

**THE SOUTH BAY COMMUNITY ASSOCIATION
ENFORCEMENT POLICY WITH FINE & FEE SCHEDULE**

All members of The South Bay Community Association (the "Association") are subject to the South Bay Master Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements recorded in Jefferson County under Auditor No. 324010, and any amendments thereto ("CC&Rs"), Articles of Incorporation, Bylaws and Rules and Regulations of the Association, including the Design Standards (together, the "Governing Documents"). All members of the Association, and their guests and tenants, are required to comply with the Governing Documents as they may be amended from time to time by the Association. Failure to comply may result in the issuance of fines, actions to recover sums due for damages or injunctive relief, or both, maintainable by the Association, through its Board of Directors (the "Board") against the party failing to comply. Members are responsible for ensuring their tenants and guests comply with the Governing Documents.

The Board encourages homeowners to amicably resolve issues directly, neighbor-to-neighbor, however there are times, for a variety of reasons, when that is not possible. When issues cannot be resolved between Members, they typically turn to the HOA Board for remedy. The Board has created this policy to address problem resolution, these neighbor issues, and the broader issues relating to our Governing Documents.

This policy applies prospectively only, *i.e.*, to acts and conduct occurring after the date this policy was adopted.

A. Fine & Fee Schedule. Fines and fees will be imposed as follows:

1. ARC Related Violations: All members in South Bay are required to apply for and receive SBCA-ARC approval for any exterior work on their house and/or landscaping changes or tree removal of a specified size. Exceptions are noted in Design Standard 4.2.2. No changes or deviations in the scope of work once approved shall be made without prior written approval of the SBCA-ARC.

ARC Violations	1st Notice of Violation	Notice of Failure to Correct	Continuing Violation
Failure to apply for and receive approvals prior to commencement of work.	Warning Letter and Owner must submit a proper application within 10 days. *	\$50 Fine Owner must submit a proper application within 10 days. *	\$50/week Fine until proper application is submitted.
Changes or deviations in the scope of work after receiving an approval.	Warning Letter/Cease & Desist Letter. Owner must submit updated application for additional approval within 10 days. *	\$50 Fine for failure to cease & desist work and/or submit an update application within 10 days. *	\$50/day Fine for continuing work prior to approval of updated application by SBCA-ARC.

No application submitted, and/or actions are not allowed by the Governing Documents.	Warning Letter/Cease & Desist Letter. Owner must submit a proper application within 10 days. *	\$100 Fine for failure to cease and desist work upon notice and/or submit an application within 10 days *	\$50/day Fine for continuing work prior to approval of updated application by the SBCA-ARC.
Violations concerning removal of trees in SBCA Common Areas	\$5,000 Fine		

* Or explain why more time is needed.

2. Conduct Violations: All members must also comply with requirements of the Governing Documents that do not require SBCA-ARC approvals, including but not limited to Pet Related issues (off leash, failure to clean up after pet, aggressive animal); Parking Issues (Trucks, Trailers, RV's, Campers and Boats); Nuisances (Rubbish or Debris stored on Lot, Loud Noises, Feeding Wildlife).

Conduct Violations	1 st Violation	2 nd Violation	3 rd and Subsequent Violations
As found in the Governing Documents CC+R's Section 4.2 Design Standards Section 5.0	Warning	\$25 Fine	\$100 Fine

Fines stated above are in addition to, and not in lieu of, any right of the Association to require members to remedy violations of the Governing Documents, to charge members for remedial action taken by the Association, or any remedy available to the Association by law.

B. Procedures for Notice of an Alleged Violation:

- 1. ARC Related Violations. No fines will be levied until a homeowner is notified in writing of a violation and provided an opportunity to be heard before the Board.** When the Board receives information suggesting that there has been a violation of the Design Standards or other ARC-related violation, the Board may, after reasonable inquiry into the circumstances surrounding the allegations, take the following actions:
 - a. **Written Warning:** Upon verification of the existence of a violation by the Board, a 1st Notice of Non-Compliance letter will be sent to the member. This letter will detail the nature, description and location of the violation; the necessary corrective action to remedy the violation; and the possible consequences should the violation continue.

- b. Notice of Failure to Correct: If the member fails to comply with the corrective action stated in the Non-Compliance Letter, the member shall be subject to a fine as provided in the Fine and Fee Schedule above. The member will be sent a 2nd Non-Compliance letter along with notification of their opportunity to be heard if they disagree that they are still in non-compliance. If the violation is corrected within 10 days from the 2nd Notice, no further action will be taken.
 - c. Continuing Violation: Failure to comply with the corrective action stated in the 2nd Non-Compliance Letter of the violation shall constitute a continuing violation and the member shall be subject to additional fines as outlined in the Fine and Fee Schedule above. The Board may impose a continuing monetary fine until the infraction or violation has been remedied.
- 2. Conduct Violations.** When the Board receives information suggesting that there has been a conduct violation, the Board may, take the following actions:
- a. Preliminary investigation to determine if the alleged violation has merit.
 - b. Notification Letter: After preliminary investigation by the Board or its designee(s) a letter will be sent to the member notifying them of an alleged conduct violation.
The letter will detail the nature of the alleged violation, actions to correct and a time frame in which to correct it. It will also outline procedures for the homeowner to follow and give notice of an opportunity to request and be granted a hearing prior to any fine or other penalty being levied.
 - c. Determination: Upon verification of the violation, a letter will be sent to the member stating the Board's decision, including when appropriate, assessment of a fine as outlined in the Fine and Fee Schedule above.
 - d. Continuing Violation: Any ongoing violations will be reviewed by the Board or its designee(s) prior to any further penalties being assessed.
- 3. Notification and Non-Compliance Letters.** The Notification and Non-Compliance Letters will be sent by mail or personal delivery to the address on record unless an alternate address has been given in writing by the lot owner to the General Manager prior to the date of the Notice of Non-Compliance. Certified Mail may, but is not required to, be used. Any such notices or letters may be sent by email in addition to, but not in lieu of, being sent by mail or personal delivery.
- 4. Member Responsibilities.** Members are responsible for the conduct of their guests, tenants, agents, contractors and invitees. If a non-owner occupant of a lot is in violation of the Governing Documents, the Notification Letter, or other notice will be sent to the owner as provided for in the preceding paragraph. The lot owner is responsible for notifying his or her tenants or occupants, paying any fines and taking corrective action.

