

SAND DOLLAR BEACH HOMEOWNERS ASSOCIATION ENFORCEMENT POLICY

The Board of Directors may assess a fine based on this Policy according to the Fine Schedule below. Homeowners are encouraged to first attempt to resolve neighborhood disputes on their own. Please note homeowners are responsible for the actions of their tenants, guests, or family members. When a tenant, guest, or family member is in violation of a governing document provision or rule the owner will be held liable for the payment of the penalty assessment levied, as well as reasonable costs if applicable incurred by the Association for the repair and replacement of any damages caused to the community. The violation of a governing document provision or rule by tenants, guests, or family members will result in the owner being served notice and the homeowner will have the responsibility for subsequent action as provided hereafter.

I. OFFENSE SCHEDULE

The following offense schedule is based upon the occurrence of the offense within a 365-day period. Continuing, ongoing offenses will be treated on an individual basis, dependent upon the circumstances and taking into account the severity of the action and the possible emergency nature thereof.

1. **FIRST OFFENSE** – Warning Letter to responsible Owner
2. **SECOND OFFENSE** – Penalty/fine may be assessed pursuant to Fine Schedule, as well as any other remedy legally available to the Association. Prior to the imposition of such a penalty, Owner will be sent a Hearing Notice, and provided an opportunity to appear in person, or in writing, before the Board of Directors to show cause why the penalty should not be imposed. The violation may be turned over to the Association's attorney for possible legal action. Any attorney fees and/or costs incurred by the Association as a result of a second or subsequent offense shall be charged as a Reimbursement Assessment to the responsible owner's account.
3. **THIRD AND SUBSEQUENT OFFENSE** – Same as Second Offense, with increased amount of penalty/fine possible.
4. **DUE PROCESS** – Prior to the imposition of any penalty or fine, and absent any emergency or extenuating circumstances, the owner shall be sent a Hearing Notice and provided an opportunity to appear at a hearing, either in person or writing, before the Board of Directors to show cause why the intended penalty should not be imposed. The Association attorney may be invited to attend this hearing and the owner is allowed to have witnesses or his/her attorney present as well. Depending upon the severity and frequency of the violation, the choice of the enforcement procedure(s) or the enforcement remedy(ies) may vary. Nothing in this section shall obligate or require the Board to take any action against any individual owner for

violation of these rules. In determining whether to take action, the Board will also evaluate the costs and benefits of the same.

5. **FINE SCHEDULE** – This fine schedule will apply to any single type of offense committed within a 365-day period. No fine will be assessed in connection with an initial warning notice.

First Offense – No fine. Initial Warning Letter Only

Second Offense - \$100 Fine

Third & Subsequent Offenses - \$100 increase from last fine per offense

II. ENFORCEMENT PROCEDURE

STEP 1. INITIATION

Suspected violations may be reported by any homeowner, security staff, Board member, or any other designated representative of the Association by use of the **SDHOA Communication Form**. The violation will be verified as set forth in Step 2.

STEP 2. VERIFICATION

Verification of a Violation Report for violations is accomplished by a review of the Association's CC&R's, Bylaws, Articles of Incorporation, Rules, Architectural Standards ("governing documents") and/or inspection. The Board of Directors shall determine, at its discretion, whether an inspection of the site is necessary and, if so, will inspect the site to verify the violation. Violation shall be defined as an act in direct conflict with the governing documents, and/or local, county, or state requirements. If the Board of Directors determines that a violation exists it will proceed with the enforcement process (Step 3).

