

Aldea de Santa Fe Homeowners Association Covenants, Rules & Regulations Enforcement Procedure 2020

Preamble

The Aldea de Santa Fe Board of Directors establishes and maintains rules and regulations that are part of the governing documents of the Aldea de Santa Fe Homeowners Association. These requirements contribute to maintaining a well-run and attractive community, while enhancing each owner's property value and standard of living. All owners and residents are encouraged to cooperatively follow the Association's covenants, rules and regulations and design code for the mutual benefit of the community. While it is expected that minor violations of the community rules can be settled by amicable neighbor-to-neighbor or resident-to-Manager conversations, in the event of a significant or continuing violation, the following enforcement procedure is provided to assist the Association's management team, Board, and community members in resolving such violations. The Board of Directors may deviate from this procedure in its sole and absolute discretion.

Authority

The following Covenants, Rules and Regulations Enforcement Procedure 2020 has been adopted by the Board of Directors in accordance with Section 10.9 - *Enforcement* of the Aldea de Santa Fe Amended, Restated and Supplemental Neighborhood Declaration of Charter, Easements, Covenants & Restrictions, as amended ("Declaration") and Section 34 - *Enforcement and Remedies* of the Aldea de Santa Fe Neighborhood Rules and Regulations, as amended ("Rules and Regulations") and shall apply to violations of the covenants, rules and regulations ("Violations") found within the Declaration, the Neighborhood Rules and Regulations, the Amended and Restated Bylaws of the Aldea de Santa Fe Homeowners Association, as amended, ("Bylaws"), the Master Deed Restrictions, as amended, and the Design Code, as amended, hereinafter collectively referred to as "the Governing Documents".

Also, in accordance with Section 10.9(c) of the Declaration and Sections 22 and 34 of the Neighborhood Rule and Regulations, if a Tenant is believed to be in violation of the Governing Documents, the Association shall notify the Owner and the Tenant of the violation. All leases require that tenants and occupants of the leased Lot be bound by and obligated to comply with the Governing Documents. The Lot Owner is ultimately responsible for the actions of each tenant or occupant.

Procedure

1. Determination of Violation. The Community Manager of Aldea de Santa Fe Homeowners Association ("Manager"), the Aldea de Santa Fe Board of Directors ("Board"), and the Architectural Review Committee ("ARC") shall each be empowered to make determinations regarding whether a violation of the Governing Documents exists. The Board shall have the authority to determine the final disposition of any alleged Violation.

2. Reporting a Violation. Formal complaints from any resident, management company representatives, Board or committee member regarding an alleged Violation of the covenants, design code, rules or regulations must be submitted to the Manager in writing – email preferred.

3. Confirming a Violation. Any alleged Violation shall be reviewed by the Manager within five (5) business days and, if confirmed, a written violation notice ("Violation Notice") shall be delivered to the recorded Owner of the Lot in question ("Owner") and tenant, if applicable, describing the Violation and indicating whether the violation falls within the "Design Code Violation" category or the "General Violation" category.

A Design Code Violation is defined as modifications after completion of construction, or additions or changes to approved construction plans, in which case enforcement shall be by the ARC.

A General Violation is defined as all other violations of the covenants, rules, or regulations, in which case enforcement shall be by a subcommittee consisting of two members of the Board.

4. Violation Notice. The Violation Notice shall reference the applicable covenant, rule or regulation violated and the number of business days within which the Violation must be cured, if applicable. A copy of the Violation Notice shall also be sent to either the ARC or the Board, depending on the type of violation.

Violation Notices shall be sent by registered or certified U.S. Mail, postage prepaid, or electronic mail addressed in the name of the Owner.

The Violation Notice shall also indicate that the Owner has the option of submitting a written request for a hearing, before the ARC, if it is a Design Code Violation, or before the Board subcommittee, if it is a General Violation, within ten (10) business days following delivery of the Violation Notice.

- a. Failure by an Owner to request a hearing as outlined above shall constitute a waiver of the right to a hearing, after which the Board shall have the right to impose any or all of the sanctions listed in Section 8 below.
- b. A notice of hearing (“Hearing Notice”) listing the date, time and location of the scheduled hearing shall be delivered by the Manager to the Owner requesting the hearing and/or to the Resident found to be in violation of the Governing Documents (if different), members of the group charged with enforcement, and the complaining party, if any, within ten (10) days following delivery of a hearing request to the Manager. The hearing itself shall be conducted not less than ten (10) and no more than fifteen (15) business days following the date of delivery of the Hearing Notice.

5. Hearing. At the hearing, the Owner and the complaining party, if any, shall have the right, personally or by a representative, to give testimony, subject to reasonable rules of procedure established by the ARC or Board subcommittee. If any participant’s representative is an attorney, prior notice shall be given so that all parties may be similarly represented.

If the violation is a Design Code Violation that involves construction or modification that has not been approved or which deviates from the approved plans, at the hearing, the ARC and Owner may jointly elect to resolve the dispute through binding arbitration or mediation in accordance with Article 4.5 of Aldea de Santa Fe Master Deed Restrictions and the New Mexico Arbitration Act.

