

**VENTANA LAKES RULES FOR HOMEOWNERS**  
**Rule 7. Compliance, Conduct, Due Process**

**Table of Contents**

7.1	Awareness of and Compliance With Governing Documents.....	1
7.2	Code of Conduct.....	1
7.3	Proof of Compliance with Age Requirements .....	2
7.4	Reporting Violations of the Governing Documents of Ventana Lakes.....	2
7.5	Notification of Complaint and Hearing. ....	3
7.6	Response to Complaint and Notice of Hearing; Conduct of Hearing.....	3
7.7	Penalties. ....	4
7.8	Appeal of Default Hearing .....	4
7.9	Request for Board to take Action.....	4
7.10	Nonpayment of Assessments .....	5

**7.1 Awareness of and Compliance With Governing Documents**

It is the responsibility of every homeowner in Ventana Lakes to be aware of and comply with the Governing Documents of Ventana Lakes (CC&R's, Bylaws, Ventana Lakes Rules) which are available on the web at [www.vlpoa.org](http://www.vlpoa.org). CC&R's and Bylaws were delivered to all homeowners during the amendment process which was certified in April of 2009. New homeowners were provided a copy during the home purchase. The Management Office has copies of all Governing Documents.

*Adopted January 20, 2010.*

**7.2 Code of Conduct**

- A. All persons are to be courteous and respectful of others at all times.
- B. Homeowners are responsible for the conduct of their guests and their renters.
- C. No person shall jeopardize or interfere with the rights and privileges of residents and their guests except in cases of safety concerns, or when maintenance is being performed.
- D. All persons shall refrain from profane, indecent, and /or abusive language or actions. Physical or verbal abuse directed at any person is forbidden.
- E. Intoxication and illegal drug use is prohibited on Association Property. Weapons are forbidden on Association Property except when carried by peace officers.
- F. No person shall harass or accost any other person.
- G. No person shall compromise the safety of another person.
- H. All persons may be held responsible for Association property.

- I. Residents and Guests shall not discipline association staff members, committee members, volunteers, vendors, or contractors.
- J. No persons shall interfere with the work of persons contracted to conduct work at Ventana Lakes. Complaints about contractors shall be directed to the Community Manager or, in the case of Board members, to the Board President.

*The "Code of Conduct" was first enacted on October 1, 2003, amended August 14, 2004, and reviewed and kept June 2006 as #2004-20, and was amended by the Board on May 16, 2007 as 2007-01 to add "due process" provisions. It was amended again by the Board on June 20, 2007 but not renumbered. Portions of the rule providing due process were separated into a new sections (below) and adopted January 20, 2010.*

### **7.3 Proof of Compliance with Age Requirements**

- A. All residents of Ventana Lakes are required to comply with the Community Manager's request for proof of compliance with the CC&R's, Article IV, Section D.
- B. Refusal to provide proof of compliance, or falsification of such proof, shall result in court action by the Board of Directors, and the homeowner shall be responsible for all associated costs.

*Adopted January 20, 2010.*

### **7.4 Reporting Violations of the Governing Documents of Ventana Lakes**

- A. This rule does not apply to Architectural violations (see Rule 1). For the purposes of this Rule, the following definitions shall apply:
  - 1) "Governing Documents" includes any applicable government law, the VLPOA Bylaws, CC&R's, or Ventana Lakes Rules. However, process for violations of the Architectural Rules are addressed under Rule 1 (Architectural Rules.)
  - 2) "Evidence" means proof other than uncorroborated testimony.
- B. When a person is accused of violating a rule endangering the safety or health of any person, a report shall be submitted to the Board for enforcement action.
- C. Any resident in the community may submit a written description of a possible violation of the Governing Documents made by a homeowner to the the Community Manager. Forms are available in the Management Office and on the VLPOA website. Arizona State law (ARS 33-1803) requires that complaints must be signed by the person making the complaint.
- D. Any person who has Evidence of a violation of the Code of Conduct may report the violation to the Community Manager or Board President as follows:
  - 1) The report shall be in writing, and shall be signed by the witness or complainant in order to be considered.
  - 2) The report shall include the date and time of the violation and a description of the occurrence and the names of all persons that were involved in or witness to the violation insofar as is known to the person writing the report.