STEP 3. DOCUMENTATION

1. A Warning Letter is completed by the Board of Directors and forwarded to the violating owner. If applicable, the warning letter will state a deadline by which to cure the violation. At the discretion of the Board this step may be omitted if, based on the seriousness of the violation, more immediate action is warranted, in which case a **Hearing Notice** will be sent to the violating owner.
2. If a Warning Letter is sent and violator fails to take the necessary action by the deadline given, a **Hearing Notice** will be sent to the violating owner, setting forth the date, place, and time where the violator can be heard before the Board of Directors on the violation. Failure to appear could result in immediate discipline including, but not limited to,

imposition of a Reimbursement Assessment, imposition of a fine, and/or any other remedy legally available to the Association. The Association must give at least fifteen (15) days written notice, by personal delivery or first-class mail to the owner's primary address on file with the Association, of the hearing to the violating owner before any action is taken.

STEP 4. HEARING PROCEDURE

1. Findings of Fact and Recommended Action: The Board of Directors must make specific findings as it relates to the violation of the governing documents, noting them on the **Homeowner Hearing Procedure** and **Ruling Notice** with the facts which support its decision. The results must be provided to the violating owner by personal delivery or first-class mail to the owner's primary address on file with the Association, within fifteen (15) days following the action. The decision of the Association and action recommended/taken should also be noted on the **Homeowner Hearing Procedure**. If no violation is found, then no remedy is required and no discipline would be imposed, and thus the Association would issue a **Ruling Notice** pursuant to Step 4.3 below.
2. Remedies: If it is determined that a violation has taken place, the Association has the following remedies available to it but is not limited to one or more of the following:
 - a. Suspend voting rights, common area privileges, and/or any other privilege of any Owner or Person deriving rights from any Owner (such as a guest, tenant, or lessee) for a period not to exceed six (6) months for each violation and/or for any period during which the Owner is delinquent in the payment of any assessment, fine or monetary penalty, or Reimbursement Assessment.
 - b. If the violation of the governing documents continues and can be cured through a self-help remedy, the Board's action may be to demand correction of the continuing violation and a date certain upon which an owner must comply via the Notice of Ruling. The Notice shall further indicate that if the Owner fails to comply within the time provided by the Association, the Association could bring the Owner into compliance and charge the cost of same to the Owner as a Reimbursement Assessment.
 - c. Even if the violation is not of a continuing nature and does not lend itself to a self-help remedy, the Board still has the authority to impose a Reimbursement Assessment for failure to comply with provisions of the governing documents.
 - d. Lien and foreclosure against homeowner's property (however, in accordance with Civil Code Section 1367, a monetary penalty imposed by the Association as a disciplinary measure for failure to comply with

the governing documents, except for late payments, may not be treated as a lien against the owner's separate interest unless it is a means of reimbursing the Association for costs incurred by the Association in the repair of damage to common areas and facilities for which the owner is responsible).

- e. Without limiting the foregoing, for violations of Architectural Standards, a Reimbursement Assessment may be levied and/or a court injunction instituted against any homeowner who undertakes the improvement or alteration to their home or townhouse which might affect the architectural integrity or accepted standards of the community without prior Association approval.
 - f. Court injunction, other court action (including pursuing any alternative dispute resolution mechanism that may be agreed upon by the member).
 - g. Notice to the City, County, and/or appropriate State agency(ies).
 - h. In addition to any fines levied, the Board may impose additional sums to cover Association costs in the repair of its property, and costs incurred to correct the violation and to enforce the governing documents.
 - i. Any other applicable remedy and/or sanction for as long as necessary, provided however, that said remedy/sanction is in accordance with the governing documents and the law.
3. Ruling Notice: Regardless of what remedy the Board takes, even if no violation is found, the Association shall personally deliver or send via first-class mail to the owner's primary address on file with the Association, a **Ruling Notice** within fifteen (15) days after the hearing. If it is ruled that a Reimbursement Assessment will be imposed, the Board or authorized designee must provide the Ruling Notice to the violating owner within fifteen (15) days and request payment of such assessment within thirty (30) days after the Ruling Notice is mailed. This will be recorded in the Executive Session minutes or Regular Session minutes, whichever is applicable.

