



## Proposed Covenant Enforcement and Fining Policy

Please read this section outlining the proposed covenant enforcement amendment and fining policy.

Currently we do not have the ability to fine for covenant violations. After the third notice our only recourse is to involve an attorney, which costs the violating homeowner a \$500 attorney fee. This new policy allows your HOA to collect a small charge after the third violation notice rather than incurring a \$500 attorney fee.

After you have carefully read this document, you will fully understand the benefits of this proposed amendment and policy.

If you have any questions or need clarification, please call the HOA office or speak with a current member of your HOA Board.

After reviewing this document, please vote on the BALLOT PAGE either yes or no and return it to the HOA office.

Your Seis Lagos Board of Directors thanks you for your time to review and accept these much-needed improvements.

### Proposed Enforcement Amendment

1. Amend Article VI, Section 8(a) of the Declaration by deleting this subsection in its entirety and replacing it with the following:
  - (a) Establish and publish uniform rules and regulations as may be deemed by them to be reasonable in connection with the use, occupancy, maintenance, leasing, disposition, maintenance, repair, modification and appearance of Lots, and the collection of assessments, and the use and operation of the Common Area and the recreational facilities located thereto, and to impose sanctions, including the levying of monetary fines deemed by them to be reasonable against Owners for the Owner's or the Owner's family member's, tenant's, guest's, employees, caregiver's, invitee's, or contractor's violations of this Declaration or the rules promulgated thereunder, and to alter, amend or modify such rules and regulations from time to time. Monetary fines may not be increased more than 10% at one time and may only be increased once every 12 months if deemed necessary by the Board of Directors. Where a Violation is determined or deemed determined to exist and where the Board deems it to be in the best interests of the Association to refer the Violation to legal counsel for appropriate action, the Board may do so at any time. All Owners and Mortgagees may request a copy of such rules and regulations in accordance with the Association's document inspection and copying policy. A copy of such rules and regulations shall be:

(i) posted in one or more conspicuous places in each building located on the Common Area; and (ii) posted on the Association Internet website such that they are accessible to Members of the Association. Such rules and regulations shall be binding upon each and every Owner and the Owner's family members, tenants, guests, employees, caregivers, invitees and contractors.

2. Amend Article V, Section 1 of the Declaration by deleting the first three sentences of this Section and replacing them with the following:

Each Owner of any Lot by acceptance of a deed therefor, whether or not it shall be so expressed in such deed, is deemed to covenant and agree to pay to the Association:

- (1) "Annual Assessments" described in Article V, Section 2;
- (2) "Special Assessments" described in Article V, Section 4; and
- (3) "Specific Assessments" described in Article V, Section 13, such assessments to be established and collected as hereinafter provided.

Past due Annual Assessments, Special Assessments and Specific Assessments (collectively, the "Assessments") shall bear interest from the date they are due at the highest legal rate which may be charged the Owner under applicable law. The Assessments, together with interest, late charges, costs, and reasonable attorney's fees incurred in collecting any such Assessment shall be a charge on the land and shall be a continuing lien upon the Lot against which each such Assessment is made.

3. Amend Article V of the Declaration by adding a new Section 13 as follows:

**Section 13. Specific Assessments.** In addition to the Annual Assessments and Special Assessments, the Association may levy a Specific Assessment against an Owner, which shall constitute a lien against the Owner's Lot as provided in Article V, Section 7 hereinabove, for fines levied against an Owner for violations of this Declaration or any rules and regulations promulgated thereunder or for any other cost or expense authorized by this Declaration to be levied against an Owner and his or her Lot which is not part of the Annual Assessment or Special Assessment.

# Proposed Fining Policy

The following procedures and practices are established for the enforcement of the Governing Documents and for the elimination of violations of the Governing Documents found to exist in, on and about the Lots and Common Areas within the Association and the same are to be known as the “Covenant Enforcement and Fining Policy” (to be referred to herein as the “Enforcement Policy”).

