

Passed at Board meeting March 14, 2018

**Cross Mountain Ranch Homeowners Cooperative  
Proposed Policy on Deed Restriction Violations, Fees and Fines  
for Board Meeting Discussion February, 2018**

(Bylaws should be amended to accommodate this policy, with wording to allow changes in the future without further amendments, as is the case with current assessment amount)

**Summary of Enforcement Policy**

1. Send Courtesy Warning Letter
2. Send Violation Notice (In accordance with Texas Property Code Ch. 209.006)
3. Levy fines as appropriate.
4. Subsequent Violation Notices (optional.)

*The CMR HOA Board may vary from this policy on a case-by-case basis but only to the extent of adjusting the time limit for a cure. Courtesy Warning will have a 30 day expiration and Violation Notice will have a 60 day expiration unless extended by the Board. Fines are standard and will be applied uniformly.*

**1. Types of Violations and Acts Covered.** The Board has adopted this policy to address situations where an owner has committed or is responsible for a violation of the Deed Restrictions other than by failing to pay assessments or other sums due to the Association. Delinquency violations are handled by an alternate process.

**2. Violation Notices.**

- i. Courtesy Warning Letter . Upon becoming aware of a deed restriction violation and at the sole option of the Board, the Association may send a Courtesy Warning Letter requesting that the owner cure that violation within 30 days to avoid fines or other enforcement action.
- ii. Violation Notice. If a violation is not cured in response to any Courtesy Warning Letter, the Board, in addition to all other available remedies, will levy a fine. Any such action shall be initiated by sending a Violation Notice to the owner. The Violation Notice shall:
  - A. Be in writing and sent via certified mail to the most current owner address shown on the Association's records;
  - B. Describe the violation at issue;
  - C. State the amount of fine that may be levied against the owner;
  - D. If the violation does not pose a threat to public health or safety, the owner may cure the violation and avoid any fine by curing the violation within 60 days and informing the Board (directly or through designated Management) of the cure by certified letter.
  - E. Inform the owner that they have the right to request a Board hearing to discuss the enforcement action on or before the 60<sup>th</sup> day after the notice was mailed to the owner (*see* Section 6 below);
  - F. Inform the owner that he will be responsible for attorney fees and/or progressive increase in fines in accordance with the standard fine schedule and costs incurred in relation to the violation if the violation continues after a specific date; such fees, fines and costs may be assessed to the owner's account or attached as a lien

- after a hearing is held or, if a hearing is not requested, after the deadline for requesting a hearing has passed;
- G. Inform the owner that he may have special rights or relief related to enforcement under federal law, including the Service Members Civil Relief Act;
- H. Otherwise comply with Section 209 of the Texas Property Code and state law.

iii. **Subsequent Violation Notices** for continuing or repeat violations. If an owner has been sent a Violation Notice for a particular violation and the same violation continues or a similar violation is committed within six months of the Violation Notice, the Association may levy additional fines. A Subsequent Violation Notice may be of any form and sent in any manner allowed by law; such notices are not required to comply with Section 209 of the Texas Property Code, including the requirements set forth in Section 2(ii) above.

### **3. 209 Violation Notices**

- i. Violations are those that are ongoing or otherwise can be remedied by affirmative action and will be given a 60 day expiration so the owner has the time to cure the violation and send a certified letter to that effect or to schedule a hearing at the next BOD meeting to discuss the issue.

### **4. 209 Violation Notices -- When a fine may be levied; Board hearings.**

- i. Violations – Initial Fine. If an owner is sent a Violation Notice and cures that violation by the deadline in such notice, any fine noted in the Violation Notice shall not be levied. If the owner fails to cure the violation by the deadline, any fine noted in the Violation Notice shall be levied after the time has lapsed for the owner to request a Board hearing, or, if a hearing is timely requested, after the date the hearing is held and a decision is made to uphold the fine.

**5. Standard Fine Schedule.** Below is the Standard Fine Schedule for deed restriction violations. *The Board may vary from this schedule on a case-by-case basis but only to the extent of the time allowed to cure the violation.*

- i. Violations.

- A. Courtesy Warning Notice: No Fine: 30 Day Expiration
- B. Violation Notice: \$50 fine: 60 Day Expiration
- C. Subsequent Violation Notices: \$100 fine that increases \$50 for each additional month that violation is not cured
- D. Once fines reach a total of \$1,000, issue will be turned over to legal staff for attachment of lien on the owner's CMR property, however, progressive accumulation of fines in accordance with the above schedule will continue and will be attached to the aforementioned lien at 12 month increments until violation is cured. CMR Treasurer (through Management Company) will be responsible for monitoring the fine remittance and lien attachments.

**6. Hearings.** If an owner receives a Violation Notice and requests a hearing in a timely manner (board hearing within 60 days of violation notice), that hearing shall be held in accordance with Section 209.007 of the Texas Property Code. The Board may impose

rules of conduct for the hearing and limit the amount of time allotted to an owner to present his or her information to the Board. The Board may either make its decision at the hearing or take the matter under advisement and communicate its decision to the owner at a later date.

7. **Authority of agents.** All initial enforcement actions taken through the management company, Association attorney or other authorized agents will be at the explicit direction of the board in every case. The Board reserves the right to make decisions about particular enforcement actions on a case-by-case basis at a properly noticed meeting if and when it deems appropriate.
8. **Owners as Responsible Party.** If a family member, guest, tenant or invitee of an owner commits a violation of the Association's governing documents, the related enforcement action shall be taken against the owner, with all related fines, legal fees, and other charges levied against that owner and the related lot.