

Rafter J Ranch Homeowner's Association Policy on Fines

A. Application

Pursuant to Article III, Section 3 of the Compilation of Declaration of Covenants, Conditions, and Restrictions, Rafter J Ranch Subdivision and Amendment Thereto (CC&Rs) the Board of Directors (Board) of the Rafter J Ranch Homeowner's Association (HOA) amended the Rafter J Ranch Homeowner's Association Rules (Rules) to include a rule that implements this Policy on Fines

B. General

1. Purpose: This policy establishes a consistent process of levying fines as a means of enforcing compliance with the CC&Rs and the Rules.

2. Definitions:

Violation is a condition or act that violates one or more sections of the CC&Rs or Rules.

Offender is a person who either commits a violation or is responsible for correction of a violation. Violations that are traceable to a particular lot in Rafter J shall be cause for the lot owner to be considered the offender on the basis that the lot owner is in the position to have to greatest degree of control over actions of others associated with the lot. The owner's responsibility thus extends to, but is not limited to, those living with the owner, visitors, and renters. Vehicular violations traceable to a vehicle associated to a particular lot in Rafter J shall also be the responsibility of the lot owner. The owner's responsibility thus extends to any vehicle that comes to or leaves from the owner's lot including, but not limited to, vehicles giving rides to someone at the owner's lot and commercial vehicles providing service to the property.

Complainant is the party that lodges a complaint with the Rafter J Office.

Fine Period is a time span starting from the time of a given violation within which a subsequent violation of the same nature results in levying an increased fine amount for that subsequent violation as established in paragraph B.4. This period of time shall be 2 years.

3. Board of Appeals: The HOA Board of Directors shall act as a Board of Appeals regarding the levy of any fines. Any offender who receives a Letter of Notification pursuant to paragraph C.3 below may request that he or she be heard at a regularly or specially scheduled meeting of the Board held within sixty (60) days of the Letter of Notification to present a defense or explain extenuating or mitigating circumstances pertinent to the matter. Based on the presentation, the Board has the authority to maintain the fine levied, reduce or eliminate the fine, extend the due date of the fine, or defer a decision pending further investigation and presentation of additional information, although the Board's authority is not limited to the foregoing choices.

The Board's decision shall be based on majority vote of a quorum as defined in the HOA Bylaws. In the event the offender does not notify the Board within thirty (30) days of the date of the Letter of Notification of his or her desire for a hearing, the offender shall be deemed to have waived the hearing and the imposition of any penalty shall be deemed final.

4. Fine amounts are progressive in that subsequent violations of the same nature within the Fine Period shall be of increasing amounts.
 - a. First violation Written Warning
(See paragraph C.3)
 - b. Second violation \$25
 - c. Third violation \$100
 - d. Fourth violation \$500
 - e. Fifth violation \$1000
 - f. Sixth violation See paragraph C.8
5. Complaints should be filed in written form whenever possible. Complainants making verbal complaints, either in person or via the telephone, shall be advised to put the complaint in writing. The purpose is to record the complaint in the complainant's own words without interpretation or modification by an employee or Director of the HOA. In addition, the relatively minor effort required of the complainant to file a written complaint reduces the occurrence of filing a frivolous or trivial complaint.
6. Notwithstanding the instructions of paragraph B.5, circumstances may warrant accepting verbal complaints. For example, complaints of a serious nature, of a repeat occurrence of a previously filed offense, or complaints concerning a situation requiring a rapid response, should be processed without requiring a written complaint.
7. Due to the temporal nature of some violations (e.g., excessive vehicle speed) the complaint should include all details of what was witnessed and exactly when and where the violation occurred and how it was associated to a particular Rafter J lot/homeowner.

C. Process

1. Complaints received by the Rafter J Office shall be filed electronically in the folder corresponding to the complainant's lot. The complaint file does not need to be a particular file type but shall be a type readily opened by one of the applications regularly available on the office computer (e.g., *.doc, *.txt, *.msg, *.htm, etc.). Responses, actions taken, and resolutions of complaints shall be tracked in accordance with the Correspondence Policy.
2. If practical, photographs shall be taken to document the alleged violation reported as soon as reasonably practical after the complaint was received. These photographs shall be filed in the offender's folder.
3. Assuming the complaint is substantiated, the offender(s) shall be sent a Letter of Notification by priority mail with delivery confirmation that

- a. Describes the complaint;
 - b. Cites how the situation constitutes a violation of the HOA's Covenants, Conditions, and Restrictions (CC&Rs), Bylaws, or Rules;
 - c. Identifies what penalty (fine amount or warning) is being imposed;
 - d. Suggests how the situation could be resolved or describes what conditions would constitute resolution;
 - e. Defines a date by which the resolution shall occur or when a plan devised by the offender to achieve resolution shall be sent to the HOA Office; and
 - f. Advises the offender that he/she may request a hearing on the issue before the Board of Directors in the capacity of a Board of Appeals per paragraph B.3.
4. Any response from the offender shall be reviewed by one or more HOA employees or Directors to determine the adequacy and appropriateness of the response.
 5. If the response is deemed to be inadequate or inappropriate to resolve the situation, the offender shall be so informed along with additional instructions or suggestions until the response is considered acceptable. Failure to request a hearing pursuant to paragraph B.7 or initiate action to remediate the complaint by the date stated in the Letter of Notification, or tardiness in effecting remediation, shall be considered a repeat violation resulting in (additional) fines in accordance with paragraph B.4.
 6. Any fines levied shall be invoiced on the offender's regular Homeowner's financial account with a copy of the invoice sent to the offender, usually enclosed with the Letter of Notification but may be sent separately. The invoice shall include the due date for payment of the fine (generally one [1] month from the date of the invoice).
 7. Fines not paid by the due date shall constitute a violation C.6 and therefore a violation of the Rule that implements this policy. Subsequent failures to pay the original fine shall constitute subsequent violations of the implementing Rule resulting in subsequent fines as defined in paragraph B.4.
 8. When an offender either 1) accumulates more than six (6) violations of any nature or 2) a fine total in excess of \$1,500 within a Fine Period, the circumstances shall be presented to the Board of Directors with the recommendation to place a lien for the entire outstanding balance on the offender's account including all costs of placing and removing the lien and any other legal fees incurred by the HOA related to the circumstances of the original violation and any subsequent related violations. The Board shall be entitled to foreclose a lien provided for herein in the manner specified in Section 11 of the CC&Rs.