1. **Exempted Actions/Remedies.** This Enforcement Policy and the procedures herein do not apply if the Association files suit seeking a temporary restraining order or temporary injunctive relief, files suit to recover money damages, is seeking to recover unpaid assessments and/or is pursuing judicial or non-judicial foreclosure, is pursuing a self-help remedy, in the event the Association temporarily suspends an Owner’s right to use the Common Area based upon a violation that occurred on the Common Area and involved a significant and immediate risk of harm to others in the community, or a counterclaim of the Association in a lawsuit brought against the Association by a property owner.
2. **Generally.** The steps and procedures contained in this Enforcement Policy serve as a general outline of the procedures to follow for enforcement of the covenants, conditions, restrictions, and rules contained in the Restrictions; provided, however, that this Enforcement Policy does not apply to collection of assessments and related costs and charges. The Association is not bound to follow the exact procedures in every enforcement matter except as required by the Restrictions or the Act. The procedures in this Enforcement Policy are not intended to constitute a prerequisite or condition precedent to the Association’s ability to pursue a remedy to enforce against any violation or to obtain any legal relief or remedy except as required by the Act.

The definitions contained in the Association’s Restrictions are hereby incorporated herein by reference.

3. **Establishment of Violation.** Any condition, conduct, use, activity, or improvement which does not comply with the provisions of the Restrictions shall constitute a “Violation” under this Policy for all purposes. A Violation is considered a threat to public health or safety if the Violation could materially affect the physical health or safety of an ordinary resident. A Violation is considered uncurable if the Violation has occurred but is not a continuous action or condition capable of being remedied by affirmative action.

The following are examples of acts considered uncurable for purposes of this Policy:

- a. shooting fireworks;
- b. an act constituting a threat to health or safety;
- c. a noise violation that is not ongoing;
- d. property damage, including the removal or alteration of landscape and unapproved modifications; and
- e. holding a garage sale or other event prohibited by the Restrictions.

The following are examples of acts considered to be curable for purposes of this Policy:

- a. Parking violations;
  - b. Maintenance violations;
  - c. Failure to construct per approved plans;
  - d. Failure to timely complete construction;
  - e. Ongoing noise violations, such as a barking dog.
4. **Report of Violation.** Upon discovery of a Violation, the Board or its delegate may, but is not obligated to, forward to the Owner of the Lot in question written notice via regular first-class mail, email, or via postcard of the discovery of a Violation(s) (the "Courtesy Notice"). The Courtesy Notice will give the Owner a deadline for correction or cure. The Board or its delegate may proceed immediately to the notice below and is not required to send this Courtesy Notice.
5. **Notice of Violation.** If the Violation is not corrected or eliminated within the time period specified in the Courtesy Notice, or if the Board or its delegate deem it appropriate to proceed without the Courtesy Notice, the Association will send the Owner of the Lot in question a written notice of the Violation(s) by verified mail at the Owner's last known address as shown on the Association's records as well as to any other address the Owner has used or provided to the Association or for which the Association believes to be connected to the Owner (the "Notice of Violation"). A Notice of Violation is not required if the alleged violator received a Notice of Violation relating to a similar Violation within six (6) months of the current Violation and was given a reasonable opportunity to cure the prior Violation. In such event, the Board may impose sanctions as authorized by the Restrictions and/or this Enforcement Policy without notice to the Owner other than the Notice of Sanction/Fine described below. A Notice of Violation is also not required if the Act does not require it. The Notice of Violation, if required, will provide, as applicable, the following:
1. Describe the Violation or property damage that is the basis for the suspension action, charge, or fine and state any amount due the Association from the Owner;
  2. Inform the Owner that the Owner:
    - a) Is entitled to a reasonable period to cure the Violation and avoid the fine or suspension if the Violation is of a curable nature and does not pose a threat to public health or safety.
    - b) May request a hearing under Section 209.007 on or before the 30th day after the date the Notice of Violation was mailed to the Owner; and
    - c) May have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act (50 U.S.C. app. Section 501 et seq.), if the Owner is serving on active military duty.
  3. Specify the date by which the Owner must cure the violation if the violation is of a curable nature and does not pose a threat to public health or safety; and
  4. Notify the Owner that if a curable Violation is not corrected or eliminated within the time period specified in the Notice of Violation, or if the conduct which constitutes a Violation is committed again, or if a written request for a hearing is not made on or before the 30th day after the date of the Notice of Violation, that the sanctions or actions delineated in

the Notice of Violation may be imposed or taken and that any attorney's fees and costs will be charged to the Owner.

