

# MOUNTAIN GATE COMMUNITY ASSOCIATION

## CC&R VIOLATION AND ENFORCEMENT POLICY

Effective September 1, 2010

The Board of Directors for the Mountain Gate Community Association voted to adopt the following CC&R Violation and Enforcement Policy ("Policy") at the Board of Directors' meeting in Executive Session on July 28, 2010 which was held at 14465 W. Yucatan Street. It is hereby resolved to adopt this Policy effective September 1, 2010.

### **RESOLVED:**

That the primary purpose of this Covenants, Conditions and Restrictions Violation and Enforcement Policy is to Preserve and Maintain property values within the Mountain Gate Community Association. This Policy replaces those provisions in the Association Rules and Design Guidelines that are in conflict.

To adopt the following revised **MONETARY PENALTY SCHEDULE** for violations of the CC&Rs or other governing documents for the Mountain Gate Community Association.

### **Courtesy Notice:**

A Courtesy Notice will be sent to the Owner of the property stating the violation. In the event that the Owner of the property identifies themselves as an absentee Owner and requests a copy of the violation letter can be sent to the tenant at the property address. The letter will state that the Owner has ten (10) business days to bring the violation into compliance. **No Monetary Penalty** assessed.

### **Intent to Fine Notice:**

After ten (10) business days, if the violation still exists, Intent to Fine Notice will be mailed to the Owner of the property outlining the violation. In the event that the Owner of the property identifies themselves as an absentee Owner and requests a copy of the violation letter can be sent to the tenant at the property address. The letter will be sent via regular mail. The letter will request compliance within ten (10) business days. **No Monetary Penalty** assessed.

### **Notice of Fine:**

After ten (10) business days, if the violation still exists, Notice of Fine will be mailed to the Owner of the property outlining the violation. In the event that the Owner of the property identifies themselves as an absentee Owner and requests a copy of the violation letter can be sent to the tenant at the property address. The letter will be sent via regular mail. The letter will request compliance within ten (10) business days. **\$75.00 Monetary Penalty** assessed.

### **Notice of Additional Fine:**

After ten (10) business days if the violation still exists, Notice of Additional Fine will be mailed to the Owner of the property outlining the continuing violation. In the event that the Owner of the property identifies themselves as an absentee Owner and requests a copy of the violation letter can be sent to the tenant at the property address. The letter will be sent via regular mail. The letter will request compliance within ten (10) business days. Continued violations will result in additional monetary penalties, legal action and legal costs assessed against the Owner at the discretion of the Board of Directors. **\$100.00 Monetary Penalty** assessed.

Routine monetary penalties shall not be imposed without first providing written warning to the Owner describing the violation and stating that failure to correct the violation within ten (10) business days or another occurrence of the same violation within sixty (60) days of the original violation shall make the Owner subject to imposition of a monetary penalty.

Should a period of time of at least 61 days lapse between violations notices of the same violation offense (category), the next violation notice will be Intent to Fine Notice.

### **Architectural Control Notice:**

Pursuant to Article 3, Section 3.1.2 of the CC&Rs, failure by an Owner to obtain written approval from the Architectural Committee prior to taking any action requiring approval of the Architectural Committee will result in an Architectural Control Notice and a \$250.00 monetary penalty. An Owner may submit a request for approval to the Architectural Committee after the Board levies the monetary penalty, but the request will not be considered by the Architectural Committee until the earlier of (i) payment of the monetary penalty by the Owner or (ii) determination by the Board that the monetary penalty should not be assessed.

Failure by an Owner to comply with instructions from the Board or Architectural Committee with respect to correction of an Improvement not constructed or installed as approved or directed by the Architectural Committee will result in an Architectural Control Notice and a **\$250.00 Monetary Penalty**.

The failure by an Owner to remove or satisfactorily correct the change, addition, alteration or other unauthorized condition to the property that the Architectural Committee has disapproved may result in the Association taking legal action to correct the violation. The Association will seek to recover all attorneys' fees, costs and expenses incurred taking such action pursuant to Article 9, "General Provisions", Section 9.1 "Enforcement" of the CC&Rs.

**Health, Safety, and Welfare:**

Exceptions to Notice procedure violations that would affect the health, safety, and welfare of the Association or Association Members may require immediate action and thus create exceptions to the foregoing notice provisions. Examples of health, safety and welfare violations include, but are limited to, the following: accumulation of trash and/or other materials that may attract pests, un-kempt/distressed landscape, threat of flood or fire damage to neighboring properties; an escaped pet, or a collapsed structure or tree blocking the road, driver's lines of vision or damage to adjoining neighbors property such as a fence/block wall.

**Right of Self Help Notice:**

The Association has the right (but not the obligation) to enter the Owner's property and to provide all maintenance and repairs that are necessary to correct the violation. Entry by the Association and any of its agents is not an actionable trespass. The Association may assess the Owner for all fees and costs of all maintenance and repairs performed by the Association or its Agents. **\$600.00 Monetary Penalty for 60/75 Lots and \$1200.00 Monetary Penalty for Acre Lots assessed.**

**Note:** The Association can issue a Self Help-Intent to Enter Notice at any time pursuant to Article 7 "Maintenance", Section 7.4 "Improper Maintenance and Use of Lots" of the CC&Rs. The Declaration requires fourteen (14) day written notice to the Owner, before Association or its Agent can enter the Owner's lot to perform Self Help.

**RESOLVED:**

An opportunity for a hearing via certified mail will be extended in each notice prior to a monetary penalty being assessed. The Owner must respond in written form to the Association **within ten (10) business days** of date of notice of violation. Upon receipt of request for a hearing, the Association shall set a date and time to hear the Owner's grievance and will provide notice to the Owner of the details of the hearing. The written hearing request must include all pertinent information to support the Owner's position. **Decisions of the Board are final in all cases.**

**FURTHER RESOLVED:**

This resolution and policy is not intended by the Board of Directors to preclude any other enforcement remedy the Association may possess at law or in equity with respect to any violation of the governing documents of the Association.

All legal, collection and other expenses incurred by Mountain Gate Community Association to obtain compliance of an Owner with the Declaration or other provisions of the governing documents will be the obligation of the Owner.

\_\_\_\_\_  
Bob Briscoe, President

\_\_\_\_\_  
John Heimann, VP

\_\_\_\_\_  
Deb Kotila, Treasurer

\_\_\_\_\_  
Shawn Holdaway, Secretary

\_\_\_\_\_  
Lou Provenzano, Director

\_\_\_\_\_  
Date