalty Guidelines at any time. Such Monetary Penalty Guidelines shall not be effective until they have been distributed to the membership.

15. Hearing Decision. Notice shall be sent to the Owner by the Committee within 10 business days after the date of the Hearing, stating the Committee's decision, including the amount of any penalty or any other enforcement action that may have been decided by the Board, and the applicable due date or date of implementation.

16. Delinquency of Penalty. A monetary penalty not paid within 30 days after its stated due date shall be delinquent, and a late charge of \$15.00 or 10% of the unpaid penalty, whichever is greater, may be added to the penalty.

17. Repeat Violations. A monetary penalty for violation(s) of the Restrictions or Rules may be imposed by the Committee against the Owner without further notice for each additional instance of noncompliance of the same provision of the Restrictions or Rules in accordance with the Monetary Penalties Guidelines.

18. Collection of Penalties. The Association has a lien for monetary penalties and associated late charges, attorney fees and costs, imposed for non-compliance with the Governing Documents ONLY after the entry of a judgment in a civil suit for such monetary 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 Santa Cruz County. This lien shall be effective upon conveyance of the Owner's 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 Committee can decide to initiate an enforcement lawsuit against a Lot Owner in addition to or instead of imposing a monetary penalty. This also means that all pertinent provisions of the Restrictions also apply.

EXHIBIT "1"

MONETARY PENALTY GUIDELINES

- A. Base Penalty. The base monetary penalty for any violation of the Restrictions or Rules is \$100.00.
- B. Penalty for Recurring Violations. There are three instances when an additional monetary penalty may be imposed for recurring violations of the provision of the Restrictions or Rules:
 - 1. Escalated Penalty. If a violation of the same provision of the Restrictions or Rules reoccurs within 30 days of: (a) the initial imposition of a monetary penalty for that violation, OR (b) the date of the last occurrence of the same violation; the Committee may impose an additional monetary penalty in the amount of last monetary penalty imposed PLUS an additional amount not to exceed \$50.00.
 - 2. Duplicate Penalty. If an Escalated Penalty does not apply and a violation of the same provision of the Restrictions or Rules reoccurs: (a) within six months of the date of the Notice of Violation, OR (b) within 60 days of the last occurrence of the same violation, whichever is later; the Committee may impose another monetary penalty of no more than the amount of the last monetary penalty imposed for the same violation.
 - 3. Daily Penalty. If a violation of the Restrictions or Rules is of a kind or type that can or is likely to reoccur continuously without interruption for more than a single day, the Committee may impose the Base Penalty plus an additional Daily Penalty of no more than \$10.00 per day for the first 30 days of continuous violation, and no more than \$50.00 per day for continuing violations exceeding 30 days.
- C. Other Penalties. The Committee may impose other monetary penalties that the Committee believes are reasonable and commensurate with the nature of a serious violation of the Restrictions or Rules, subject to the following procedures:
 - 1. A "serious violation" is defined as an action or condition that poses a significant and severe risk of harm to persons or property, or a substantial modification to the Lot in violation of the Restrictions or Rules concerning architectural control.
 - 2. Before imposing such a penalty, the Board must provide the Owner in writing in either Notice of Violation or the Notice of Hearing: a) the amount of the monetary penalty sought to be imposed, and b) the parameters used by the Board to determine the amount of the monetary penalty.