

PALM DESERT COUNTRY CLUB ASSOCIATION

A California Nonprofit Mutual Benefit Corporation

REVISED RESTATED ENFORCEMENT PROCEDURE

MARCH 2024*

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IF THIS DOCUMENT CONTAINS ANY RESTRICTION BASED ON AGE, RACE, COLOR, RELIGION, SEX, GENDER, GENDER IDENTITY, GENDER EXPRESSION, SEXUAL ORIENTATION, FAMILIAL STATUS, MARITAL STATUS, DISABILITY, GENETIC INFORMATION, VETERAN OR MILITARY STATUS, GENDER INFORMATION, NATIONAL ORIGIN, SOURCE OF INCOME AS DEFINED IN SUBDIVISION (p) OF SECTION 12955, OR ANCESTRY, THAT RESTRICTION VIOLATES STATE AND FEDERAL FAIR HOUSING LAWS AND IS VOID, AND MAY BE REMOVED PURSUANT TO SECTION 12956.2 OF THE GOVERNMENT CODE BY SUBMITTING A "RESTRICTIVE COVENANT MODIFICATION" FORM, TOGETHER WITH A COPY OF THE ATTACHED DOCUMENT WITH THE UNLAWFUL PROVISION REDACTED TO THE COUNTY RECORDER'S OFFICE. THE "RESTRICTIVE COVENANT MODIFICATION" FORM CAN BE OBTAINED FROM THE COUNTY RECORDER'S OFFICE AND MAY BE AVAILABLE ON ITS INTERNET WEBSITE. THE FORM MAY ALSO BE AVAILABLE FROM THE PARTY THAT PROVIDED YOU WITH THIS DOCUMENT. LAWFUL RESTRICTIONS UNDER STATE AND FEDERAL LAW ON THE AGE OF OCCUPANTS IN SENIOR HOUSING OR HOUSING FOR OLDER PERSONS SHALL NOT BE CONSTRUED AS RESTRICTIONS BASED ON FAMILIAL STATUS.

**PALM DESERT COUNTRY CLUB ASSOCIATION
REVISED RESTATED ENFORCEMENT PROCEDURE**

This document is the Palm Desert Country Club Association (hereafter referred to "Association") enforcement process and takes the place and supersedes any other fines and/or enforcement process in the prior Rules and Regulations ("Restated Enforcement Procedure"). The entities engaged in enforcing the Association's First Restated Declaration of Covenants, Conditions and Restrictions ("CC&Rs"), Restated Bylaws ("Bylaws"), Articles of Incorporation ("Articles"), Rules and Regulations ("Rules") and Architectural Guidelines, if any, ("Guidelines") (collectively, "Governing Documents") are:

Board of Directors — The Board of Directors is charged with overseeing the enforcement of the Association's Governing Documents. It has the authority to do the following: conduct violation hearings, impose Special Individual Assessments and Special Reimbursement Assessments, including, but not limited to, fines, cause violations to be remedied, suspend common area privileges, use of the recreational facilities and/or any other privilege of any Member or Person deriving rights from any Member ("Membership Privileges"), and promulgate Rules and Guidelines.

Architectural Committee — The Architectural Committee is charged primarily with reviewing proposed architectural and landscape modifications and making a recommendation to the Board regarding same. The Architectural Committee may also recommend Board action for potential architectural and landscape violations. In the absence of an Architectural Committee, the Board shall serve in such capacity.

This Restated Enforcement Procedure controls and supersedes the enforcement process and fine schedule contained in the Association's Rules.

For the purposes of this Restated Enforcement Procedure, the following definitions shall apply:

- The term Special Individual Assessment shall mean any monetary fine imposed for violations of the Association's Governing Documents.
- The term Special Reimbursement Assessment shall mean a reimbursement assessment imposed for damage to common area and may include the recovery of Out of Pocket Costs.
- The term *violation or Violation* shall mean and include any failure to follow and/or observe the Association's Governing Documents, and/or local, county, state or federal laws, regulations or ordinances.
- The term *Recurring Violation* shall mean any violation of the Association's Governing Documents which has a definite commencement and cessation, but has occurred more than once. Examples of Recurring Violations are: (1) violation of leash rules regarding pets on more than one occasion; and (2) violation of parking rules on more than one occasion. Each 24 hour period where there is a Recurring Violation shall be considered a separate and distinct violation.