6. **Notice of Sanction/Fine.** A formal notice of the sanction, fine or action to be imposed or taken, including the amount of any fine or the amount of any property damage (the "Notice of Sanction/Fine") will be sent by the Association to the Owner by regular first-class mail and by certified mail where, within the time period specified in the Notice of Violation, the Violation has not been corrected or eliminated (or, in the case of a recurring Violation, the Violation has reoccurred) or the Association has not timely received a written request for a hearing.
7. **Request for Hearing.** 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. However, Owners do not have a right to request a hearing if (i) the Owner is not entitled to an opportunity to cure the violation; (ii) 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; or (iii) the Association temporarily suspends a person's right to use the Common Area if the temporary suspension is the result of a violation that occurred in the Common Area and involved a significant and immediate risk of harm to others in the subdivision.

If the Owner is entitled to a hearing and timely request such hearing, the Association will hold the hearing not later than the 30th day after the date the board receives the Owner's written 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 Owner may request a postponement, and if requested, a postponement shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of the parties.

Not later than ten (10) days before the Association holds a hearing hereunder, 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. If the Association does not provide a packet within the ten-day period, the Owner is entitled to an automatic 15-day postponement of the hearing.

During the hearing, a Board member or the Association's designated representative shall first present the Association's case against the Owner. The Owner or the Owner's designated representative is entitled to present the Owner's information and issues relevant to the appeal or dispute.

8. **Referral to Legal Counsel.** Where a Violation is determined or deemed determined to exist and where the Board deems it to be in the best interests of the Association to refer the Violation to legal counsel for appropriate action, the Board may do so at any time. Such legal action may include, without limitation, sending demand letters to the violating Owner, filing a notice of violation or non-compliance against the Lot in the real property records, seeking injunctive relief against the Owner to correct or otherwise abate the Violation, and/or filing suit to collect fines and/or costs incurred to cure Violations or repair property damage. Attorney's fees and all costs incurred by the Association in enforcing the Restrictions and administering this Enforcement

Policy shall become the personal obligation of the Owner. Fines may be levied as a Specific Assessments pursuant to Article VI, Section 6.06 of the Declaration and are secured by the Association's assessment lien as further provided in Article VI of the Declaration.

9. **Fines.** Subject to the provisions of this Enforcement Policy and/or the Governing Documents, the imposition of fines will be on the following basis:

Imposition of fines will be in addition to and not exclusive of any other rights, remedies and recoveries of the Association as created by the Governing Documents or this Enforcement Policy. For curable Violations, in the event that the Owner has not cured the Violation within the requested time period (or, in the case of a recurring Violation, the Violation has reoccurred), has not made a timely written request for a hearing, or the Board subsequent to a hearing decides to levy a fine, the fining schedule is as follows:

**CURABLE VIOLATIONS**

<b>Violation Sub-Categories</b>	<b>Initial Fine</b>	<b>2<sup>nd</sup> Fine</b>	<b>3<sup>rd</sup> &amp; Subsequent</b>
Nuisance/Noxious/Offensive Conduct	\$75.00	\$150.00	\$225.00
Architectural Violations	\$75.00	\$150.00	\$225.00
Parking & Vehicle Violations	\$75.00	\$150.00	\$225.00
Pet & Animal (Livestock) Violations	\$75.00	\$150.00	\$225.00
Maintenance, Construction, Landscaping & Drainage Violations	\$75.00	\$150.00	\$225.00
Rules & Regulations Violations	\$75.00	\$150.00	\$225.00
All Other Violations	\$75.00	\$150.00	\$225.00

**UNCURABLE VIOLATIONS, UNAPPROVED MODIFICATIONS, AND VIOLATIONS WHICH POSE A THREAT TO PUBLIC HEALTH OR SAFETY**

<b>Violation Sub-Categories</b>	<b>Initial Fine</b>	<b>2<sup>nd</sup> Fine</b>	<b>3<sup>rd</sup> &amp; Subsequent</b>
Nuisance/Noxious/Offensive Conduct	\$200.00	\$350.00	\$500.00
Architectural Violations	\$200.00	\$350.00	\$500.00
Leasing Violation	\$200.00	\$350.00	\$500.00
Parking & Vehicle Violations	\$200.00	\$350.00	\$500.00
Pet & Animal (Livestock) Violations	\$200.00	\$350.00	\$500.00
Maintenance, Construction, Landscaping & Drainage Violations	\$200.00	\$350.00	\$500.00
Rules & Regulations Violations	\$200.00	\$350.00	\$500.00
All Other Violations	\$200.00	\$350.00	\$500.00

Fine amounts and the frequency of fines are to be determined by the Board. Fines may be imposed monthly that the Violation continues to exist after the time period to cure the Violation has expired. There shall be a limit of \$2,500.00 of fines that may be imposed for the same Violation. The Owner may be notified by the Association in writing of the amount of fines accrued to the Owners account.

