

## Bollinger Hills Homeowners Association

### CC&R Enforcement Rule

**NOW, THEREFORE, BE IT RESOLVED** that the enforcement procedure be as follows:

The CC&R Committee will conduct periodic reviews of the Association Lots and send non-compliance notices to property owners who are in violation of the rules and regulations (CC&R's and other rules adopted for clarification). The enforcement process is as follows:

1. A courtesy letter or enforcement letter will be sent in response to an observed violation.
  - a) Courtesy Letter: A letter stating the nature of the violation, the corrective action needed, and a compliance deadline.
  - b) Enforcement Letter: A letter stating the following:
    - The nature of the violation.
    - The text of the CC&R section(s) violated.
    - The dates the violation was observed.
    - The corrective action needed.
    - Compliance deadline.
    - Potential fines and other sanctions and their start date.
    - Internal Dispute Resolution date.
    - Hearing date.
    - Other dispute resolution opportunities and processes.
2. Courtesy Letters are sent for first time less severe violations. Enforcement Letters are sent under three different sets of circumstances.
  - a) More severe violations.
  - b) Violations not corrected by way of a Courtesy Letter.
  - c) A violation that is a repeat of the same violation less than eighteen months prior to the date of the current violation.
3. Homeowners are responsible for the infractions of their tenants and if the rules infraction is not abated by the tenant and/or homeowner, any disciplinary action will be assessed against the homeowner. The owner will receive all correspondence and notices. The Association will carbon copy the tenants on all correspondence if the owner makes a request to the Association in writing.

4. The owner has the right to request a meeting (Internal Dispute Resolution, IDR) with members of the Board of Directors to discuss the enforcement matter. The enforcement letter provides a date for this meeting, if the owner elects to request it. The Association can not refuse an owner's request for IDR. The owner is requested to advise the CC&R Committee at least 72 hours in advance of intent to attend an IDR meeting.
5. The Board must conduct a hearing prior to imposing any penalties. The owner must also be given the opportunity to be heard. The Board of Directors will conduct a hearing in Executive Session on the date stated within the Enforcement Letter, unless requested by the owner to be in public session. The owner must be notified in writing at least 15 days in advance of the scheduled hearing. The owner must notify the CC&R Committee of an intent to attend the hearing at least 72 hours in advance of the hearing date. At the hearing the Board will determine if compliance has been met or if a fine is to be levied against the owner for continued violation of the Association rules. The Board will vote on a resolution memorializing the Board's decision. The owner will be advised in writing of the decision, within ten days of the hearing date. If an owner does not attend the hearing and does not communicate with the Association prior to the hearing, an automatic fine will be levied if the owner is still in violation at the time of the hearing. In the event that the owner complies with 7 days of the hearing, a hearing will still take place to verify that the violation has permanently ceased. Assessed fines will be in accordance with the fining schedule. Fines are due within 30 days from the date of fine notice.
6. If the homeowner does not pay a fine within ten days of the due date, a late fee of ten (10%) of the fine will be assessed. If the assessed fine is not paid within thirty days after the delinquency date, the assessed fine shall bear interest from the date of delinquency at then percent (10%) per annum. If assessed fine remains unpaid, small claims action will be initiated and/or the member will be referred to the Association's attorney for arbitration.
7. If compliance has not been met at the time of the hearing, the Board will determine if Association action should be taken to enter the property or take other similar actions to correct the violation. The owner will be given a 48 hour notice of any intent by the Association to enter any lot to take corrective action (in accordance with Article II, Section 1(d) of the CC&R's) or of any other action which may be taken. The cost of such maintenance and/or repair shall be charged to the Owner of the Lot as a Reimbursement Assessment and payable within 30 days.
8. In addition to any of the remedies above, if the homeowner fails to correct the violation, the Association will offer to the owner an opportunity to participate in Alternative Dispute Resolution (binding or non-binding). The owner has 30 days to respond to the request, and has the right to agree to participate or reject the invitation. Arbitration, if agreed to, must be completed within 90 days. If ADR is rejected by either party, then litigation (in Small Claims or Superior Court) may be pursued through the Association's law firm for injunctive relief. Such action may result in a court order prohibiting certain activity and/or requiring that an owner comply with the rules and regulations. In such a civil action, the Civil Code provides that "the prevailing party shall be awarded reasonable attorney's fees and costs".

9. Nothing in the enforcement policy and procedure shall be deemed to limit any other rights and remedies that the Board may have under the Governing Documents or applicable law.
10. Past boards failure to enforce rules does not prohibit enforcement of rules by subsequent boards.

**COMPLIANCE DEADLINE SCHEDULE**

The Compliance Schedule defines the number of days provided to correct a violation from the date of expected receipt of the courtesy or enforcement letter. San Ramon delivers intra-city mail in one business day. Anticipated delivery dates to other locations will be based on deliver-to location. Compliance periods will be shorter for Enforcement Letters that follow up on Courtesy Letters.

<b>Violation</b>	<b>Compliance Period</b>
Garbage cans, debris, trash, etc.	1 day
Vehicle parking violations	1 day
Pets	1 day
Landscaping	15 days or as shown in notice
All others	As designated on notice

## **FINE SCHEDULE**

The matrix below defines the fining rates for different types of violations. "Occurrences" are defined as a violation that runs without interruption from one the first day of violation to the last day of the violation. If the same type of violation repeats at another time, within 18 months of the first violation, it is considered a "2<sup>nd</sup> Occurrence" and is subject to the corresponding fines in the table.

<b>Violation</b>	<b>1st Occurrence Max \$ per day</b>	<b>2nd Occurrence Max \$ per day</b>	<b>Types of Violations</b>
Parking / Vehicles	\$50	\$100	RV, trailer, boats, disabled vehicles, etc.
Landscaping	\$25	\$100	Lawn, weeds, dead plants, barren ground, etc.
Maintenance	\$25	\$100	Paint, mailboxes, gutters, fences, etc.
Garbage Bins, Trash	\$25	\$50	Garbage bins left out or visible from street.
Nuisances	\$50	\$100	Loud music, animals, heavy auto repair, noise, fumes, etc.
Architectural	\$50	\$100	Unapproved architecture (roof, paint color, paving, satellite dishes, etc.).
Commercial Use	\$50	\$100	Running a business out of the home.
Miscellaneous	\$50	\$100	Miscellaneous

The adoption of this Rule was approved on the 5th day of February, 2007, by the following vote:

**DIRECTOR**

Victor Petersen	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Absent/Not Voting <input type="checkbox"/>
John Youngblood	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Absent/Not Voting <input type="checkbox"/>
Janet Miller	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Absent/Not Voting <input type="checkbox"/>
Tom von Thury	Yes <input type="checkbox"/>	No <input type="checkbox"/>	Absent/Not Voting <input checked="" type="checkbox"/>
Renee Rovai	Yes <input checked="" type="checkbox"/>	No <input type="checkbox"/>	Absent/Not Voting <input type="checkbox"/>

WHEREUPON, the Treasurer declares the foregoing Rule duly adopted, to be effective April 11, 2007

Dated: Feb 5, 2007

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Terry S. Cunningham - Treasurer