

Foothills Townhouse IV Homeowners Association Enforcement Policy

The Board of Directors adopted the following enforcement policy at its duly-held meeting on the 6th day of February, 2012.

A violation is defined as:

- A. A Lot Owner commencing the construction of a building, wall, fence, coping, carport, ramada, parking area or any other structure or facility (including storage units in carports), or changing the color of the body or trim of their house without having submitted plans to the Architectural Committee for approval.**
- B. A Lot Owner commencing landscaping installation or modification without having submitted plans to the Landscape Committee or that circumvents or violates the guidelines of the Landscape Committee as published on the THIV website.**
- C. A Lot Owner, having applied for permission to the Architectural Committee or the Landscape Committee and having been denied, and without entering into the process to appeal the denial to the Board of Directors and getting approval from the Board, commences the alteration of the landscape on his/her Lot, or the construction of a building, wall, fence, coping, carport, ramada, parking area or any other structure or facility (including storage units in carports) on the Lot, or changing the color of the body or trim of their dwelling.**
- D. A Lot Owner, having applied for permission to the Architectural Committee or Landscape Committee and having been denied, and having entered into the Appeals process and been denied by the Board of Directors, commences an alteration to the landscape on his/her Lot or the construction of a building, wall, fence, coping, carport, ramada, parking area or any other structure or facility (including storage units in carports) on the Lot, or changing the color of the body or trim of their Dwelling.**
- E. Any other violation of the Deed Restrictions, the Architectural Guidelines, or the Landscape Guidelines.**

Enforcement Procedure:

1. First notice of violation: When a violation of the Deed Restrictions, the Architectural Guidelines, the Landscape Guidelines, or any other Association rule or restriction is noted or reported to the Association's Board of Directors, a first notice of violation will be sent to the Lot Owner of record with a timetable for corrective action, which will be at least 14 business days from the date of the notice, unless the nature of the violation requires a shorter time period for rectification.
2. Contents of the First Notice: The first notice of violation from the Board of Directors or its authorized agent shall provide at least the following information:
 - a. The rule or restriction that allegedly has been violated.
 - b. Action(s) required to cure the violation.
 - c. The date of the violation or the date the violation was observed.
 - d. A copy of this policy to assure the Lot Owner is aware of the process he or she must follow to contest the notice of violation.

3. Contesting the Violation: If the Lot Owner wishes to contest the notice of violation, he or she shall provide the Board a written response by certified mail within 10 business days after the date of the notice, setting forth his/her position and requesting any additional information he or she requires. This response shall be sent to the Association's Board of Directors or its authorized agent at the address shown on the notice of violation.
4. Response by the Association to Owner: Within 10 business days after receipt of the Lot Owner's response, the Board or its authorized agent shall respond to the Lot Owner with a written explanation regarding the notice of violation, and shall provide any additional information the Lot Owner reasonably requires.
5. Second Notice of Violation: After procedures in paragraphs 3 and 4 are completed, or after the initial 10 day notice period set forth in the first notice of violation, a follow-up inspection will be conducted by the Board or its authorized agent. If the Lot Owner has not cured the violation(s) within the time specified, a second notice of violation will be sent, wherein the Lot Owner will be instructed to cure the violation(s) within 7 calendar days after the date of the second notice.
6. Notice of hearing: A follow-up inspection will be conducted on or after the deadline date of the second notice of violation. If the non-compliance has not been cured, the Board may refer the matter directly to the Association's attorney for further action or may send the Lot Owner a "Notice of Hearing" via certified mail, return receipt requested and first class mail, wherein the Lot Owner will be invited to attend the next Board Meeting/Hearing Panel Session and have an opportunity to be heard. The date, time and location of the hearing shall be stated in the Notice of Hearing.
7. Hearing Panel: A quorum of the Board of Directors shall act as the Hearing Panel at the Board's regularly-scheduled monthly meetings. The Hearing Panel will meet in Executive Session to hear the Lot Owner prior to or after the open Board Meeting.
8. Designated Representative: A Lot Owner may present to the Board (prior to or at the Hearing) written notification that another person is the Owner's designated representative. A designated representative may speak on behalf of the Owner.
9. Procedure for Hearing: Procedure for Hearing will be set by the Board of Directors. The Lot Owner and his/her designated representative will be informed of the procedure before the Hearing begins. The Lot Owner and/or his/her designated representative will be given an opportunity to present supporting documentation and testimony to show cause why further enforcement action should not be authorized by the Board, which could include the levy of a monetary penalty and/or referral of the matter to the Association's attorney.
10. Proof of Delivery of Notice: Proof of delivery to the Lot Owner of the Notice of Hearing shall be deemed adequate if a copy of the Notice, together with a statement of the date and manner of delivery is entered into the minutes of the meeting by the officer, director or agent who mailed or deliver the Notice.

11. Procedure if Owner or Representative does not appear: If the Lot Owner or his/her designated representative does not appear at the Hearing, The Board may levy a monetary penalty and/or refer the matter to the Association's attorney for further action.
12. Hearing Panel's Decision: Notice shall be sent to the Lot Owner by the Board within 15 days after the date of the Hearing stating the Hearing Panel's decision, including the amount of any monetary penalty that may have been imposed by the Board and its due date.
13. Post-Hearing Grace Period: An additional grace period of 10 calendar days beyond the due date of the above Hearing notice will be granted for correction of any violation brought before the Hearing Panel. Failure to correct said violation within that time frame will result in the monetary penalty being imposed retroactively to the date of the Hearing.
14. Delinquency of Penalty: Any monetary penalty imposed which has not been paid within 30 days after its stated due date shall be delinquent and a late charge of \$15.00 or 10% of the amount of the penalty (whichever is more) shall be added to the penalty as a late fee.
15. Repeat Violations: A penalty for a violation of the Association's rules or restrictions may be imposed by the Board for each separate or repeat issue of non-compliance. Daily penalties for violation of rules or restrictions may accrue for ongoing issues of non-compliance until each violation is corrected.
16. Collection of Penalties: The Association has a lien for penalties and associated late charges, attorney's fees and costs, imposed for violation of a rule or restriction after the entry of a judgment in a civil suit for penalties, late charges and associated attorney fees and costs by a court of competent jurisdiction, and the recording of that judgment in the offices of the Pima County Recorder. This lien is effective on conveyance of any interest in subject Lot. The Association may collect the amounts due under the judgment prior to conveyance of the Lot by any lawful means.
17. Cumulative Rights and Remedies: All rights and remedies of the Association at law or in equity are cumulative and the exercise of one right or remedy shall not waive the Association's right to exercise another right or remedy. This means that the Association's Board can decide to bring a lawsuit against a Lot Owner to enforce an applicable rule, restriction or statute in addition to or instead of imposing a monetary penalty.