



## **CASA DEL CIELO HOMEOWNERS' ASSOCIATION, INC. GENERAL VIOLATION FINE POLICY AND APPEAL PROCESS**

**Effective April 8, 2018**

The following Fine Policy and Appeal Process shall be followed for the Casa del Cielo Homeowners' Association, Inc. pursuant to the Declaration of Covenants, Conditions and Restrictions for Casa del Cielo ("CC&Rs") dated September 14, 1984 at Article 2, Sections 2.4.5 and 2.4.8:

**FIRST NOTICE:** An initial notice of the violation shall be mailed to the Owner requesting compliance within twenty-one (21) days - **NO FINE**.

**SECOND NOTICE:** If violation still exists twenty-one (21) days after the date of the first notice, a second notice requesting compliance within twenty-one (21) days shall be mailed to the Owner. A **\$25.00 FINE** will be assessed with the second notice.

**THIRD NOTICE:** If violation still exists twenty-one (21) days after the date of the second notice, a third notice requesting compliance within twenty-one (21) days shall be mailed to the Owner. A **\$50.00 FINE** will be assessed with the third notice.

**CONTINUING VIOLATIONS:** If the violation continues without resolution twenty-one (21) days after the date of the third notice, a **FINE of \$100.00** shall be assessed **every twenty-one (21) days** until the violation is resolved.

**CONTENT OF NOTICES:** Consistent with Arizona law as may be amended, any notice will state the process the Owner must follow to request an appeal/hearing to contest the notice, and will also give notice of the Owner's right to petition for an administrative hearing with the Arizona Department of Real Estate pursuant to A.R.S. §32-2199.01.

**FINES:** No fine shall be imposed without first providing a notice of the violation from the Association to the Owner describing the violation and stating that failure to correct the violation within twenty-one (21) days or **another recurrence of the same violation within three (3) months** of the original violation shall make the Owner **subject to imposition of a fine**. Per Article 9, Section 9.2, failure to pay any fine shall subject the Owner to the same potential penalties and enforcement as failure to pay any assessments under Article 3 of the CC&Rs.

**SUPPLEMENTAL FINE POLICIES/SCHEDULES:** The Board of Directors may adopt supplemental fine policies/schedules (or amend this Policy) to address specific violations in the community (i.e. parking, rentals, architectural violations, etc.). If a supplemental fine policy is not adopted, this general fine policy and schedule shall control.

**INJUNCTIVE RELIEF:** If a violation is not cured after the Third Notice, the Board of Directors may request the Association's General Counsel to file an action seeking Injunctive Relief against the Owner to cure the violation(s). However, this Fine Policy shall not limit the Board of Directors right to seek immediate Injunctive Relief at any time regardless of the presence or absence of notices or fines hereunder, for any violation that the Board of Directors determines in its sole and absolute discretion.

**LEASED PROPERTY:** Pursuant to the Declaration at Article 4, all Notices shall be sent to the Owner of record of the property involved in the violation. The Owner of the property in violation has the sole responsibility to resolve the violation(s) with any renter(s), tenant(s), user(s) or guest(s).

**BOARD DISCRETION:** Notwithstanding the above provisions of the violation policy, the Board at its sole discretion may at any time assess a fine in an amount up to \$2,000 for any incident the Board deems to be egregious, dangerous, that may threaten the life, health, safety, or welfare of any person, resident or owner, or that causes detriment or damage to any Association or other Owner's property. The Board may levy this fine despite any past violation history or lack thereof.

*The Board of Directors shall consider the fines set forth in this Fine Policy and schedule to constitute damages sustained by the Association, and are intended to compensate the Association for the administrative burden of addressing the violation and the adverse impact of the violation on the community.*

*The Board of Directors reserves the right to deviate from the fine amounts set forth herein if, after a hearing on the matter, the Board finds good cause to modify the amount of the fine levied in a particular case. The Board also reserves the right to pursue any and all other remedies set forth in the CC&Rs at the same time or in lieu of levying the fines set forth in this Fine Policy. This includes turning a matter over to the Association's legal counsel*

## APPEAL PROCESS

- When a violation notice is sent to an Owner, such notice shall include a statement notifying the Owner that he/she has the “RIGHT OF APPEAL”.
- When an Owner desires to appeal a violation, he/she must so notify the Board of Directors in writing within ten (10) days after the date of the violation notice.
- Appeals shall demonstrate **extenuating circumstances** that require deviation from the CC&Rs and/or guidelines.
- Appeal shall include all pertinent backup information to support the existence of the **extenuating circumstance**.
- All decisions of the Board of Directors are final and may not be further appealed.
- Any appeal that does not meet the above requirements shall not be heard by the Board of Directors and shall be considered **DENIED**.
- The Owner appealing the violation will be given written notice that a hearing on the appeal is scheduled.
- The appeal shall be heard in Executive Session.
- The Board President will introduce all parties.
- Lengthy discussions are not a part of an appeal process.
- The Owner who is appealing will be asked to state their case and present any applicable documentation.
- Each Board Member will have the opportunity to ask the Owner specific questions regarding the appeal.
- Upon completion of the question and answer period, the Board President will state that the appeal has been heard and the Board of Directors will make their decision in closed session. Written Notice of the Board’s decision will be delivered to the Owner within seven (7) working days.
- If the appeal is denied, the Owner must bring the violation into compliance within ten (10) days. If the violation still exists after ten (10) days, the Owner shall be subject to the Fine Policy as outlined above until the violation is corrected. In addition, the Board of Directors may seek legal action to remedy the violation. All costs of legal action will be billed to the Owner and collected in the same manner as assessments.

APPROVED, this 8<sup>th</sup> day of April 202018

**CASA DEL CIELO HOMEOWNERS’ ASSOCIATION, INC.**

By: \_\_\_\_\_

[Signature on file], Debby Castro, President