

**RULES ENFORCEMENT PROCEDURES FOR
SHADOW RUN AT CANYON LAKES HOMEOWNERS ASSOCIATION
ADOPTED BY THE BOARD OF DIRECTORS**

Authority. The Board of Directors is authorized and empowered to investigate, hear and determine all complaints by any Owner, tenant or occupant of a Lot concerning violations of the Covenants, Bylaws, rules and regulations, enforcement procedures or of any decision of the Board made as provided in the Governing Documents ("Governing Documents"). The Board is further authorized and empowered to impose a fine as may be allowed herein in an amount not to exceed the maximum rate established by resolution of the Board on any person whom it finds to have violated the Governing Documents.

Informal Dispute Resolution Preferred. It is the intent of the Association that an informal process be encouraged prior to the initiation of a formal complaint against an Owner, tenant or other occupant of a Lot. To that end, any Owner, tenant, occupant or employee or agent of the Association has the authority to request that an Owner, tenant or occupant of any Lot cease or correct any act or perform any omission which appears to be in violation of the Governing Documents. The informal request may be made either verbally or in writing, prior to initiation of the formal complaint process described herein. Nothing in this paragraph shall be construed as a requirement or condition to making a formal complaint.

Complaint. If the dispute or violation is not resolved informally then a complaint may be filed by any Owner, tenant or occupant, including a member of the Board, or may be filed by an employee or agent of the Association (referred to as the "complainant"). The complaint should contain a statement of the problem necessitating the complaint setting out in simple and concise language the acts or omissions with which the alleged violator (referred to as the "respondent") is charged. The complaint should identify the specific provisions of the Governing Documents or decision of the Board the respondent is alleged to have violated. The complaint should state as many of the specifics as are available regarding time, date, location, nature of violation, persons involved, etc. The complaint should also state any efforts made to resolve the matter informally, if any. The NOTICE OF WARNING, INFRACTION AND/OR FINE ("Notice") form, attached hereto, may serve as the complaint.

Service of Complaint. Within ten (10) days of receipt of a complaint, the Association shall cause the Notice to be served upon the respondent at the respondent's mailing address, if an Owner, and at the Lot address if a non-Owner occupant. Service of the Notice shall be by first class mail.

Notice of Respondent's Rights and Hearing. A respondent has the right to appeal the imposition of a fine by requesting a hearing. If a hearing has been requested, the Association shall, at least fifteen (15) days prior to any such hearing date, serve upon the respondent and complainant a Notice of Rights and Hearing, which shall be in substantially the form attached hereto but may contain additional information as the Board may deem to be appropriate from time to time.

Default. Failure of one party to appear at a scheduled hearing, where that party has failed to show good cause prior to the hearing why the hearing should be rescheduled, does not preclude the Board from proceeding with the hearing, receiving evidence from and hearing arguments by the other party and making a decision in the matter. Upon failure of the complainant to appear, the Board may, in its discretion, drop the matter.

Hearing Procedure.

Conduct of Hearing. The hearing shall be heard by the Board of Directors sitting as a Hearing Board. The respondent shall appear in person or by a duly authorized representative. The President, or in his or her absence the Vice President, shall preside over the conduct of the hearing and shall make any necessary evidentiary rulings. The hearing shall be informal. At the beginning of the hearing the President shall explain the rules and procedures by which the hearing is to be conducted.

Order of Proceedings. The order of proceedings shall be as follows:

- (a) Each party to the proceeding is entitled to make an opening statement.
- (b) Each party is entitled to produce evidence, witnesses and testimony. The other parties are entitled to cross-examine any witnesses and the opposing party.
- (c) Each party is entitled to make a closing statement.
- (d) Any member of the Board may question any party or witness. The Board members may, on their own motion, call additional witnesses or secure tangible evidence.
- (e) Each party has the right to representation by counsel at his or her own expense.
- (f) Either party or the Board may cause the hearing to be transcribed at his, her or their own expense.

Rules of Evidence. Any relevant evidence which is not privileged is admissible regardless of whether the evidence is hearsay or otherwise inadmissible in a court of law.

Assurance of Voluntary Compliance. The Board in its discretion, in lieu of or in addition to calling the hearing, may accept a written Assurance of Voluntary Compliance ("Assurance") from any respondent. Giving an Assurance does not constitute an admission that a violation has taken place. The Assurance may include a stipulation for payment by respondent to the complainant and/or the Association. From time to time, a person who has made an Assurance shall provide all information the Board reasonably requests to determine whether the respondent is in compliance with the Assurance. The Board is not precluded from further action by its acceptance of an Assurance in the event that the respondent violates the terms of that Assurance.

Decision and Order.