- The term *Continuous Violation* shall mean any violation of the Association's Governing Documents which is ongoing and has not ceased for a period of time. Examples of continuous violations are: (1) a poorly-maintained Lot; and (2) retaining an improvement at the Owner's Lot in violation of the Association's Governing Documents.
- The term *Curing a Violation Prior to the Meeting* shall mean the Member has taken remedial action (prior to the start of the Violation hearing) to the satisfaction of the Association such that there is no longer a pending violation. Single Completed Act(s) cannot be cured prior to a Board meeting.
- The term *Financial Commitment to Cure the Violation* shall mean there is a written agreement between the Association and the Member to cure the Violation, at the Member's expense, within a reasonable period of time as determined by the Association.
- The term *If the Violation may result in an adverse health & safety impact on the Common Area or another Association Member's Property* shall mean and has been determined by the Board at an open Board meeting by approval of this Rule Change to be any Violation that has the potential to or may result in an adverse health or safety impact on the Common Area or another Member's Property as set forth below:
 - (1) Violations that could cause accidents on the Common Area or another Association Member's Property;
 - (2) Violations that could have a harmful and/or negative impact on the well-being of other people on the Common Area or another Association Member's Property;
 - (3) Maintenance/repair Violations that could adversely impact another Association's Member's Property or constitute a nuisance, fire or safety hazard as set forth in Article VI, Section 5, subsection (A) 3 of the CC&Rs;
 - (4) Aggressive pet Violations where the animal's behavior could pose a threat to other persons and/or pets on the Common Area or another Association Member's Property;
 - (5) Be detrimental to the quiet enjoyment of any resident and/or constitutes a nuisance on the Common Area or another Association Member's Property;
 - (6) Any subsequent rule change or subsequent written finding made by the Board at an open Board meeting that any additional Violation(s) may result in an adverse health or safety impact on the Common Area or another Association Member's Property.

- The term *Opportunity to Cure the Violation* shall apply to those Violations that are capable of being cured such as lack of landscape maintenance or retaining an improvement on an Owner's Lot in violation of the Architectural and Landscape Guidelines. There can be no Opportunity to Cure a Violation in the case of a single, completed act (such as conduct code Violations) where there is no Continuous Violation to correct and no remedial action that can be facilitated to undo/cure the Violation (hereafter "Single Completed Act"). Additionally, as to a Recurring Violation, there shall be an Opportunity to Cure the Violation that exists for that particular 24 hour period but not for Violations that constitute Single Completed Acts.
- The term *Out of Pocket Costs* shall mean the cost of staff and/or management time, attorneys fees and other costs and expenses incurred by the Association to bring a Member (or the Member's renter, tenant, resident, guests, invitees) into compliance with the Governing Documents. Out of Pocket Costs are not monetary fines and shall only be levied against a Member to reimburse the Association for actual Out of Pocket Costs incurred.
- The term *Membership Privileges* shall be defined to include use of the common area / recreational facilities and shall apply to the Member and his/her tenants, residents, family members, guests and any other invitees.

The Restated Enforcement Procedure related to any disciplinary action shall be as indicated below.

STEP 1. INITIATION.

If a **Violation Report** is completed by a homeowner, a Board member, the Association's Manager, Architectural Committee member, or another designated representative of the Association, the Violation Report will be verified as set forth in Step 2.

STEP 2. VERIFICATION

Verification of a Violation Report for **non-architectural violations** is accomplished by a review of the Association's Governing Documents and/or inspection by the Association's Manager, Board of Directors, Architectural Committee or other designated Association representative. Verification of a Violation Report for **architectural violations** is accomplished by a review of the Association's Governing Documents and/or a recommendation by the Architectural Committee. *Violation* shall be defined as an act in direct conflict with the Association's Governing Documents, and/or local, county or state requirements.

STEP 3. DOCUMENTATION

A. FOR NON-ARCHITECTURAL VIOLATIONS

1. The Association has the following three options for enforcing non-architectural violations:

- A **Warning Notice** is completed by the Association's Manager or his/her designated representative and forwarded to the violating homeowner (hereinafter *Violator*). At the discretion of the Board or Association's Manager, this step may be skipped if, based on the seriousness of the violation, more immediate action is warranted; or

- If the violation persists after the Warning Notice has been issued OR if the Board or Association's Manager determines to proceed directly to a **Violation Notice**, said Violation Notice is sent to the Violator, stating a deadline by which to cure the violation; or

- If the violation warrants immediate action, an **Expedited Hearing Notice** is sent to the Violator, stating a date, time and place where the Violator may be heard before the Board of Directors.

