

THE SURPRISE FARMS COMMUNITY ASSOCIATION

[Revised] Fine Policy and Fine Appeal Process

Effective May 1, 2010

The Surprise Farms Community Association shall impose monetary penalties (fines) for violations of the permitted uses and restrictions provisions of Article IV of the Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for Surprise Farms (CC&Rs) and for violations of the Association's Design Guidelines and Association Rules.

FIRST NOTICE: An initial notice of the violation shall be sent to the Member via regular mail requesting compliance. **NO FINE**

SECOND NOTICE: If the violation still exists as of the next tour date [which in no event will be less than ten (10) days from the previous tour date], a second notice will be mailed via regular mail to the Member. This notice shall inform the Member of his/her right to appeal the violation with specific reference to Member's need to follow the violation appeal process as described on the reverse of this page. **\$25.00 FINE**

THIRD NOTICE: If the violation still exists as of the next tour date [which in no event will be less than ten (10) days from the previous tour date], a third notice will be mailed via regular mail to the Member. This notice shall inform the Member of his/her right to appeal the violation with specific reference to Member's need to follow the violation appeal process as described on the reverse of this page. **\$50.00 FINE**

This third notice shall also inform and notice the Member that on or after fourteen (14) days from the violation date which prompted the third notice, the Lot will again be inspected. If at that time the violation has not been resolved and the Lot brought into compliance, an additional **\$75.00 FINE** shall be assessed against the Member, and for each month that passes wherein the violation remains unresolved, with or without further notice, another **\$75.00 FINE** shall be assessed and posted to Member's assessment account.

FOURTH [and FINAL] NOTICE: If the violation still exists after the third notice and after the expiration of the fourteen (14) day period referenced therein, the Association may at any time—in addition to any fines that have been imposed—elect to either enter onto the Lot to remedy the violation or refer the matter to legal counsel for appropriate action to compel compliance. The costs incurred by the Association in exercising either option will be charged to the Member.

RECURRING VIOLATIONS: A fine shall not be imposed without providing a first notice to a Member describing the violation and a reasonable time for the Member to correct the violation before sending a second notice and notice of fine. However, if after an initial resolution of a violation, there is a recurrence of the same violation or category of violation within six (6) months of the original violation, the Association may, but is not obligated to re-send a first notice, and Member is subject to the imposition of a fine.

GENERAL: The Association's Fine Policy is in addition to any and all other remedies provided for by the laws of the State of Arizona and the Declaration of Covenants, Conditions, Restrictions, Assessments, Charges, Servitudes, Liens, Reservations and Easements for Surprise Farms and any amendments thereto. Further, the Association reserves the right in its sole discretion to employ a *final notice* to a Member and proceed directly to either enter onto the Lot to remedy the violation or refer the matter to legal counsel for appropriate action to compel compliance.

PAYMENT AND COLLECTION OF FINES: Fines that post to a Member's account that are not paid in a timely fashion are subject to collection. Failure to pay may result in further fees, including late fees, rebilling fees, notice of lien fees, collection costs, attorneys fees and costs connected with filing a lawsuit and obtaining a judgment against the Member.

See reverse of page for violation appeal process*

VIOLATION APPEAL PROCESS:

When a second or subsequent violation notice is sent to a Member, the notice includes a statement notifying the Member that he/she has the right to appeal the violation and the imposition of the fine. When a Member wants to appeal a violation, he/she must send to the Association, c/o Kinney Management Services, P.O. Box 25466, Tempe, Arizona, 85285-5466, written notice that they are requesting an appeal of the violation. [Email and fax delivery are not permitted.]

- Appeals shall be **received** at the P.O. Box identified in the preceding paragraph within ten (10) days of the date of the violation notification letter sent to the Member. That date can be found directly above the "Mailing Address."
- Appeals shall demonstrate extenuating circumstances which require deviation from the CC&Rs and/or Design Guidelines and Association Rules.
- Appeals shall include all pertinent backup information to support the existence of the extenuating circumstances.
- All decisions of the Board are final.
- Any appeal that does not meet the above requirements shall not be otherwise considered by the Board. Any such appeal shall be considered heard and denied.
- A Member whose appeal is not thus denied will be given written notice as to the time and place that the appeal is scheduled to be heard.
- The appeal shall be heard in *Closed Session* meeting of the Board of Directors.
- The Board President [or alternative presiding officer] will introduce all parties.
- Lengthy discussions are not a part of an appeal process. The Board, in its sole discretion, shall determine the time devoted to an appeal.
- The Member who is appealing will be asked to state their case and present any applicable documentation.
- Each Board Member will have the opportunity to ask the Member specific questions regarding the appeal.
- Upon completion of the question and answer period, the Board President [or alternative presiding officer] will state that the appeal has been heard and the Board will make its decision in *Closed Session*. Written notice of the Board's decision will be given via regular mail to the Member within seven (7) working days of the meeting/appeal hearing date.