

Colonia Escondida Homeowners Association
Violation and Fining Policy
(Including Schedule of Fines)

This document sets forth Colonia Escondida Homeowners Association's policy for imposing disciplinary actions (including a Schedule of Fines) for violations of the Association's governing documents, pursuant to Texas House Bill 614 Fines and Endorsement Policy, the Texas Property Code, and the Association's Bylaws and Stated Declaration of Covenants, Conditions & Restrictions (BCC&Rs).

1. Authority of the Association's Board of Directors. The Board of Directors (Board), pursuant to Bylaws Article IV Section 1 thru 9 and BCC&Rs Article VI section 1 thru 14, has the authority to adopt and establish rules, regulations and policies (collectively, "Rules") governing the use of Common Area and facilities within Colonia Escondida, the personal conduct of Members, tenants and guests, and to take steps as it deems necessary for the enforcement of such Rules and the Association's Governing Documents (which in addition to the Rules, includes the Bylaws and BCC&Rs).

2. Membership. In accordance with Article V, Each Homeowner is a Member of the Association and is responsible for complying with the Governing Documents. Owners are required to give their tenants, if any, copies of the Governing Documents and of amendments and new Rules as they are adopted. Owners are also responsible for ensuring that their tenants, invitees, guests, and homeowners occupants comply with the Governing Documents. In the case of violations by tenants, invitees, guests and homeowners' occupants who are not Members of the Association, the Association will notify the Homeowner Owner. Any fines for non-compliance Assessments will be imposed against the Owner.

3. Notice. Upon a violation, the Board will determine whether to impose a fine or other sanction, such as suspending any rights or privileges. The Board will notify the Member in writing via certified mail. The notification shall:

- a. Identify the governing document provision that has been violated;
- b. Describe the nature of the violation;
- c. Give notice that the homeowner must correct the violation, if the violation is of a curable nature and does not pose a threat to public health or safety, within 10 days to avoid possible sanctions;
- d. Notice is not required if the owner received notice within the last six months.
 - a. Describe intended or possible sanction(s); and
- e. Allow the Owner 30 days from the date mailed to request the opportunity to address the Board

regarding the alleged violation.

If the Member's failure to correct a violation results in the expenditure of funds by the Association to correct the violation, the notice shall also state that the Board may vote to levy a Reimbursement Assessment if the Board finds that a violation has occurred. The notice shall be sent by certified mail to the last known address for the Member as shown on the Association's records. Notice is not required for a violation of which the owner has been previously given notice and the opportunity to exercise any rights available under this section in the preceding six months.

4. Hearing. Upon request of a hearing, the HOA must hold a hearing within 30 days of the date it received the request, and notice of the hearing must be sent to the owner of the hearing date not later than the 10th day before the date of the hearing. Also, not later than 10 days before the hearing, the HOA must provide the owner a packet containing all documents, photographs and communications relating to the matter the HOA intends to introduce at the hearing. Failure to provide the packet entitles the owner to an automatic 15-day postponement of the hearing.

The hearing shall be conducted by the Board. The Member is entitled to attend the hearing and to address the Board. The President shall read the charges against the Member. The Member is allowed to present evidence and testimony on his or her behalf and shall have the right to question the witnesses against him or her and examine all evidence presented. The Board is entitled to question all witnesses. The Board shall have the exclusive power and authority to impose disciplinary action.

5. Imposing Disciplinary Action. The Board may impose one or more sanctions if it determines at the meeting that a member or his or her tenant, invitee, guest or occupant has committed a violation of a particular governing document provision. This action may be imposed even if the Member does not appear at the hearing when scheduled or does not submit a written explanation to the Board at or before the time scheduled for the hearing. As provided in BCC&Rs Article Section 1, disciplinary action may include loss of good standing, suspension of other rights, and/or monetary penalties (i.e., fines) as follows:

- a. **Loss of Good Standing.** Suspension of the Member's Good Standing status for so long as the Member remains in default of any payment or until the violation is remedied. The impact of suspension of the Member's Good Standing status is that his or her Association voting rights are suspended and he or she is disqualified from serving on the Board.
- b. **Suspension of Other Rights.** Suspension of the Member's or Resident's right to use Common Area recreational facilities for so long as the Member remains in default of any payment or for such period as may be specified by the Board if the violation involves misbehavior related to Common Area recreational facilities.
- c. **Monetary Penalties i.e. Fines.** Imposition of fines in accordance with the Association's current Schedule of Fines.

In the case of continuing violations, such as architectural violations and vehicle violations, the Board may impose additional disciplinary action once every thirty (30) days until the violation is remedied, provided that procedural requirements are followed. Repeated or habitual violations within a 30-day period, such as parking violations, shall not constitute a continuing violation but shall be a separate violation for each occurrence, and disciplinary action may be imposed for each and every separate violation.

6. Notice of Board's Decision; Effective Date of Sanction. The Board shall notify the Member of its decision, in writing, within fifteen (15) days after the hearing. Failure to notify the Member within such 15-day period shall invalidate the Board's action. A fine or Reimbursement Assessment shall become effective no sooner than five (5) days after the date of the hearing.

7. Grievance Committee. The Board-appointed "Grievance Committee," as authorized and directed by the Board, has the authority to investigate alleged violations and meet with the alleged violator and complaining parties (if any). The Grievance Committee also makes findings (as to whether a violation has occurred) and provides recommendations to the Board concerning sanctions. However, the final determination on whether a violation has occurred and the decision to impose sanctions (including the type of sanction(s) that will be imposed, if any) shall be ultimately made by the Board.