2. If a **Violation Notice** is sent and the Violator fails to take the necessary action by the deadline given, a **Hearing Notice** will be sent to the Violator, setting forth the date, place and time upon which the Violator may be heard before the Board of Directors.

3. Except for Single Completed Acts, the Association shall not impose discipline if the Member Cures the Violation Prior to the meeting.

4. Failure to appear at any hearing, could result in immediate discipline including, but not limited to, imposition of a Special Individual Assessment / Special Reimbursement Assessment, and/or suspension of Membership Privileges. Association must give at least ten (10) days' written notice of the hearing to the Violator before any action is taken, pursuant to the Association's Governing Documents.

B. FOR ARCHITECTURAL VIOLATIONS

1. Examples of architectural violations are:

- Owner of the property has not submitted the requisite application, related documents and plans and/or the requisite fees to the Architectural Committee or the Association, if appropriate, or secured requisite written approval from the Association.

- Owner of the property has obtained prior approval but has not complied with the approved final plans and specifications of the proposed work.

- Owner has failed to maintain his/her/its Lot or other areas which Owner is responsible to maintain.

2. The Association has the following three options for enforcing architectural violations:

- A **Warning Notice** is completed and forwarded to the violating homeowner (hereinafter *Violator*). At the discretion of the Board of Directors or the Association's Manager, this step may be skipped, and the Association may proceed directly to a **Violation Notice** or an **Expedited Hearing Notice**; or

- If the violation persists after the Warning Notice has been issued OR if the Board of Directors or Association Manager determines to proceed directly to a **Violation Notice**, said Violation Notice is sent to the Violator, stating a deadline by which to cure the violation; or

- If the violation warrants immediate action, an **Expedited Hearing Notice** is sent to the Violator, stating a date, time and place where the Violator may be heard before the Board of Directors.

3. If a **Violation Notice** is sent and the Violator fails to take the necessary action by the deadline given, a **Hearing Notice** will be sent to the violating homeowner, setting forth the date, time, and place where the Violator may be heard before the Board of Directors.

4. Except for Single Completed Acts, the Association shall not impose discipline if the Member Cures the Violation Prior to the meeting.

5. Failure to: (1) appear at any hearing; and/or (2) comply with a written **Violation Notice** could result in immediate discipline including, but not limited to, imposition of a Special Individual Assessment / Special Reimbursement Assessment and/or suspension of Membership Privileges. Association must give at least ten (10) days' written notice of the hearing to the Violator before any action is taken, pursuant to the Association's Governing Documents.

STEP 4. HOMEOWNER HEARING PROCEDURE

A. **Findings of Fact and Recommended Action:** The Board of Directors must make specific findings as it relates to the violation of the Governing Documents. **NOTE:** If no violation is found, then no remedy is required, and the Association would then issue a Ruling Notice pursuant to Step 4.C below.

B. **Remedies of the Board of Directors.** If it is determined a violation has taken place, the Board of Directors may take any or all the following actions:

The Special Individual Assessment / Special Reimbursement Assessment structures are detailed in Paragraph 4.D below.

1. **Special Individual Assessment / Special Reimbursement Assessment** - Even if the violation is not of a continuing nature and does not lend itself to a self- help remedy, the Board of Directors still has the authority to impose a Special Individual Assessment for failure to comply with the provisions of the Governing Documents as well as require payment of a Special Reimbursement Assessment for Out of Pocket Costs. The Board of Directors may only impose a Special Individual Assessment / Special Reimbursement Assessment after providing notice and hearing to a Violator, pursuant to the minimum requirements set forth herein.

2. **Right and Authority to suspend Membership Privileges** for violations of the Governing Documents and/or for any period during which the Member is delinquent in the payment of any assessment, fine or monetary penalty, or as otherwise provided in the Governing Documents.

3. **Self-Help Remedy for Continuing Non-Architectural Violations** — If the violation of the Governing Documents continues and can be cured through a self-help remedy, the Board of Directors has the right to demand correction of the continuing violation and a date certain upon which a homeowner must comply (a reasonable period of time shall be given to the homeowner) *via* the Notice of Ruling. The Notice should further indicate that if the homeowner fails to comply within the time provided by the Association, the Association would bring the homeowner into compliance and charge Out of Pocket Costs to the homeowner as a Special Reimbursement Assessment.