The Board may modify from time to time the schedule of fines.

10. **Notices.** Unless otherwise provided in the Enforcement Policy, all notices required by this Enforcement Policy shall be in writing and shall be deemed to have been duly given if delivered personally and/or if sent by United States Mail, first-class postage prepaid, to the Owner at the address which the Owner has designated in writing and filed with the Secretary of the Association or, if no such address has been designated, to the address of the Lot of the Owner.
- a. Where the notice is directed by personal delivery, notice shall be deemed to have been given, sent, delivered, or received upon actual receipt by any person accepting delivery thereof at the address of the recipient as set forth in such notice or if no person is there, by leaving the notice taped to the front door of the residence.
  - b. Where the notice is placed into the care and custody of the United States Postal Service, notice shall be presumed to have been given, sent, delivered or received, as of the third (3rd) calendar day following the date of postmark of such notice bearing postage prepaid and the appropriate name and address as required herein unless otherwise shown by the recipient to have been received at a later date.
  - c. Where a day required for an action to be taken or a notice to be given, sent, delivered or received, as the case may be, falls on a Saturday, Sunday or United States Postal Service holiday, the required date for the action or notice will be extended to the first day following which is neither a Saturday, Sunday or United States Postal Service holiday.
  - d. Where the Board has actual knowledge that an enforcement action would directly affect a third party (e.g. a tenant or a neighbor) or involves a Violation by a party other than the Owner, notices required under this Enforcement Policy may be given, if possible, to such third party in addition to the Owner. Notwithstanding any notice sent to a third party, the Owner remains the party responsible for compliance with the requirements of the Governing Documents. The Board shall accept a response from any such third party only upon the written direction of the Owner of the Lot upon which the Violation exists.
  - e. Where the interests of an Owner in a Lot have been handled by a representative or agent of such Owner or where an Owner has otherwise acted so as to put the Association on notice that its interest in a Lot has been and are being handled by a representative or agent, any notice or communication from the Association pursuant to this Enforcement Policy will be deemed full and effective for all purposes if given to such representative or agent.
  - f. Where an Owner transfers record title to a Lot at any time during the pendency of any procedure prescribed by this Enforcement Policy, such Owner shall remain personally liable for all costs and fines under this Enforcement Policy. As soon as practical after receipt by the Association of a notice of a change in the record title to a Lot which is the

subject of enforcement proceedings under this Enforcement Policy, the Board may begin enforcement proceedings against the new Owner in accordance with this Enforcement Policy. The new Owner shall be personally liable for all costs and fines under this Enforcement Policy which are the result of the new Owner's failure and/or refusal to correct or eliminate the Violation in the time and manner specified under this Enforcement Policy.

11. **Cure of Violation During Enforcement.** An Owner may correct or eliminate a curable Violation at any time during the pendency of any procedure prescribed by this Enforcement Policy. If the Owner corrects or eliminates a curable Violation before the cure period provided for in the Notice of Violation, a fine may not be assessed for the Violation. If the Owner corrects or eliminates a curable Violation after the cure period provided for in the Notice of Violation, the Owner will remain liable for all costs and fines incurred or levied under this Enforcement Policy. Upon verification by the Board that the Violation has been corrected or eliminated, the Violation will be deemed to no longer exist.
12. **Definitions.** The definitions contained in the Association's Governing Documents are hereby incorporated herein by reference.
13. **Severability and Legal Interpretation.** In the event that any provision herein shall be determined by a court with jurisdiction to be invalid or unenforceable in any respect, such determination shall not affect the validity or enforceability of any other provision, and this Enforcement Policy shall be enforced as if such provision did not exist. Furthermore, in the event that any provision of this Enforcement Policy is deemed by a court with jurisdiction to be ambiguous or in contradiction with any law, this Enforcement Policy and any such provision shall be interpreted in a manner that complies with an interpretation that is consistent with the law. In the event any provision of this Enforcement Policy conflicts with the Declaration, the Declaration controls.

**PLEASE VOTE ON THE BALLOT PAGE.**