

Bellasera Community Association
Violation Enforcement Policy
Amended and Restated effective 4/28/08, 2008
Revoking entirely the Violation Enforcement Policy adopted in April, 2003

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 Violation Enforcement Policy dated April 28, 2003 must be revised to conform to changes in the Declaration and the Arizona law.

NOW, THEREFORE, IT IS RESOLVED, effective immediately, the Violation Enforcement Policy dated April 28, 2003 is revoked and the following Violation Enforcement Policy is adopted.

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. Establishment of a Violation.
 - a. Architectural. Any activity or condition described in Section 11.1 of the Declaration on any Lot that has not been first approved by the Modifications Committee or which does not in all respects conform to that which has been so approved is deemed a "Violation" under this Enforcement Policy for all purposes.
 - b. Use Restrictions. Any activity or condition allowed to continue on any Lot or any Common Area that is in direct opposition to the Governing Documents and not expressly authorized by the Board is deemed a "Violation" under this Enforcement Policy for all purposes.

c. Separate Violations. Each activity or condition identified in the Initial Notice described in the next paragraph shall be a separate Violation.

3. Notice of Violation.

a. Initial Notice. Upon verification of the existence of a Violation by the management staff ("Management") of Bellasera, Management will send to the Lot Owner a written notice of the Violation ("Initial Notice"). The Initial Notice will inform the recipient of the alleged Violation and a request to correct the alleged Violation.

b. Owner's Initial Response. An Owner who receives an Initial Notice may provide the Association with a written response by sending the response by certified mail within ten business days after the date of the notice. The response shall be sent to the address contained in the notice or in the recorded notice prescribed by A.R.S. § 33-1807, subsection J.

c. Second Notice. Within ten business days after receipt of the certified mail response from the Owner, the Association shall respond to the Owner with a written explanation regarding the 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. Notice of Remedy. The failure

- (i) to cease all work immediately upon receipt of the Initial Notice of Violation; or
- (ii) cure the Violation existing upon the Lot within 10 days of the receipt of the Initial Notice of Violation (or if such Violation cannot be remedied within 10 days, the failure of the Owner to commence correction of the Violation within 10 days of receipt of the Initial Notice of Violation and diligently pursue such correction until completed); or
- (iii) otherwise correct the alleged Violation of a Rule within 10 days of the receipt of the Initial Notice of Violation;

shall constitute a continuing Violation. Upon determination of a continuing Violation, Management shall send to the Owner by certified mail a notice

informing the Owner of the Board's determination of a continuing Violation, the Association's intended remedy, and the Owner's appeal rights ("Notice of Remedy") and include the information required by paragraph 3.c. if not already provided.

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

- (i) assess a fine at the rate of \$100 beginning on the 10th day following delivery of the Notice of Remedy if the alleged Violation has not been corrected by such date, and an additional fine of \$100 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.

f. 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. Appeal. The Owner may request a hearing by delivering a Notice of Appeal by certified mail to the Board within 10 days after receipt of the Notice of Remedy. 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. Should the Lot Owner fail to send by certified mail a Notice of Appeal to the Board within ten (10) days after receipt of the Notice of Remedy, that Owner will have waived its opportunity for an appeal and a hearing. 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. Upon completion of the hearing the Board will make their decision in closed session. The President will give notice of the Board's decision to the Owner within seven (7) working days after the hearing.

5. 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. Where a Violation is determined to exist and is referred to the Association pursuant to any of the provisions of this Violation Enforcement Policy and where Management deems it to be in the best interests of the Association, the Board may, at any time after providing the information required in paragraph 3.c. refer the Violation to legal counsel for action seeking injunctive relief against the Lot Owner to correct or otherwise abate the Violation, or to pursue any other legal or equitable remedy that may be available to the Association.

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.

8. Cure of Violation During Enforcement.

A Lot Owner may correct or eliminate a Violation at any time, and upon verification by Management that the Violation has been corrected or eliminated, the Association shall cease all efforts under this Policy, provided, however, the Lot Owner will remain liable for all costs and fines that may have been assessed under this Violation Enforcement Policy, unless waived by the Association. The Association will refer for collection all unpaid costs and fines as a Benefited Assessment pursuant to Article X of the Declaration.