

ENFORCEMENT AND FINE POLICIES
ESCENA COMMUNITY ASSOCIATION
a California nonprofit mutual benefit corporation

Adopted on December 3, 2024
Amended: _____, 2025

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These policies are Operating Rules as defined in the Davis-Stirling Common Interest Development Act and, to the extent they conflict with any previous Operating Rules, supersede and prevail over such previous rules. All Operating Rules, whether characterized as rules, polices, procedures and otherwise are subject to the provisions of the Master Declaration of Covenants, Conditions and Restrictions, and Reservation of Easements for Escena currently in effect for this Association.

ARTICLE 1: ENFORCEMENT AND FINE POLICIES

Contingent upon the nature, seriousness and history of the violation, the Association will generally adhere to the following enforcement procedures but the Board is not required to utilize every remedy in every enforcement action and may, in its sole discretion, subject to the law and the governing documents, determine what remedy to pursue and at what time. Depending on the severity and frequency of the violation, the choice of the enforcement procedure(s) and/or the enforcement remedy utilized may vary. Immediate legal action may be sought in the form of a temporary restraining order (“TRO”) and/or preliminary injunction where appropriate.

1.1 Enforcement Procedure.

- a. *Report of Violation:* Any Member, resident, director, manager or rules enforcement personnel claiming a violation occurred must submit a written report to the Board of Directors at a Board meeting, or to the Association’s community manager during regular business hours. A sample Alleged Violation Report is attached as Exhibit A to this policy which may, but is not required, to be used. No verbal or anonymous reports will be considered unless the information can be independently verified. All written reports will be held in confidence to the extent practicable and permissible by law. However, in the event the Member alleged to be in violation exercises their right to due process; they may have the right to cross-examine and confront adverse witnesses and examine the evidence against them. Members are responsible for violations of the governing documents committed by their family members, residents, tenants, agents and guests. After receipt of a reported violation, the Association, through its community management company, may issue a courtesy notice of the alleged violation to the responsible Member. Prior to imposing a fine or other disciplinary action, the Board must determine if an alleged violation appears to have merit. Nothing in this policy obligates or requires the Board or authorized enforcement committee to take any action against individual Members. The Board, in making this decision, will take into account the facts of each circumstance and determine the costs and benefits of taking action.
- b. *Courtesy Notice.* The Association, through its community management company, may provide the Member with a courtesy notice of the alleged violation. The

courtesy notice will identify the violation and will request that the Member cure the same within a stated deadline, which will be a reasonable period of time, considering the nature and seriousness of the violation. Depending on the seriousness of the alleged violation, no courtesy notice or warning is required to be given before the Board initiates disciplinary action.

- c. *Notice of Alleged Violation:* If the violation is not cured by the deadline imposed in the courtesy notice, or if the Board determined to not send a courtesy notice, the Board may send a notice of intent to impose discipline to the Member stating the nature of the alleged violation(s), the provision(s) of the governing documents violated and the Member's right to appear before the Board at least 10 calendar days' notice by either personal delivery or individual delivery, before imposing a monetary penalty (fine) and/or any other discipline. "Personal delivery" means handing the notice to the Member. "Individual delivery" is defined in Civil Code § 4040 and includes delivering the notice to the Member in accordance with the Member's preferred delivery method specified by the Member which can constitute email and/or or mail. The notice must also include the date, time, and place of the hearing. A sample Notice of Intention to Impose Discipline is attached to this policy as Exhibit B. This notice may, but is not required, to be used.
- d. *Hearing in Executive Session:* All disciplinary hearings with the Board will be held in executive session and may be in person, by videoconference, and/or teleconference. The Member responsible for the alleged violation may be heard, orally or in writing and may present documents. The Board may, but is not required to reschedule the disciplinary hearing if the Member is not available to attend. Unless the Board determines to reschedule the hearing, the hearing will occur if the Member fails to respond to the hearing notice and/or appear at the hearing.
- e. *Take Action:* If the Member is found to have violated the governing documents, the Board may take any appropriate action allowed under the governing documents or the law, such as:
 - i. Sending a "cease and desist" letter;
 - ii. Imposing one or more monetary penalties (fines);
 - iii. Allowing the Member a reasonable period of time to correct any ongoing violations, such as architectural or nuisance violations, and, in the Board's discretion, imposing daily fines which may automatically begin, without further notice or hearing, if the Member does not (1) comply within the time allowed or (2) request and be granted additional time to comply;
 - iv. Correcting (or causing to be corrected) the violation. Then, after a further notice and hearing, imposing a Compliance Assessment upon the Member

for the costs and expenses of doing so, including attorneys' fees, when allowed by law;

- v. Suspending membership privileges, such as recreational common area use rights (but not Member voting rights), effective no sooner than five (5) days after the notice of disciplinary action required by Civil Code §5855 (c) or any successor statute;
 - vi. Initiating Internal Dispute Resolution and/or Alternative Dispute Resolution in the manner provided by the Association's governing documents and the law;
 - vii. Seeking any legal remedy, including, without limitation, seeking a restraining order and/or injunctive relief, or imposing a lien and/or foreclosing on the Member's property, where allowed by law;
 - viii. Taking no disciplinary action when circumstances warrant.
- f. *Give Notice of Decision:* The Member, but not the complaining party, must be notified of any disciplinary action taken by the Board of Directors within 15 days following the action. If no disciplinary action is taken, notice is not required, but such notice may, at the Board's discretion, be given if circumstances warrant and doing so does not violate the privacy of the alleged violator.

