

POLICY 1:

SUNRISE MOUNTAIN RIDGE HOMEOWNERS ASSOCIATION ENFORCEMENT PROCEDURES AND PENALTIES

This policy resolution is adopted by the Board of Directors (Board) of the Sunrise Mountain Ridge Homeowners Association, Inc. (SMRHOA) pursuant to Arizona Revised Statutes §33-1803, which provides that an HOA's Board of Directors is empowered to impose fines for violation(s) of the Declaration of Covenants, Conditions and Restrictions (CC&Rs), or any rules adopted by the Board, including rules regarding the condition or appearance of homeowner property. This policy resolution follows the procedures set forth in the CC&Rs in Article VII, §§ 7-10; Article VIII, §§ 2-5; Article X, §§ 7-8; Article XI, §§ 4-5; Article XII, §§ 12-13; and Article XIII, §§ 1-4. This policy is set forth below and supersedes any other such procedure previously adopted by the Board:

I. "Formal Notice of Violation" –

- (A) When a member of a SMRHOA Committee observes an apparent violation of the Committee's rules or regulations, and the Committee's informal communications with the owner fail to result in correction of the violation, or if the violation is corrected but recurs within 90 days, the Committee may send a written "Formal Notice of Violation" to the owner of the property by letter or email.
- (B) The Formal Notice must contain the following information:
 - (1) The violation(s) in question, including the specific CC&R provision or rule that has been violated;
 - (2) The date the violation occurred or was observed;
 - (3) The name of the person who observed the violation;
 - (4) The action required to remedy the violation and that the remedial action must be completed within sixty (60) days;
 - (5) The penalties, monetary and non-monetary, that may be imposed if the violation is not corrected (see Table A, Schedule of Monetary and Non-Monetary Penalties, attached);
 - (6) The owner's right to request a hearing before the Committee and that such request must be submitted in writing and sent to the Committee within thirty (30) days;
 - (7) A statement that, if a hearing is held, the Committee will inform the owner of its findings in writing within a reasonable time following the hearing;
 - (8) The owner's right to request a hearing before the Board if the owner disagrees with the Committee's findings and that such request must be submitted in writing to the Board within 30 days after the Committee communicates its findings;
 - (9) That the Board is empowered to make the final determination of the existence of a violation; the need for and nature of a remedy to the violation; and the penalty for failure to correct the violation;
 - (10) The contact information for the owner to respond to the Formal Notice, to request a Committee hearing, and to request a Board hearing; and
 - (11) Notice of the owner's option to petition for an administrative hearing on the matter in the Arizona Department of Real Estate (ADRE, www.azre.gov) pursuant to ARS § 32-2199.01 if the dispute is within the jurisdiction of the ADRE, and subject to the filing fees required by the ADRE (\$500 - \$2000, as of 2022).
- (C) The owner may send a written response addressing the apparent violation to the Committee by certified mail within twenty-one (21) calendar days after the date of the Formal Notice. If the owner sends a written response, the Committee must respond in writing within ten (10) business days after receipt of the certified mail containing the response. This Committee response should include a copy of the Formal Notice along with any appropriate additional information regarding the violation, required remedial action, and the owner's right to request a hearing before the Committee, as described in the Formal Notice.
- (D) The Committee should notify the Board that it is issuing a Formal Notice of Violation.

II. "Final Board Determination and Notice of Penalty Imposed" –

- (A) The Board makes the Final Determination of the existence of a violation; the need for and nature of a remedy to the violation; and the penalty for failure to correct the violation.
- (B) This Final Determination will follow the owner's hearing, if a hearing is requested, or will be in response to a request from the Committee if no hearing is requested.
- (C) This Final Determination will include:
 - (1) The timeframe within which the violation must be corrected, which timeframe cannot be fewer than sixty (60) days after the Formal Notice was sent to the owner;
 - (2) A statement that the penalty or penalties will be imposed if the owner fails to correct the violation within the timeframe set in the Board's Final Determination or the violation recurs within six (6) months;
 - (3) The amount of any monetary penalty;
 - (4) A description of the non-monetary penalty, if any, and the specific duration of the non-monetary penalty;
 - (5) That a monetary penalty that is not paid within thirty (30) days of its due date is delinquent and subject to late fees, interest, and attorney's fees consistent with the CC&Rs and applicable Arizona law;
 - (6) That if the violation is not corrected, additional penalties may be imposed;
 - (7) That the collection of monetary penalties and enforcement of compliance with any non-monetary penalties may be undertaken in the manner consistent with the CC&R's and applicable Arizona law, and
 - (8) Notice of the owner's option to petition for an administrative hearing on the matter in the Arizona Department of Real Estate (ADRE, www.azre.gov) pursuant to ARS § 32-2199.01 if the dispute is within the jurisdiction of the ADRE, and subject to the filing fees required by the ADRE (\$500-\$2000, in 2022).
- (D) The Board will send the written Final Determination to the owner.