6. Hearing Findings. Within five (5) business days following the hearing, the ARC or the Board subcommittee, whichever is applicable, shall issue its written findings with regard to the alleged violation to the Owner as follows:

- a. If the violation is dismissed, no further action need be taken by either party.
- b. If the violation is confirmed, the Owner must either:
 - i. comply with the determination of the Hearing, including the payment of any fine(s) imposed by the ARC or Board subcommittee; or
 - ii. request an appeal to the Board of Directors by submitting a written request to the Manager within five (5) business days following delivery of the Hearing Findings.

7. Board Appeal. A notice of hearing (“Board Appeal”) listing the date, time and location of the scheduled hearing shall be delivered by the Manager to the Owner requesting the appeal hearing within ten (10) business days following delivery of an appeal hearing request to the Manager. The appeal hearing itself shall be conducted not less than ten (10) and no more than fifteen (15) business days following the date of delivery of the Hearing Notice.

At the appeal hearing, the Owner and the complaining party, if any, shall have the right personally, or by a representative, to give testimony, subject to reasonable rules of procedure established by the Board. If any participant’s representative is an attorney, prior notice must be given so that all parties may be similarly represented.

At the appeal hearing, the Board and Owner may jointly elect to resolve the dispute through binding arbitration or mediation in accordance with Article 4.5 of Aldea de Santa Fe Master Deed Restrictions and the New Mexico Arbitration Act.

No later than five (5) business days following the appeal hearing, a Notice of Board Determination shall be delivered to the Owner and the complaining party, if any.

8. Imposition of Sanctions. If the Owner is found to be in violation of the Governing Documents, or fails to comply with terms of the Violation Notice, any mediated settlement or the Notice of Board Determination, as applicable, the Board shall deliver written notice to the violating party specifying the sanctions to be taken by the Board (“Sanction Notice”). The Sanction Notice shall be sent by registered or certified U.S. Mail, postage prepaid, or electronic mail addressed in the name of the Owner. In its Sanction Notice, the Board shall notify the Owner that the Association intends to do one or more of the following:

- a. take such actions as are necessary to remove, replace or otherwise correct or cure the Violation in question and cause the cost thereof to be assessed against the Owner;
- b. impose a fine against the Owner up to the maximum amount permitted by the Rules and Regulations. Fines can be applied retroactively to the initial date of the Violation.
- c. suspend the Owner’s Association member rights including:
 - i. rescind the Owner’s voting privileges;
 - ii. restrict the Owner’s use of the Common Areas;
 - iii. prohibit the Owner from serving as a member of the Board or Standing Committees;
- d. issue a cease and desist order requiring the Owner to suspend any construction or modifications related to the Violation;
- e. pursue injunctive relief against the continuance of such Violation through the court system, with all fees and costs charged back to the Owner; and/or

The Owner shall be responsible for paying all fines within thirty (30) days following delivery of a Sanction Notice. Fines remaining unpaid after thirty (30) days shall be subject to the collections procedures as outlined in the Aldea de Santa Fe Delinquency Policy.

9. Failure to Comply. If an Owner fails to take the corrective action required by the Sanction Notice and/or refuses to pay the applicable fines and penalties listed therein, the Board may institute legal action against the Owner for injunctive relief and such other remedies as it deems appropriate.

10. Repeat Violations. Repeat Violations or continuing violations of the same covenants, design code, rules or regulations may be subject to the immediate imposition of additional fines and/or other sanctions, without notice.

Terms

1. Delivery of Notice Defined. The term “delivery” or “date of delivery” shall mean the 4th day following deposit of the applicable notice in the U.S. mail, postage prepaid, if mailed, or the date an e-mail is sent if notice is sent electronically, and:

- a. if to the individual, either owner or tenant, found to be in violation of the Governing Documents - addressed to the street address of the residence occupied by the alleged violator as well as the last known mailing address of the Owner on file in the records of the Association, if different, or to the e-mail address on file for the Owner if notice is sent electronically;
- b. if to the Board - addressed to Aldea de Santa Fe Homeowners Association, c/o Community Manager, 3 Nuevo Milenio, 2nd Floor, Santa Fe, New Mexico 87507.

2. Days; Extension of Time. All references to “days” shall mean business days – Monday through Friday, holidays excluded. Whether the time periods set forth in paragraphs above are extended or modified shall be at the sole discretion of the Board.

3. Captions. The captions herein are inserted only as a matter of convenience and for reference, and in no way define, limit, or describe the scope of this document or the intent of any provision thereof.

Enforcement Steps

The following chart outlines the steps to be followed in the enforcement procedure for any alleged violation of the Association’s covenants, design code and/or rules and regulations. In the event that there is a difference between the chart and the written enforcement procedure, the written document shall govern the actions to be taken.

Board Approval _____ (date)

Board President _____ (signed)