- E. If the report is on a violation of the Code of Conduct, the original complaint shall be provided to the Board President as soon as possible, with a copy to each Board member. The President will then schedule a hearing pursuant to "*Notification of Complaint and Hearing.*"
- F. The Community Manager shall submit violations falling under the purview of the Architectural Committee to the Architectural Committee, which will proceed in accordance with Rule 1.
- G. The Community Manager will send a letter to the homeowner with the alleged violation describing the nature of the violation, specifying the provision of the governing document that has been violated. The letter will request that the property owner:
  - 1) Either correct the violation within the time stated in the letter, or
  - 2) Enter into a compliance agreement with the Community Manager whereby the member agrees to a time frame to rectify the violation.
- H. The homeowner who has received a notification of the violation will be given notice of his or her right to present his/her view of the violation with the Community Manager. A homeowner may submit a response by certified mail within 10 business days (A.R.S § 33-1803), or may arrange to meet with the Community Manager at a mutually agreed appointment time. The homeowner will be expected to provide evidence that no violation exists in their letter or at the arranged meeting.
- I. If, after the time stated in the initial notification letter, the property owner has not contacted the Community Manager to state the problem has been corrected, a second letter will be sent giving the homeowner a time frame again for compliance.
- J. The Community Manager may either send a third letter to the homeowner stating a fine may be levied, or turn the issue over to the Board of Directors for *Notification of Complaint and Hearing*. If the property owner chooses to dispute the decision before the Board, a decision by the Board of Directors will be final.

*Adopted January 20, 2010.*

### **7.5 Notification of Complaint and Hearing.**

- A. Upon receiving a written complaint regarding violation of the Governing Documents from a homeowner or the Community Manager, the Board President may schedule a date, time and place for an executive session of the Board to provide the alleged violator the opportunity to be heard.
- B. The Board president or the Board Secretary shall send a letter to the alleged violator with a copy to the person who submitted the report. The letter shall include a copy of the written complaint and provide the alleged violator with the date, time and place of the executive session scheduled for hearing. The letter shall also include:
  - 1) Whether the Board is requiring that the person reporting the violation to be present at the same hearing, along with witnesses named by the person reporting the violation. If it is required, the alleged violator shall also be advised they may bring witnesses to the hearing. Any Evidence shall be made available at the hearing.

- 2) The statement that the alleged violator has the right to representation at the hearing by any person they choose, but that discussions shall be limited to the alleged violation only.
- 3) A notice that a written response to the letter must be provided to the Community Manager within a specified date no sooner than ten business days of the date of the letter, and that the alleged violator may respond to the complaint in writing or attend the hearing or both.
- 4) The alleged violator may request a delayed date of hearing to a specified date agreed upon by all parties.
- 5) The letter shall include a clear statement of the penalties that may be incurred and a copy of this Rule.

*Adopted January 20, 2010.*

### **7.6 Response to Complaint and Notice of Hearing; Conduct of Hearing.**

- A. If the alleged violator does not respond to the Notification of Complaint and Hearing by the date specified under this Rule, the Board shall meet as specified in the letter and act upon the complaint based on the facts at hand.
- B. If the alleged violator responds only in writing but does not attend the hearing, the Board shall meet as specified in the letter and act upon the complaint based on written comments only.
- C. If all parties attend the hearing, the Board shall listen to all facts offered relevant to the alleged violation, and review the Evidence provided by all involved parties, and make its decision based upon those facts.
- D. If the Board has evidence of prior violations of the Governing Documents, the Board may consider this in its deliberations.
- E. The Board may take any of the following actions based upon the facts and its best judgment based on the severity of the violation:
  - 1) Dismissal of the complaint.
  - 2) A warning to the person who violated the Governing Documents.
  - 3) Requirement for correction within a specified time, with or without additional penalties pursuant to this Section.
  - 4) Any of the penalties named in this Rule.
- F. All parties shall receive written notice of the Board's decision within five business days of the hearing.

*Adopted January 20, 2010.*

### **7.7 Penalties.**

- A. If the member does not attend the scheduled Board of Directors' meeting as requested to discuss the violation, the Board of Directors will seek a legal opinion before imposing a fine (A.R.S. §33-1807). If the fine has a legal basis, the Board of Directors retains the authority to accrue monetary penalties from the date of the violation through the date of meeting, regardless of whether the member attends the meeting to be heard.

