

AVOCET

ASSOCIATION, INC.

C/o Association Management Group
Tel: (858) 622-8500 Fax: (760) 931-4188

2131 Las Palmas Drive, Suite A, Carlsbad, CA 92011-1524
Email: amg@sdamg.net

VIOLATIONS AND PENALTY AND FINE POLICY

The Avocet Association, Inc. Board has adopted the following policy for validating and addressing homeowner complaints and violations of the Covenants, Conditions and Restrictions (CC&Rs), Bylaws and Rules and Regulations (Rules) of the Association.

I. TYPES OF VIOLATIONS

Violations shall be separated into three (3) general categories:

- A. **Architectural Violations** shall include, but not be limited to: failure to obtain architectural approval prior to initiating improvements and/or failure to construct improvements in accordance with the provisions of architectural approval.
- B. **Visible Violations** shall include, but not be limited to: parking, vehicular restrictions and exterior maintenance.
- C. **Nuisance Violations** shall include, but not be limited to: noise, odor, Common Area damage, behavior or control of pets and/or behavior or control of Owner's children, family members or guests.

II. OWNER RESPONSIBILITY

Each Owner is strictly liable for violations of the governing documents and the Rules committed by the Owner's household guests, household help, and tenants. If a guest, household helper or tenant is in violation of the governing documents or a Rule, the Owner will receive notice of the violation in accordance with the policy set forth below and will be responsible for all fines and other enforcement penalties imposed.

III. VERIFICATION OF COMPLAINT OR VIOLATION

Violations may come to the attention of the Board through owner complaint or through visual observations by one or more Board members or by the Management Company.

- A. **Owner Complaints.** To advise the Association of a complaint or violation, the homeowner must file a formal written complaint and send it to the management company. The written complaint must be signed and dated. The written complaint should comprehensively state the basis of the complaint or violation and must provide information regarding when, where, who, what and how the complaint arose or the violation occurred.

When the written complaint is received, the Management Company will attempt to verify the complaint or violation by visual inspection or other appropriate means.

- B. **Visual Observation.** When a Board member or the Management Company observes a violation, the violation will be submitted to the Management Company for enforcement.

IV. ENFORCEMENT PROCEDURES

Complaints and violations of the governing documents shall be handled as follows:

- A. Courtesy Notice. The Management Company will send a formal written notice (the "Courtesy Notice") to the offending Owner of record at the Owner's last known address and, if the unit is rented, to the tenant. The Courtesy Notice will describe the general nature of the alleged violation and request correction of the violation.
- B. First Notice. The Management Company will send a formal written notice (the "First Notice") to the offending Owner of record at the Owner's last known address and, if the unit is rented, to the tenant. The First Notice will describe the general nature of the alleged violation and request correction of the violation by a stated date.
- C. Hearing Notice. If the violation is not corrected within two weeks from the First Notice, the Management Company will send a formal written notice to the Owner of record at the Owner's last known address and, if the unit is rented, to the tenant, setting a Board hearing on the violation and advising the Owner/tenant that monetary fines and penalties may be imposed. The Hearing Notice will contain the date, time and place of the hearing, the nature of the alleged violation for which the Owner/tenant may be disciplined and a statement that the Owner/tenant has a right to attend and may address the Board at the hearing.

The Hearing Notice may include the amount of any monetary fines that may be imposed at the hearing if the violation is not corrected and shall include a description of other penalties that may be imposed, including, without limitation, the membership rights that may be revoked by Board decision at the hearing. The Hearing Notice may also include the amount of any additional monetary fines that may be imposed at the hearing for continuation and/or repetition of the violation. The Hearing Notice will be sent at least ten (10) days prior to the hearing.

- D. Hearing. If the violation is not corrected before the scheduled hearing, the Board will hold a hearing on the date and at the time and place set forth in the Hearing Notice. The Hearing will be conducted in an Executive Session of the Board.

The Hearing will be held regardless of whether the Owner and/or tenant attends the Hearing, and an appropriate monetary fine and other penalties may be imposed, including, without limitation, the revocation of membership rights in accordance with the governing documents. The Board may also determine what future penalties should be imposed if the Owner/tenant continues to be in violation. Any determination made by the Board is binding notwithstanding the absence of the Owner and/or tenant.

If the Owner/tenant has corrected the violation as of the date set for the Hearing, the Board will not impose any monetary fines or penalties and will close the complaint or violation procedure.

- E. Post-Hearing Notice of Discipline. If the Board imposes discipline on an Owner and/or tenant, the Board will provide the Owner and/or tenant with written notification of the disciplinary action ("Post-Hearing Notice") within ten (10) days following the hearing.

- F. **Verification of Continuing Violation.** Seven (7) days following the giving of the Post-Hearing Notice, the Management Company will verify whether the violation is continuing or reoccurring.
1. If the violation has been corrected, no further fines or penalties shall be imposed, all revoked membership rights will be reinstated and the violation proceeding will be closed.
 2. If the violation has not been corrected, monetary fines and penalties will continue to be imposed in accordance with the terms set forth in the Post-Hearing Notice.
 3. If the violation is reoccurring, the violation will be deemed a new violation and the enforcement procedures set forth above will be followed.
- G. **Notices.** All notices required or sent pursuant to this Enforcement Policy shall be either personally delivered or sent by United States first class mail, postage prepaid, (1) to the offending Owner at the last known address listed with the Management Company; and (2) to the tenant at the tenant's address within the community.

V. **FINES AND PENALTIES.**

- A. **Amounts of Fines and Charges.**
1. **First Offense.** The minimum fine for a first violation will be \$50.00.
 2. **Subsequent Offenses.** Subsequent violations of the same rule may be fined up to \$100 per violation and up to \$1,000 per year.
 3. **Additional Charges.** In addition to fines, the Board shall impose on the offending Owner additional charges resulting from the violation, including, without limitation, the actual cost to the Association to repair Association property or to correct the violation.
- B. **Other Penalties.** In addition to monetary fines, for any violation of the Association's governing documents or Rules, the Board may determine to suspend the Owner's rights and privileges, including, without limitation, the Owner's voting rights, the right to use the Association's recreational facilities or any combination thereof. Any suspension shall not take place until at least five (5) days following the Hearing and shall not exceed thirty (30) days in length.
- C. **Payment of Fines and Charges.** All fines and charges imposed against an Owner for a violation of the governing documents and/or Rules will be applied to the offending Owner's account and will appear on the Owner's next statement of account. Any unpaid balances will be subject to additional late fees and charges as set forth on the statement.