

Bellasera Community Association
Violation Enforcement Policy
Amended and Restated effective February 24, 2011
Revoking entirely all prior Violation Enforcement Policies

WHEREAS, Article XV of the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Bellasera as recorded in the Official Records of Maricopa County Recorder on November 28, 2007, record #2007-1259522 ("Declaration"), in addition to other legal or equitable rights or remedies grants to the Bellasera Community Association, Inc. ("Association") the power to levy reasonable fines against an Owner for a violation of the Governing Documents by the Owner or lessees of the Owner, provided that the Owner is given notice and an opportunity to be heard before the imposition of the fine, and

WHEREAS, Arizona Revised Statute §33-1803 provides rules the Association must follow before enforcing the provisions of the Association's documents, and

WHEREAS, The Board has determined that the existing Violation Enforcement Policy should be amended.

NOW, THEREFORE, IT IS RESOLVED, effective immediately, the prior Violation Enforcement Policy is amended and restated as follows:

Nothing in this Violation Enforcement Policy shall amend or revoke any provision of the Assessment Collection Policy adopted by the Association on December 5, 2000 regarding the collection of Assessments as defined by the Governing Documents.

1. Definitions. Terms used herein shall have the same meaning as defined in the Declaration unless otherwise noted.

2. Violations.

a. The following are violations ("Violations") subject to terms and conditions of this Violation Enforcement Policy:

(1). Architectural: Any activity or condition prohibited under Section 11.1 of the Declaration and the failure upon receipt of the Initial Notice of Violation: (i) to cease all work on the alleged violation immediately and (ii) cure the alleged violation within 10 days of the receipt of the Initial Notice of Violation (or if such Violation cannot be cured within 10 days, the failure of the Owner to commence correction of the alleged violation within 10 days of receipt of the Initial Notice of Violation and diligently pursue such correction until completed).

(2). Use Restrictions: Any activity that occurs on any Lot or Common Area that is prohibited under the Governing Documents or a Policy or Rule adopted by the Board and not otherwise expressly authorized by the Board.

b. Recurring Violations. A reoccurrence of the same violation within sixty (60) days of the original violation will be considered a new violation and subject the Owner to the imposition of an additional fine.

c. Separate Violations. Each activity or condition identified above shall be a separate Violation.

3. Notice of Violation.

a. Initial Notice of Violation. Upon verification of the existence or occurrence of a prohibited activity or condition described in section 2, the Bellasera Manager will send to the Lot Owner a written notice of the Violation ("Initial Notice"). The Initial Notice will:

- (i) Describe the specific nature, description and location of the Violation;
- (ii) Cite the specific provision of the Governing Documents allegedly violated;
- (iii) Provide the date of the alleged Violation or the date the alleged Violation was observed;
- (iv) Request the Owner (and tenant, if any) to cease the prohibited activity and/or cure the alleged Violation;
- (v) Describe the Association's intended remedy and the manner in which it will be enforced; and
- (vi) Describe the Owner's right to a hearing and appeal.

b. Owner's Initial Response. An Owner who receives an Initial Notice may deliver to the Association, by certified mail within 15 days after the date the Initial Notice was delivered, a written response to the alleged prohibited activity or condition and request a hearing ("Owner's Response"). The response shall be sent to the address contained in the Initial Notice or in the recorded notice prescribed by A.R.S. § 33-1807, subsection J.

c. Second Notice. Within 10 business days after receipt of the Owner's Response, the Association shall deliver to the Owner a written explanation ("Second Notice") that shall provide at least the following information (unless previously provided in the Initial Notice of Violation):

- (i) the specific nature, description and location of the Violation;
- (ii) the specific provision of the Governing Documents that has allegedly been violated;

- (iii) the date of the Violation or the date the Violation was observed;
- (iv) the first and last name of the person or persons who observed the Violation; and
- (v) the process the Owner must follow to contest the notice.

d. Remedy. The Association's remedy may be one or more of the following:

- (i) assess a fine at the rate of \$250 beginning on the 15th day following delivery of the Initial Notice if the alleged Violation has not been corrected by such date, and an additional fine of \$250 for each additional 14 days the Violation remains uncorrected thereafter;
- (ii) correct the offending improvement at the expense of the Lot Owner through a Benefited Assessment being levied against the Lot Owner, which may be recorded as a lien against the Lot; or
- (iii) any other remedy under law or at equity, the Governing Documents or this Violation Enforcement Policy, including but not limited to injunctive relief.

e. Late Payment Charges. A 10% charge will be assessed for a late payment of a fine. A payment is deemed late if it is unpaid fifteen or more days after its due date. Any monies paid by a member for an unpaid fine shall be applied first to the principal amount unpaid and then to the interest accrued.

4. Hearing and Appeal Rights. An Owner may request a hearing before the Board by delivering a written request for a hearing to appeal the fine ("Notice of Appeal") by certified mail to the Board within 15 days after the date of the Initial Notice. The Notice of Appeal shall set forth the reasons the Owner believes the alleged Violation is invalid or the proposed remedy is not warranted. The Board will notify the Owner of the date and time of the hearing. The Assessment and collection of all fines shall be postponed pending the hearing of the appeal before the Board if the Owner files an Owner's Response with 15 days of the Initial Notice.

Should the Lot Owner fail to deliver the Owner's Response by certified mail within 15 days after the date of the Initial Notice that Owner will have waived the right to a hearing and an appeal.

Subject to applicable law, the appeal shall be heard in Executive Session and the Board President will preside at the hearing and establish rules for the orderly conduct of the hearing, and upon completion of the hearing the Board will make their decision in closed session. The President will deliver notice of the Board's decision to the Owner within seven (7) working days after the hearing.

5. Association's Corrective Action. At any time after providing the information required in paragraph 3.c., the Association may elect to correct an offending improvement Violation, but only if, in its reasonable judgment, it determines the Violation may be readily corrected, removed or abated without undue expense and without breach of the peace, and with qualified contractors. Where management decides to initiate any action by qualified contractors, the following will apply:

- a. Management must give the Lot Owner and any third party directly affected by the proposed action prior written notice of undertaking of the action.
- b. Cost incurred in correcting or eliminating the Violation will be referred to the Association to be recovered from the Lot Owner as a Benefited Assessment as set forth in Article X of the Declaration.
- c. The Association, and its agents and contractors will not be liable to the Lot Owner or any third party for any liabilities, damages or costs alleged to arise by virtue of action taken under this Paragraph 5 where the Association and its agents have acted reasonably and in conformity with this Violation Enforcement Policy.

6. Referral to Legal Counsel. In addition, nothing in this Policy will limit the Board of Directors right to seek immediate injunctive relief at anytime, regardless of the presence or absence of notices hereunder, for any violation of the CC&Rs that the Board of Directors determines, in its sole and absolute discretion, constitutes a material danger to persons or property or requires immediate action for any other substantial reason.

7. Notices.

- a. All notices must be in writing.
- b. Any notice other than certified mail will be deemed delivered upon the earlier to occur of the following:
 - (i) When the notice is delivered by facsimile the notice is deemed delivered when the sender receives a receipt acknowledging delivery.
 - (ii) When the notice is mailed using the United States Postal Service, the notice is deemed delivered on the fourth business day after the notice is deposited into a receptacle of the United States Postal Service with postage prepaid and addressed to the most recent address of the recipient according to the records of the Association.

- c. Certified mail shall be mailed with a return receipt requested to prove delivery.