

Mace River Ranch
Enforcement & Fine Policy & Procedure
Effective 3/1/2020

Background

The Board desires to adopt a written policy and procedure for enforcing rules, covenants, and restrictions in accordance with Idaho law. The board finds that it is in the best interest of the Association and all of its members to adopt a standardized enforcement procedure to enforce the covenants and restrictions; to communicate the policy clearly; and to enforce the policy even-handedly and consistently.

Legal Authority

The Association was organized with the Secretary of State on November 12, 2013. The Mace River Ranch Homeowners' Association, Inc. ("Association") derives its authority from Idaho law, the Articles of Incorporation, Bylaws, and Master Declaration of Covenants, Conditions and Restrictions for Mace River Ranch Subdivision recorded November 22, 2013 in the Records of Ada County.

The Declaration authorizes the Association to adopt rules and regulations as set forth generally as well as specifically in Article 3.3.5. The Declaration further authorizes the Association to enforce its terms and conditions by way of monetary penalty, i.e., fines, as provided in 3.3.8. Further, the Board may independently take legal action, when needed, to correct or enjoin violations.

The Declaration and Idaho Code authorizes the Association to take legal action and impose and collect assessments for costs and legal fees incurred.

Procedure

A copy of this Policy shall be kept in the Association records, available for inspection. Further the Association will have this Policy distributed to each member upon its adoption.

Standing Instructions to Agent

The Board shall designate in writing (including by management contract) an agent authorized to initiate enforcement actions and send notices to members on its behalf. Currently this agent is Sentry Management, Inc. The Board, in its discretion, may contract for its agent to regularly inspect for violations, or may respond to member or Board reported violations.

The agent may use regularly schedule board meetings, as well as other scheduled meetings, to hear violations. The agent may rely on the last notice of upcoming meetings when giving notice to violation offenders of their hearing date.

Enforcement Process to be Followed by the Board and Its Agent

A. Initiation of Process

- a. A written report of any violation of the Declaration to the Board (or its agent) or noncompliance with a deadline set by a prior violation notice shall initiate the enforcement process.
- b. The Board (or its agent) will first review any report of violation to establish that it appears reliable and contains details sufficient to proceed.
- c. Written violation reports should include time of violation, place, and photographs whenever possible.
- d. The Board (or its agent) shall determine if the alleged violation is Actionable (one that may lead to a fine), Non-Actionable, or Emergency, and follow the appropriate procedure.
- e. The Board (or its agent) shall keep a record of any determination that a violation is Actionable or Emergency.

B. Non-Actionable (Informal) Procedure

- a. Give written notice by personal service, regular mail, or email to the member at the member's last known address. This "friendly notice" shall:
 - Describe the violation.
 - Request actions to resolve the violation.
 - Set a reasonable deadline for compliance.
 - Provide a contact for questions.
 - Warn that future failure to resolve pending violations can lead to a fine or legal action, and that all legal costs and fees will be assessed against the member.
- b. Keep a record of the original violation, including a photograph if possible.
- c. Set a time to review whether the deadline has been met. If it has not, document the non-compliance, with photographs if possible.

C. Actionable Violation Procedure

- a. The Board or its agent shall determine that a violation is Actionable if the member has repeatedly been issued notices for the same violation without resolving the violation.
- b. If a violation is determined to be Actionable, the agent shall provide written notice by personal service or certified mail to the member at the member's last known mailing address as shown in the records of the Association. This notice shall:
 - Tell the member that the violation is one for which a fine and/or legal action may be taken.
 - Describe the violation and include a call to action.
 - Describe the fine amount, if any.
 - Explain that, in addition to fines, legal action may result in additional costs.
 - Give notice of the date and time of the Board's next meeting that is *at least thirty (30) days* from the date of service of the Notice ("Hearing Meeting").
 - Give notice that the Member may be heard at the meeting either in writing or orally. Give instructions to present written information, or to request to be heard orally, before a specific deadline.
 - Give notice that the Board will vote to approve the fines or pass the violation on for legal action at the Hearing Meeting, unless the violation is resolved or partially resolved in good faith prior to the Hearing Meeting.
 - Give notice that this is the member's opportunity to resolve the violation without legal or other action, such as fining, and give instructions to contact the agent in writing

(including email) to negotiate a resolution prior to the Hearing Meeting. Explain that if the member fails to contact the agent in writing, the member will be deemed to not dispute the violation notice and waive any further rights to negotiate or mediate the claim.

- c. Hold the Hearing Meeting as scheduled
 - i. At the Hearing Meeting, the agent shall give the Board notice of:
 - All actionable violation notices given at least thirty (30) days prior to the Hearing Meeting and all pending, undisputed, and unresolved violations.
 - Any information submitted by the member for the Hearing Meeting.
 - Any requests for an oral (in-person) hearing by members.
 - The agent's determination if the violation is fully resolved, partially resolved, or unresolved. For each partially or temporarily resolved violation, set a time to follow up and determine if the member has continued to address the pending violation in good faith until fully resolved. This may be at the next regular Board meeting or sooner if required.
 - ii. Hear each member that has requested an oral hearing. Review any written information submitted by members.
 - iii. By majority vote, decide whether to take a recommended action.
- d. Notify the appropriate parties.
 - Notify the member if the violation has been resolved, letting them know that no fine or charge has been imposed.
 - Notify the member if fining has commenced and give the member notice of the rate of fines, the maximum fine before legal action will be taken, and how the member can resolve the violation.
 - Notify legal counsel if the Board has decided to take legal action. Assess the member for the costs of enforcement as they are incurred. Legal counsel shall notify the member.

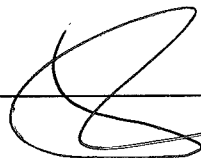
D. Emergency Violation Procedure

- a. The Board or its agent shall determine that a violation is an Emergency if:
 - i. The violation will result in irreparable harm, such as a permanent structure being built, a large tree being cut down, a roof being replaced, or any other violation that would, in the judgement of the Board, be expensive or impracticable to remedy once completed;
 - ii. The violation is serious in nature such that it is worth addressing even if fines or legal fees would not be recovered from the member; or
 - iii. The violation threatens human health or other's property.
- b. If a violation is determined to be an Emergency, the agent and Board may take immediate action by contacting legal counsel and filing for and seeking court assistance, or contacting the member directly, or taking any other action that they feel is justified and reasonable under the circumstances.

Adopted on the 21 day of January, 2020

I hereby certify that this procedure was adopted by the vote of the Board at a properly-called meeting of the Association.

MRR HOA President _____



**Appendix
Fine Schedule**

Violation	Amount
Common Area Violation	\$100/week
Exterior Maintenance or Appearance	\$25/week
Animals or Nuisances	\$25/week
Vehicles or Equipment	\$25/week
Unauthorized Improvements	\$100/week
Other Violations	\$25/week

Maximum of \$350/week for all violation per Lot.