- (a) As soon as possible, but in no case more than ten (10) days after the close of the hearing, the Board shall meet in executive session to deliberate and reach a decision. The decision of the Board shall be in writing and, if a violation is found, shall state the particular violation(s) found.

- (b) Upon a decision that a violation has occurred, the Board may order that the respondent shall do or refrain from doing any act necessary to cause the respondent to comply with the provisions of the Governing Documents and/or any decision of the Board. The order of the Board shall become effective ten (10) days after it is served on the respondent in the manner provided above, unless the Board otherwise provides in its order.
- (c) The Board may provide in its order for the imposition of a reasonable fine not to exceed the maximum amounts set from time to time by resolution of the Board. The fine may include a daily fine in the event that the respondent does not comply with the order of the Board, including the payment of the fine, within the allotted time. The Board may also provide in its order that the non-prevailing party shall reimburse the costs of the Association in connection with the proceeding. Any fine or charge so imposed by the Board shall be the personal obligation of the person against whom it is imposed, shall constitute a lien upon the Lot owned or occupied by that person, and may be collected in the manner provided in the Covenants in same manner as for assessments.
- (d) The decision of the Board shall be served on each party to the matter forthwith in the manner provided above. A copy of the decision and order shall be sent to the Secretary of the Association and shall be included in the books of the Association.

Judicial Enforcement. Failure to comply with a decision of the Hearing Board following notice of a violation and an opportunity for a hearing, shall be grounds for an action by the Association to recover sums due for damages, which shall include any fines levied by the Hearing Board and any costs incurred by the Association in connection with the proceedings before the Hearing Board, or for injunctive relief, or both, maintainable by the Association or by an aggrieved Owner on his own against the party failing to comply. In any action brought as provided in this Section, the prevailing party shall be entitled to recover as part of its judgment a reasonable sum for attorney fees reasonably incurred in connection with the action, in addition to its expenses and taxable costs.

Duly adopted by the Shadow Run at Canyon Lakes
Board of Directors on _____, 2016.

President

NOTICE OF WARNING, INFRACTION AND/OR FINE

TO: _____, respondent

LOT/ADDRESS: _____

This is to notify the respondent that the Association has received a complaint against the respondent concerning violation of the Governing Documents of the Association as follows (state with specificity the nature of the violation and the pertinent rule, regulation, etc.):

Check one or more of the following, as applicable:

This is your Notice of Warning. You have _____ days to either correct the infraction and/or remove the violating condition. If you fail to do so, then the Association will proceed with formal enforcement.

The respondent has previously been sent a Notice of Warning concerning the above stated infraction but has failed to correct the situation.

The respondent is assessed a fine of \$_____ under the authority of the most recent resolution of the Board for fines to be imposed in the case of infractions. The fine is is not a continuing fine. (A continuing fine is one that can be imposed in the above stated amount for each and every day, month or other specified time period that the infraction which is the subject of this Notice continues.)

Imposition of the above fine is suspended for _____ days (no less than five (5) days). If the infraction is corrected within that time, then the fine will be rescinded.

The Board has set this matter for a hearing. See accompanying Notice of Rights and Hearing Before Board. At the hearing, the Board will decide the validity of the infraction(s) and fine(s) to be imposed, if any.

Right to Appeal If this is other than a Notice of Warning, you have the right to appeal the action taken above to the Association's Board of Directors. In such case, imposition of any fine imposed will be suspended pending determination of the appeal by the Board. If you wish to appeal, you must deliver written notice of the same to the Association's Secretary or the Association's Manager within fifteen (15) days after service or delivery of this Notice to the respondent. The request for appeal will not be deemed to have been delivered until actual receipt by the Association.

Signed: _____

Date: _____

Title: _____

NOTICE OF RIGHTS AND HEARING BEFORE BOARD

RESPONDENT: _____

COMPLAINANT: _____

Please be notified that a hearing will be conducted before the Shadow Run at Canyon Lakes Homeowners Association Hearing Board at _____ O' clock ____m. on _____ day, _____, 20____ upon the charges made by complainant in the complaint attached to this Notice. In the event that you are not present at the hearing a decision may be made against you.

You have the right to be present at the hearing and to be represented by counsel at your own expense. You are entitled to present any relevant witnesses or other evidence and will be given full opportunity to cross-examine any witnesses presented by the other party.

If any of the parties can show good cause as to why they cannot attend the hearing on the above date, they must submit a written request to the Board at least forty eight (48) hours prior to the scheduled hearing date.

Failure to appear or to obtain an order rescheduling the hearing will constitute a "default" as per the attached enforcement procedures and the Board may proceed with the hearing.

The respondent may admit to the complaint in whole or in part. In that event, the Board may hold a hearing as to any mitigating circumstances or to determine the appropriate penalty or may make a determination to waive the hearing and simply impose a fine, if any.

Signed: _____

Date: _____

Title: _____