1.2 General Monetary Penalty (Fine) Schedule. The fine schedule for all violations except Design Review and rental restrictions is in the following amounts.

- a. For the ~~second~~-first violation of the same provision of the governing documents within any 12-month period, the responsible Member will be subject to a monetary penalty not to exceed \$250.00.
- b. For the ~~third~~-second violation of the same provision of the governing documents within any 12-month period, the responsible Member will be subject to a monetary penalty not to exceed \$500.00.
- c. For the ~~fourth~~-third or subsequent violation of the same provision of the governing documents within any 12-month period, the responsible Member will be subject to a monetary penalty not to exceed \$750.00.
- d. Multiple violations, whether non-continuous or continuous, may be addressed in one or more Notice(s) of Intent to Impose Discipline to the Member and may be the subject of and heard at one or more executive session hearing(s).
- e. All monetary penalties (fines) are due upon notice given and are delinquent 15 days after they become due. Compliance assessments are due within 30 days after

providing notice to the Member and are delinquent 15 days after they become due.

1.3 Monetary Penalty (Fine) Schedule for Design Review Violations. The fine schedule for Design Review violations is in the following amounts.

- a. For the first violation of the Design Review provisions, the responsible Member will be subject to a monetary penalty not to exceed \$1,000.00.
- b. For the second and subsequent violation of the Design Review provisions, the responsible Member will be subject to a monetary penalty not to exceed \$2,500.00.

1.4 Monetary Penalty (Fine) Schedule for Rental Violations. The fine schedule for rental violations is in the following amounts.

- a. For the first violation of the following rental restrictions, the responsible Member will be subject to a monetary penalty of:
 - i. \$2,000.00 for each day the home is rented for less than 30 days.
 - ii. \$1,000.00 for advertising the home for rent for less than 30 days or in a manner that does not indicate a 30-day minimum.
 - iii. \$1,000.00 for not notifying the community manager that the property will be leased and providing a copy of lease agreement.
- b. For the second violation of the following rental restrictions, the responsible Member will be subject to a monetary penalty of:
 - i. \$4,000.00 for each day the home is rented for less than 30 days.
 - ii. \$2,000.00 for advertising the home for rent for less than 30 days or in a manner that does not indicate a 30-day minimum.
 - iii. \$2,000.00 for not notifying the community manager that the property will be leased and providing a copy of lease agreement.
- c. For the third violation of the rental restrictions, the responsible Member will be subject to a monetary penalty of:
 - i. \$6,000.00 for each day the home is rented for less than 30 days.
 - ii. \$3,000.00 for advertising the home for rent for less than 30 days or in a manner that does not indicate a 30-day minimum.
 - iii. \$3,000.00 for not notifying the community manager that the property will be leased and providing a copy of lease agreement.

1.5 Compliance Assessment. If a violation is found which causes the Association to incur a financial obligation or expense, then the Member responsible for the violation will be

subject to a compliance assessment in the amount of the obligation or expense incurred by the Association after proper notice and a hearing to the extent allowed by law.

1.6 Remedies. The violation procedures in this policy are separate from, and not a prerequisite to, legal proceedings. The Board has the sole discretion to determine whether to pursue discipline or legal proceedings, or both, in any particular case. If a lawsuit is filed, the Member may be liable for the Association's attorney's fees and costs. Unless prohibited by other governing documents, and when permitted by law, the Association may take legal action or correct, remedy or cure a violation, and seek a compliance assessment against the Member, or file a memorandum of costs or motion for attorneys' fees to recover costs, expenses and attorneys' fees incurred by Association.

Exhibit "B"
NOTICE OF INTENTION TO IMPOSE DISCIPLINE

To Member: _____

Please be advised that you are given notice that the Board of Directors will hold a hearing on:

_____ (Date)
_____ (Time)
_____ (Place)
_____ (Other i.e., Zoom)

to consider the imposition of a monetary penalty (fine), suspension of membership privileges, such as the right to use recreational common area, but not Member voting rights, or other permissible discipline or action against you concerning an alleged violation of the Association's governing documents, that is:

You may attend the hearing and be heard orally or in writing before the Board of Directors. The hearing will be held in executive session whether you are present or not and whether you contest the alleged violation or not.

Please acknowledge your receipt of this notice and indicate, by checking the box indicating whether you will contest the alleged violation or not.

Very truly yours,

BOARD OF DIRECTORS

I acknowledge receipt of this notice and:

I do not oppose the alleged violation.

I oppose the alleged violation.