III. Determination of Monetary and Non-Monetary Penalties. –

- (A) The amount of any monetary penalty and the nature and duration of any non-monetary penalty imposed by the Board's Final Determination shall be consistent with the contents of Table A, attached, and may be subject to adjustment based on:
 - (1) The seriousness of the violation, including whether the violation may pose or has posed a danger to a person or property;
 - (2) Whether the violation has caused irreparable or costly harm to a common area, including roads and recreational facilities;
 - (3) Whether it is a first violation, a repeated violation, or a continuing violation;
 - (4) The cost to SMRHOA to repair damage resulting from the violation, including Reimbursement Assessments pursuant to CC&Rs Article VII, § 8; and
 - (5) Whether there are extenuating or aggravating circumstances.
- (B) Any suspension of an owner's right to use the recreation facilities shall also extend to renters and all residents of the owner's lot, well as guests and invitees. The suspension may continue until:
 - 1) all violations on the owner's lot have been cured; and/or
 - 2) all assessment(s), along with all late fees, collection/administrative fees, attorneys' fees and costs incurred in connection with the unpaid assessment(s) or monetary penalties have been paid in full.

IV. Legal Action

Notwithstanding the following list of Monetary and Non-Monetary Penalties, nothing in this Policy will limit the Association's right to immediately pursue any and all legal remedies to address an owner's violation of the CC&Rs and/or Rules, and the offending owner shall be obligated to pay the court costs and reasonable attorney fees incurred by SMRHOA. SMRHOA also reserves the right to pursue any other legal action permitted by law or the CC&Rs and Rules in addition to this Policy.

Resolution approved by SMRHOA Board of Directors on October 13, 2022.

TABLE A - Monetary and Non-Monetary Penalties¹

| Violations | Monetary Penalty Range | Non-Monetary: Suspension of Use of Recreation Facilities and/or Suspension of Voting Rights and/or Suspension of Website Access |
|--|-----------------------------|--|
| CC&R provisions, laws, and other SMR rules or regulations, including Violations of the SMRHOA Website Terms of Use and Privacy Policy | \$100 - \$600 per violation | Three to twelve months, or until the violations are cured and/or monetary penalties and associated fees, and costs have been paid. |

EXAMPLES OF LANDSCAPE RULE VIOLATIONS

- Removing, damaging, trimming or disturbing vegetation or habitats in a Common Area without permission.
- Modifying or disturbing the irrigation system in a Common Area without permission.
- Dumping trash or other debris in a Common Area.
- Planting trees, shrubs, or other vegetation in a Common Area without permission.
- Disturbing, denuding or otherwise disturbing vegetation or habitats in the restricted Common Areas.
- Draining the liquid from pools, hot tubs, etc. onto any SMR Common Areas.
- Failing to comply with SMRHOA Rules and Regulations Regarding Homeowners’ Responsibilities for their property, as well as restrictions pertaining to Common Areas.

EXAMPLES OF HEALTH, SAFETY, OR RECREATION VIOLATIONS

- Driveways will be classified as defective and requiring repair or replacement when one or more of these criteria are identified:
 - a section with a vertical displacement of greater than 1/2“ is defective
 - a section with a vertical displacement of less than 3/8” is generally not defective.
 - a section with a vertical displacement of between 3/8” and 1/2” may or may not be defective depending on the extent of the displacement and its location on the slab
 - a significantly cracked slab with loose pieces is defective
 - a cracked slab that has maintained its integrity is generally not defective
- Failure to address Private Property tree roots that pose structural problems for walls, sidewalks, driveways, water, sewer or irrigation system.
- Failure to keep dog(s) on leash.
- Failure to keep dog(s) inside yard walls.
- Failure to remove and hygienically dispose of pet waste left on other owners' lots, SMRHOA roads, sidewalk or in common areas.
- Bringing Pets into Spa, Pool, or Court Areas.
- Violation of any Pool, Spa, Clubhouse, or Tennis/Pickleball Court Rules.
- Failure to keep outside front post light lit from dusk to dawn, 365 days per year.
- Parking on the street in a manner that obstructs emergency vehicles and waste collection vehicles from getting through or blocking fire lane.
- Leaving dumpsters, building materials, equipment, and similar items on the roads overnight.
- Parking in a manner that blocks pedestrian passage on the sidewalks.
- Discharging or disposing of liquids such as oil, paint thinner, grease, etc., on SMR streets.
- Draining the liquid from pools, hot tubs, etc. onto SMR streets or onto private property.

¹ Pursuant to CC&Rs Article XIII, § 2: The Board may suspend an owner’s right to vote and/or suspend the right to use recreational facilities for violation of any CC&R provision or promulgated rule. *See also*, Article VII, §§ 7, 9.

EXAMPLES OF ARCHITECTURE VIOLATIONS

- Not Making Resale Inspection Corrections
- Non-adherence to SMR's published Architectural Design Reference (ADRs).

EXAMPLES OF VIOLATIONS OF CC&RS, LAWS, AND OTHER RULES

- Destroying, defacing or damaging SMR property
- Parking vehicles on-street or on unpaved areas overnight without a Permit.
- Parking vehicles on off-street common areas.
- Parking/storing recreational vehicle on lots/in driveways (except within enclosed garage) without permit issued by the Board.
- Parking/storing junked or inoperable vehicles on lots/in driveways (except within enclosed garage).
- Holding or sponsoring a garage, yard, estate or moving sale, or any ongoing commercial enterprise that requires traffic to/from a residence.
- Violating the SMRHOA.com Terms of Use or Privacy Policy

Table A revised and approved by SMRHOA Board of Directors February 9, 2023.