**SAND DOLLAR BEACH HOMEOWNERS ASSOCIATION
COMMUNICATION FORM**

Date:

Name:

State information/issue/concern:

Homeowners Suggestions/Solutions/Options regarding issue/concern:

Request/Action homeowner is requesting from SDHOA Board:

Potential estimated cost of request if appropriate with maintenance costs:

For Board Use Only

Date received by Board:

Date issue discussed/Board Meeting:

Discussion/Action taken by the Board:

SAND DOLLAR BEACH HOMEOWNERS ASSOCIATION
HEARING NOTICE

DATE: _____
NAME(S): _____
ADDRESS: _____
LOT #: _____ SDB ADDRESS: _____

Dear Sand Dollar Beach Home Owners Association Member:

You were previously notified of your violation of the Association's governing documents. The previous notice has not caused the violation to cease.

In accordance with the Civil Code and the governing documents, the Board of Directors is hereby serving notice upon you to appear at the date, time, and place specified below for a Hearing before the Board. The outcome of this Hearing may result in an imposition of a fine or penalty, Reimbursement Assessment, or any other remedy legally available to the Association. If the Board rules to impose such Reimbursement Assessment, failure to pay said assessment within thirty (30) days may result in the imposition of a lien against your property.

DESCRIPTION OF VIOLATION: _____

HEARING DATE: _____
HEARING TIME: _____
HEARING LOCATION: _____

IF YOU HAVE ANY QUESTIONS PLEASE CONTACT:

SAND DOLLAR BEACH HOMEOWNERS ASSOCIATION

By: _____
President

SAND DOLLAR BEACH HOMEOWNERS ASSOCIATION
HOMEOWNER HEARING PROCEDURE

1. Review of all documentation submitted to the Association.
2. Statement of Violation by acting chairperson.
3. Review Association's governing documents
4. Statement by violating homeowner.
5. Statement by any third-party witnesses.
6. Discussion and questioning of the violating homeowner by Association.
7. Questions and final statement by the violating homeowner.
8. Homeowner is excused from hearing.
9. Discussion and Ruling made by Board of Directors.
10. Enforcement procedures determined.
11. Adjournment.

DOCUMENTATION (to be completed by Board Secretary):

Name(s) of Violating Homeowners: _____

Address: _____

LOT #: _____ SDB ADDRESS: _____

Description of Violation: _____

Findings of Fact: _____

Additional Comments: _____

Recommended Action: _____

SAND DOLLAR BEACH HOMEOWNERS ASSOCIATION

By: _____

President

SAND DOLLAR BEACH HOMEOWNERS ASSOCIATION
RULING NOTICE

DATE: _____
NAME(S): _____
ADDRESS: _____
LOT #: _____ SDB ADDRESS: _____

RE: VIOLATION HEARING HELD ON: _____

Dear Sand Dollar Beach Home Owners Association Member:

You have been notified of your violation of the Association's governing documents and of a hearing before the Board of Directors regarding that violation. In accordance with the hearing held before the Board of Directors:

- ☐ You and/or your representative did attend the hearing
- ☐ You did not attend the hearing

1. This matter has been reviewed by the Board of Directors which make the following findings of fact: _____

2. Based on the foregoing, the Association takes the following action:

- ☐ No action taken
- ☐ Bring property/homeowner into compliance by taking the following action:
_____ on or
before 5:00PM on _____, 20____
- ☐ Remove the unauthorized improvement or other work and return property to original condition by 5:00PM on _____, 20____
Failure to comply could result in removal and restoration by the Association, and, if the Association pays for any costs for such action, a Reimbursement Assessment may be levied against you in accordance with the governing documents and the Civil Code
- ☐ Reimbursement Assessment levied in the amount of \$ _____
- ☐ Penalty/Fine in the amount of \$ _____
- ☐ Other: _____

APPROVED AND ADOPTED FOR ENFORCEMENT BY THE BOARD OF DIRECTORS OF
SAND DOLLAR BEACH HOMEOWNERS ASSOCIATION

By: _____
President