

THE VILLAS OF ASBURY

ENFORCEMENT POLICY

The Board of Directors of The Villas of Asbury (Board) has the right and responsibility to enforce compliance with The Villas of Asbury governing documents, the Declaration of Covenants, Restrictions, and Easements (DCR), and rules and regulations adopted by the Board of Directors. The following sets out the procedure for addressing noncompliance violations.

1. Failure to file an Architectural Request form by a Unit Owner for actions requiring that form under the DCR, governing documents, the Unit Exterior Policy, or other rules and regulations is a noncompliance violation.
2. Violations (for example, from a walk through by the Architectural Review Committee (ARC) or other reports) together with a citation to the DCR, governing documents, or rules and regulations violated shall be forwarded to the Board or its designee for review and potential referral to the HOA Management Company for the action below.
3. The Board or its designee initially may contact the Unit Owner to seek informal voluntary compliance within a stated time.
4. Upon referral by the Board or its designee, the HOA Management Company shall send a letter by trackable means requesting voluntary compliance to the Unit Owner at the address in the HOA's records. Unit owners are responsible for actions of persons in the Unit even if Unit Owners do not occupy Unit.
5. That letter should include the following:
 - a. description of violation with reference to DCR, governing documents, or rules and regulation which are violated;
 - b. the amount of the fine (\$50) for the violation which will be assessed if the noncompliance is not corrected and management company is advised of compliance within the compliance period set out in the letter;
 - c. advising that the fine will be assessed monthly until there is compliance;
 - d. if appropriate, the action to be taken by the Board to remedy the noncompliance (for example, removal of items from the common area) if there is not compliance;

e. the right to appeal by submitting the appeal form available on the HOA website within the time for compliance if the person receiving the letter disputes the noncompliance or requests an extension of time stating a specific time to comply. The HOA Board reserves the right to grant appropriate extensions of time to Unit Owners for compliance.

6. Any appeals shall be provided by the HOA Management Company to the HOA Board or its designee and a hearing shall be scheduled within thirty (30) calendar days of the date of the appeal unless the time is mutually extended due to scheduling issues. During the appeal time, there will be no enforcement of fines, but fines will continue to accrue depending upon the outcome of the appeal.

7. Appeals shall be conducted as an executive session of the HOA Board. At the conclusion of the appeal, the HOA Management Company or HOA Board will provide a written confirmation of the action on any appeal to the Unit Owner making the appeal. Minutes as to the action taken shall be prepared by the Secretary of the HOA and become part of the HOA records available to members of the HOA.

8. If there is no appeal after the letter set out in paragraph 5 and the HOA Management Company is not advised of compliance, then the HOA Management Company will send a letter confirming assessment of the fine and take the steps under the Special Individual Unit Assessment of the DCR, to include seeking a lien, judicial remedy, and potential suspension of privileges, to collect the fine, which will continue to be assessed monthly until paid in full.

9. Disputes under this policy between the HOA and Unit owners shall be submitted to nonbinding alternative dispute resolution as a prerequisite to commencement of a judicial proceeding.

10. In determining enforcement, the HOA Board may consider the factors set out in Kansas Statute 58-4608 (available on Kansas Revisor of Statutes website).

Replaces Prior Policies: Enforcement Policy, 9/21/2006

Approved by HOA Board: March 21, 2019

Effective Date: May 1, 2019