8. Payment of Fines. Fines (also known as "monetary penalties" or "Enforcement Assessments") are due when imposed and are deemed delinquent if not paid within fifteen (15) days after they are due. All sums payable hereunder by a Member shall bear interest at the maximum rate permitted by law commencing on the date the said sums become delinquent. The Association may commence a lawsuit to compel payment of delinquent fines and to recover attorney's fees and costs of enforcement.

9. Schedule of Fines. The Schedule of Fines adopted by the Board is attached to this Policy.

10. Additional Corrective Measures. The imposition of fines and suspension of voting and use rights are in addition to the requirement that Members comply with the governing documents. Compliance may include, but is not limited to, correcting, repairing or replacing non-complying conditions, all at the Member's expense.

11. Other Remedies. The Association reserves the right to avail itself of any other remedy permitted by law and the governing documents to enforce the provisions of the Association's Governing Documents (including Rules). These remedies include, but are not limited to, requesting internal dispute resolution, requesting that the matter be submitted to some form of alternative dispute resolution such as mediation or arbitration, or bringing an action in court. Such remedies may be taken in addition to or in lieu of any action already taken, and commencement of one remedy shall not prevent the Association from electing at a later date to pursue another remedy.

12. Hearing Before Board; Alternative Dispute Resolution

(a) Except as provided by Subsection (c) and only if the owner is entitled to an opportunity to cure the violation, the owner has the right to submit a written request for a hearing to discuss and verify facts and resolve the matter in issue before the board.

(b) The association shall hold a hearing under this section not later than the 30th day after the date the board receives the owner's request for a hearing and shall notify the owner of the date, time, and place of the hearing not later than the 10th day before the date of the hearing. The board or the owner may request a postponement, and, if requested, a postponement shall be granted for a period of not more than 10 days. Additional postponements may be granted by agreement of the parties. The owner or the association may make an audio recording of the meeting.

(c) The notice and hearing provisions of Texas Property Code Section 209.006 and this section do not apply if the association files a suit seeking a temporary restraining order or temporary injunctive relief or files a suit that includes foreclosure as a cause of action. If a suit is filed relating to a matter to which those sections apply, a party to the suit may file a motion to compel mediation. The notice and hearing provisions of Section 209.006 and this section do not apply to a temporary suspension of a person's right to use common areas if the temporary suspension is the result of a violation that occurred in a common area and involved a significant and immediate risk of harm to others in the subdivision. The temporary suspension is effective until the board makes a final determination on the suspension action after following the procedures prescribed by this section.

(d) An owner or property owners' association may use alternative dispute resolution services.

(e) Not later than 10 days before the association holds a hearing under this section, the association shall provide to an owner a packet containing all documents, photographs, and communications relating to the matter the association intends to introduce at the hearing.

(f) If an association does not provide a packet within the period described by Subsection (f), an owner is entitled to an automatic 15-day postponement of the hearing.

(g) During a hearing, a member of the board or the association's designated representative shall first present the association's case against the owner. An owner or the owner's designated representative is entitled to present the owner's information and issues relevant to the appeal or dispute.

The BCC&R Provisions also Apply. The BCC&Rs, in particular, Article VII Section 1, also addresses and applies to the holding of hearings and imposition of fines and other sanctions against Members.

13. Liens. The Association may secure recovery of any fines imposed and the costs of enforcement by the filing of a lien or liens to the extent not prohibited by law. As of the date of adoption of this Policy, liens that are recorded to secure fines may not be enforced by non-judicial foreclosure.

14. Association's Duty of Enforcement. Failure by the Association to enforce any provision of the governing documents shall in no event be deemed a waiver of the right to do so thereafter.

15. Amendment of Policy. The Board may amend this Policy without providing advance notice to the Owners if an amendment is required by law or needed to conform a particular provision or provisions of this Policy to changes in applicable Texas statutory law that are non-discretionary in nature.

**Colonia Escondida Homeowners Association
Schedule of Fines**

To ensure compliance with the Governing Documents of Colonia Escondida Homeowners Association, Article VI, Section 1 thru 14, Members may be fined for violations. The Association's Board of Directors has adopted this Schedule of Fines, which will be in effect until changed by action of the Board of Directors. Any violation of the Governing Documents either by a Member or a Member's tenant, invitee, guest or homeowner's occupant shall be subject to the following fines:

Violation	1 st Violation	2 nd Violation	3rd + Subsequent
Lot Use	\$100	\$200	\$300
Location of Improvements on Lot	\$100	\$200	\$300
Nuisances	\$100	\$200	\$300
Other Structures and Storage	\$500	\$1500	\$2000
Animals	\$100	\$200	\$300
Business Use	\$100	\$200	\$300
Garbage and Refuse Disposal	\$100	\$200	\$300
Dwelling Quality and Size	\$100	\$200	\$300
Signs	\$100	\$200	\$300
Unkept Lawns	\$100	\$200	\$300
Easement Violation	\$500	\$1000	\$1500
Short Term Rental (Air B&B)	\$500	\$1000	\$1500

This policy was adopted by the Colonia Escondida Board of Directors at its July 8, 2024 meeting. The Policy becomes effective August 1, 2024. It was drafted to bring it into conformity with Texas House Bill 614, the Texas Property Code, and Association's Bylaws Declaration of Covenants, Conditions and Restrictions ("BCC&Rs").