- B. The property owner will be notified in writing of the fines levied for the violation. A monetary fine will be assessed on a daily basis for violations of the CC&Rs or Ventana Lakes rules. The monetary penalty of \$5.00 to \$500.00 per incident or per day for a continuing violation will be imposed at the discretion of the Board of Directors. Violations of the swimming pool and spa rules may result in a property owner or resident being denied pool privileges for up to 60 calendar days, and/or a fine of up to \$150.00.
- C. General penalties may include any of the following:
  - 1) Suspension of rights to attend any function of the Association for up to 60 calendar days.
  - 2) Suspension of rights to enter any of the Association Facilities for up to 60 calendar days, but allowing a representative of the violator to attend public meetings of the Association or to enter an Association Building for the purpose of meeting with Board members or employees of the Association as reasonably required.
  - 3) A fine up to \$500 per incident or per day.

*The swimming pool violation penalty is was approved and adopted by the Board of Directors on July 27, 2004 (no number provided.) Adopted January 20, 2010.*

### **7.8 Appeal of Default Hearing**

If a monetary penalty is incurred in a hearing, the violator may appeal the penalty to the Board if that person believes there is evidence not considered in the initial hearing and presents such evidence in the appeal.

*Adopted January 20, 2010.*

### **7.9 Request for Board to take Action**

- A. Any homeowner may request that an item be placed on the agenda of a regular Board meeting by submitting a form available on the VLPOA website or from the Management Office to the President of the Board of Directors. The request must be for an action by the Board, and provide the homeowner's reasoning for the proposed action. The resident's name and contact information must be provided with the request.
- B. The President of the Board of Directors shall place the requested item on the agenda of the next Board meeting, except that items received less than ten business days before a regularly scheduled meeting may be delayed to the next meeting.
- C. Any homeowner may provide input on Ventana Lakes Rules in accordance with ***Rules for the Board.***

*Adopted January 20, 2010.*

### **7.10 Nonpayment of Assessments**

- A. Any homeowner who anticipates being unable to meet the full scheduled assessment should contact the Community Manager at the Management Office to request alternative payment arrangements. A written response will be provided indicating the acceptance or rejection of the proposed payment plan. No fees will be charged for this process.

- B. If homeowners are in arrears and did not seek an alternative payment plan with the Community Manager, Colby Management will take the following steps.
- C. A homeowner's account enters the collection program when the delinquent assessment amount reaches 60 days past due.
- 1) **Level One – Demand Letter.** At the end of the second month of each quarter billed, a demand letter is sent to the homeowner. The homeowner is to contact Colby Management for payment arrangements or remit payment in full. The letter will advise them that the next step is a collection agency. There is a \$40 charge to the Association, charged back to the homeowner account as part of the balance due.
  - 2) **Level Two – Payment Arrangement.** If a homeowner requests to make payments against a delinquent balance, Colby will send out a payment arrangement form they must sign and return. The account will be monitored to be sure payments are received on schedule. There is a \$25 charge to the Association, charged back to the homeowner account as part of the balance due.
  - 3) **Level Three – Collection Agency.** If there is no response to the demand letter after the 1<sup>st</sup> day of the 4<sup>th</sup> month delinquent, the account will be turned over to the collection agency. They will send out 6 letters over a period of 100 days, along with 3 telephone campaigns. If no response, the homeowner will be reported to the 3 credit bureaus so that it will appear on their credit report. There is a \$65 charge to the Association; charged back to homeowner account as part of balance due.
  - 4) **Level Four – Lien Filing.** Colby will review to determine if a trustee sale is pending. At Board discretion further legal action will be taken with any costs charged back to the homeowner.

*Adopted January 20, 2010.*

- 5) **Level Five – Legal Action.** Colby will contact the Association Treasurer who will make a recommendation, to the Board, based on circumstances including the amount owed, on whether to write off the debt or to ask the Association's lawyer (Not Colby's law firm) to determine if formal legal action against the owner is worthwhile. If so, the Board may authorize its law firm to send out its own mandatory 30-day collection notice to be followed by whatever other action the Board authorizes. The treasurer may write off debt up to and including \$1,000 without prior board approval providing a report of that action is included in the next subsequent Treasurer's report.

*Adopted ?, 2011.*