C. Opportunity for Hearing. A member who has received notification of an alleged violation may request a hearing on the violation by mailing or delivering a written request to the Board within 14 days from the date of notification. Upon a showing that a member should have a longer period of time in which to request a hearing, the Board at its discretion may allow more time for the member to request a hearing. Failure to request a hearing in within the time set by the Board is a waiver of the member's right to challenge the determination that a violation occurred or the imposition of a fine. If a hearing is requested, the hearing will be scheduled and held in the following manner:

- 1. Notice of Hearing.** When the Board has received a timely request for hearing, it will provide the affected member with written Notice of a Hearing before the Board regarding the violation or proposed action. The hearing shall normally be set not less than 10 nor more than 30 days of the receipt of the timely request for hearing and shall be set between the hours of 8:00 a.m. – 6:00 p.m. The Notice of Hearing shall include (a) a statement of offense, (b) the proposed action and/or fine, (c) the date, time and place of the hearing, (d) any time limits upon the presentation of evidence; and (e) whether the affected owner may offer a written statement in lieu of appearance.
- 2. Continuance of Hearing.** Once a hearing has been requested and set in accordance with paragraph 1, the Board shall have discretion to allow or disallow a continuance of the hearing at the request of the member. Failure to appear at the hearing shall constitute waiver of the opportunity to be heard.
- 3. Attorneys.** If the member intends to have an attorney present at the hearing, the owner must notify the Board at least 7 days prior to the hearing so that the Association may also have counsel present.
- 4. Hearing Procedures.** The Board may decide whether the hearing will be an open or closed hearing. At the hearing, the affected member shall have a reasonable amount of time under the circumstances to present evidence and argument to the Board regarding the violation. The member may invite others to attend the hearing and speak on their behalf. Specific time limits may be set out in the Notice of Hearing. Additional time may be granted by the Board in its discretion. Presentation of evidence or argument shall be subject to reasonable rules of procedure determined by the Board to assure a prompt and orderly resolution of the issue. Other members or witnesses may be allowed to present evidence or argument about the alleged violation or in support of or opposition to the imposition of fines in accordance with procedures established by the Board, or at the discretion of the Board.
- 5. Decision of the Board.** The Board will meet in executive session to make its decision on whether a violation has occurred and shall endeavor to send the member notice of its decision in writing in the same manner in which the notice of the meeting was given, within 21 days of the hearing. If the Board determines that it needs more time to make its decision, it will so notify the affected member(s). The Board may, at its discretion, also send a copy of the decision letter to the complaining party. Any fines imposed after a hearing shall become due on the first of the month following the notice of the Board's decision, unless the notice of decision states otherwise.

6. **Request for Reconsideration.** The member is not entitled to a new hearing; however, the member may request reconsideration of the Board's decision upon a showing that something has been overlooked. The member must submit a letter to the Board within 10 days of notification of the decision, stating the reasons why reconsideration is requested. The Board will review this information and will use its best efforts to render a decision promptly.

7. **Multiple Violations prior to Hearing.** One or more violations of the Governing Documents and/or proposed fines may be combined and heard in one enforcement hearing, if convenient to the Board. Once a hearing is set for one or more alleged violations, additional alleged violations and fines occurring subsequent to the initial notice(s) of violations and prior to the date of the hearing may also be heard at the scheduled hearing, at the discretion of the Board.

D. **No Waiver / Not Exclusive Remedy.** The foregoing shall not be deemed a waiver of any right to enforce or take any other action available under the Governing Documents or at law. The sanctions, fines, fees, interest and penalties set out herein are in addition to, and not in lieu of, other remedies or sanctions available to the Association by law or by the Governing Documents.

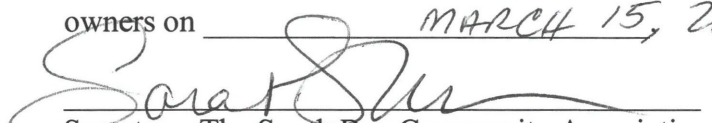
E. **Fines are Assessments.** Association members shall be financially responsible for all fines, damages and other amounts assessed resulting from their own actions, and the actions of their tenants, guests or occupants. Fines imposed under this policy constitute assessments under the Governing Documents and may be enforced as such, including but not limited to the imposition of late fees and interest and placing a lien on the member's property.

F. **Costs Incurred in Enforcement.** In addition to the sanctions set forth above, all costs incurred in enforcing the Governing Documents, including, but not limited to, attorneys' fees, interest, recording fees and other costs incurred in collecting fines or attempting to obtain compliance with the Governing documents constitute assessments and may be collected in the manner for collection of assessments.

This Enforcement Policy with Fine and Fee Schedule was adopted by the Board by resolution

dated March 8, 2019, and mailed, or if authorized, emailed to all

owners on MARCH 15, 2019


Secretary, The South Bay Community Association