4. **Self-Help Remedy for Continuing Architectural Violations** — If it is determined a violation has taken place, the Board of Directors shall make findings of fact and request corrective action (removal, replacement, repair and/or modification) by the Violator. If corrective action is not taken by the Member and the violation can be cured through a self-help remedy, the Ruling Notice shall further indicate that if the Member fails to comply within the time provided, the Association shall bring the Member into compliance and charge Out of Pocket Costs to the Member as a Special Reimbursement Assessment. **However, any demand letter which requires the Association to go onto a Members' property to rectify the violation should be reviewed and sent by Association's counsel.** *For example, if a homeowner's Lot is becoming an eyesore for lack of maintenance, the Association can provide written notice to the violating homeowner that he/she must provide the appropriate maintenance and that he/she is in violation of the Governing Documents. The Notice would further provide that the owner has a specific (and reasonable) period of time to correct the deficiency. If the owner fails to correct said deficiency within the specified time given by the Association, the Association could then proceed with the maintenance and charge the Out of Pocket Cost to the homeowner as a Special Reimbursement Assessment.*

5. **Other Potential Remedies / Sanctions** — Notwithstanding anything set forth herein, the Board of Directors in its discretion shall have the power to require any other applicable remedy and/or sanction for as long as it deems necessary, provided, however, that said remedy / sanction is in accord with the Association's Governing Documents and law. If the violation is of such a serious nature that potential legal action is contemplated, the Association's corporate counsel should be consulted for determination whether Internal Dispute Resolution ("IDR") and/or Alternative Dispute Resolution ("ADR") should be offered to the Violator (as well as consideration of other potential remedies).

C. **Ruling Notice.** Regardless what remedy is chosen, even if no violation is found, the Association must mail to the Violator a **Ruling Notice** within fourteen (14) days after the date of the hearing. If it is ruled that a Special Individual Assessment / Special Reimbursement Assessment shall be imposed against the Violator, then the Association must give notice of the ruling to the Violator and request payment of such assessment within thirty (30) days after the Ruling Notice is mailed. This is to be recorded in the Executive Session minutes or regular minutes, whichever is applicable.

D. **Special Individual Assessment / Special Reimbursement Assessment Structure.** The Association may levy fines Special Individual Assessments / Special Reimbursement Assessments consistent with Tables 1, 2, and 3 below.

Table 1: The Following Special Individual Assessments / Special Reimbursement Assessments shall apply for Violation(s) that may result in an Adverse Health and Safety Impact on the Common Area or another Association Member's Property	
First Violation	Out of Pocket Costs incurred by the Association, if any, as well as a monetary fine up to \$250.00
Recurring Violation for a Second Time	Out of Pocket Costs incurred by the Association, if any, as well as a monetary fine up to \$500.00
Recurring Violation for a Third or More Times	Out of Pocket Costs incurred by the Association, if any, as well as a monetary fine up to \$750.00 plus possible legal action
Continuous Violation	Out of Pocket Costs incurred by the Association, if any, as well as a monetary fine up to \$750.00 PLUS an amount up to \$40.00 per day from the date of the first notice of violation until violation is cured

Table 2: Special Individual Assessments / Special Reimbursement Assessments for Architectural Application Violations that may result in an Adverse Health and Safety Impact on the Common Area or another Association Member's Property

Special Individual Assessments / Special Reimbursement Assessments for commencing Architectural Improvement without Architectural Committee Approval and/or Submitting Application (even if Improvement is within Guidelines)	Up to \$5,000.00 plus Out of Pocket Costs and any other remedies available to the Association
Special Individual Assessments / Special Reimbursement Assessments for failure to follow submitted and approved plans and specifications and/or make corrections upon notice	Up to \$5,000.00 plus Out of Pocket Costs and any other remedies available to the Association

Table 3: The Following Special Individual Assessments for Violations that will not result in an Adverse Health and Safety Impact on the Common Area or Another Association Member's Property

Special Individual Assessment for violations that will not result in an Adverse Health and Safety Impact on the Common Area or another Association Member's Property	Up to \$100.00 plus Out of Pocket Costs, if any
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E. **Collection.** The Association can collect Special Individual Assessments and Special Reimbursement Assessments consistent with the Association's Collection Policy and California law.

RESTATED ENFORCEMENT PROCEDURE FLOW CHART

