

Enforcement Policy FAQ

- Q. Why did CSE II all of a sudden decide penalties should be imposed?
- A. The ability of our HOA to impose fines has been part of the CC&Rs since 2004, so there is a long history behind it. Fines/penalties are one of several remedies permitted by the current CC&Rs. Furthermore, there was a previous Enforcement Policy approved by the Board on February 1st 2005 in response to an Arizona statute that was to become effective later that year.
- Q. If the ability to impose a fine is in the CC&R, why did we need to develop a separate policy resolution?
- A. In 2017, a case appealed to the Arizona Court of Appeals required an HOA to “adopt and provide notice of a fine schedule before it can impose any fines.” The previous policy did not address the amount of a fine. Adoption and publication of this new Enforcement Policy Resolution is intended to fulfill that requirement.
- Q. Why are the fines so punitive, especially for continuing violations that incur daily penalties?
- A. To be effective, the fines need to be substantial enough that a homeowner won’t simply choose to pay the fine rather than comply. The proposed process involves a courtesy notice, a more formal notice, and a hearing before fines are imposed. After the final decision, a homeowner has 30 days to cure the violation before penalties are imposed.

Q. Are we making too big a deal about enforcing the rules? Shouldn't we just issue friendly notices about violations?

A. With few exceptions, members in our HOA are cooperative and address issues on their property voluntarily. That's what makes CSE II such a great place to live. But there are a few homeowners who ignore the rules. The necessity of a Board to enforce the CC&Rs is consistently emphasized at the Legal Training Sessions attended by our Board members.

In 2018 and 2019, the Board held surveys, Town Hall Meetings, Work Sessions and Special Board Meetings as we reviewed and proposed revisions to the CC&Rs and Bylaws. These revised Governing Documents were put to a vote of the membership in early 2019 and overwhelmingly were supported. The Governing Documents reflect what the vast majority of our current members want in their community. If a majority of homeowners believe a rule should be changed, they need to propose an amendment to the CC&Rs.

Q. What if the violation notice is sent to part-time residents while they are away? As a property owner, are we expected to correct a violation we can't see for ourselves and without the opportunity to perform the work ourselves?

A. While we time our inspections so that most part-time residents are still here (in the spring) or have returned (in the fall), if violations come to our attention at other times, we are required to act. We generally provide photographs to show the issue. Most part-time residents have someone who checks the property while the homeowner is absent and can arrange for any necessary work. Spending part of the year away from Green Valley is a choice made by some homeowners, but doesn't relieve them of the responsibility to maintain their property.

The CC&Rs allow for variances on some issues and a homeowner may request a variance to allow additional time to correct the situation. In the past variances have been approved for trimming trees after the harvest

season is over; or to partially trim trees initially that would suffer from being trimmed to the required height at one time.

The Architectural Committee and the Board are more than willing to work with a homeowner to reach the desired result in an appropriate time frame. But for those few who continue to ignore the rules, a violation notice and actions may be necessary.

Q. Couldn't the policy have been written in plain language rather than this legal language?

A. The language in the document was provided by our HOA attorney and does tend to have legal language. On the other hand, our attorney has ensured that all the necessary components are present. For example the "WHEREAS" clauses at the beginning identify the documents that provide our HOA with the authority to create the policy. The process we enumerate is mandated by Arizona statute. Further, a recent case in the Arizona Court of Appeals ruled that a list of penalties, as contained in the exhibit, is required to be published before fines/penalties can be levied.

Q. How much in legal fees did this policy cost?

A. The document cost the HOA \$285. While we could have drafted a policy without consulting our attorney, there is a risk that important language might be omitted and cost us more down the road should there be litigation.