

SFTR Property Owners Association Policy 2024-01

Change 1, In accordance with HB 24-1233

Title: Violations, Fines, and Collections	Date of Issue: October 5th, 2024
Approved By: <i>Cowl Smith / RLS</i>	Review/Revise Date:
This policy shall remain in effect until it is no longer needed or incorporated into other SFTR governing documents.	

Policy Statement/Purpose

- This Policy is established in accordance with the requirements as established by Colorado State House Bill 22-1137 as incorporated into the Colorado Common Interest Ownership Act (CCIOA), CRS 38-33.3-209.5(1.7) **and as modified by HB 24-1233.**

Applicability

- This Policy applies to the SFTR POA Board of Directors and all SFTR property owners.

Process/Procedures

1. Violations of Declaration of Protective Covenants, Conditions, and Restrictions (CCRs)
 - 1.1 The investigation of a potential violation of the SFTR CCRs, begins with the Covenants Committee first receiving a written complaint from any property owner (complainant).
 - 1.2 The Covenant Committee will first contact the property owner (respondent) before taking action.
 - 1.3 Following notifying the responding property owner of a complaint the Covenant Committee shall inspect the property to validate or dismiss the complaint.
 - 1.3.1 Any inspection should be made in concert with the property owner (complainant).
 - 1.4 The Covenant Committee shall maintain a record of all contacts.
 - 1.4.1 Type of communication used w/date and time.
 - 1.5 The Covenant Committee shall ascertain if the responding owner has identified another person as contact?
 - 1.6 If declared by the responding property owner and/or point of contact, all correspondence shall be presented in a preferred language.
 - 1.7 The Covenant Committee shall ensure both the unit owner and designated contact receive the same correspondence in the respective preferred language.
 - 1.8 If a violation is not confirmed the complaint is closed with no action.
 - 1.9 If a violation is confirmed, cure (correction) actions and timelines shall be established as follows:

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2. Cure Actions and Timelines

2.1 Not all violations are created equal; some can be corrected with a simple friendly conversation, telephone call, or email from the Covenants Chair, others are more complicated which can require a detailed plan for corrective action. For those more complicated the following procedures shall be utilized:

2.1.1 The POA shall ensure that any correspondence to the responding property owner and designated contact is sent by:

2.1.1.1 Certified mail, return receipt requested plus **any two of the following: (added via HB 24-1233)**

~~2.1.1.2 First class mail or, (deleted via HB 24-1233)~~

2.1.1.2 Telephone call **(added via HB 24-1233)**

2.1.1.3 Text message to cell number on file or,

2.1.1.4 E-mail to address on file.

~~2.1.1.5 Additionally, the POA shall physically post a Notice of Violation at the responding owner's unit. (deleted via HB 24-1233)~~

2.2 Violations that pose a threat to Public Health (in accordance to Las Animas County health regulations) or Safety (in Common Areas).

2.2.1 The POA shall follow the correspondence requirements.

2.2.2 The property owner shall be notified that he/she/they has 72 hours to cure the violation.

2.2.3 After the 72-hour period the POA shall inspect for cure.

2.2.4 If cured, the violation is closed with no further action.

2.2.5 If the violation is not cured after the 72 hours:

2.2.5.1 The POA may impose a \$200 fine every other day until the violation is cured.

2.2.5.2 No maximum dollar amount of fines.

2.2.5.3 May take legal action.

2.3 Violations not associated with Public Health or Safety.

2.3.1 Follow correspondence requirements.

2.3.2 The responding property owner is granted 30 days to cure the violation.

2.3.3 After the 30-day period, if not notified by the property owner sooner that the violation has been cured, the POA shall inspect.

2.3.4 If not cured the POA may impose fines until corrected.

2.3.5 Max fines, \$500.00

2.3.5.1 Covenant violations deemed to be of the nuisance (loose dogs, speeding etc.) nature shall be susceptible to a \$100.00 fine if the Association receives more than one complaint within any 30 day period.

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Continual violations of the same nature shall be susceptible to additional \$100.00 fines during each 30 period up to the maximum allowed.

2.3.5.2 Other violations (non-nuisance) shall be susceptible to a \$200.00 fine after the initial 30 day cure period expires

2.3.5.2.1 The POA shall grant an additional 30 day extension to cure before taking legal action.

2.3.5.3 If the violation is not cured after the 2nd 30 day cure period, the property owner shall be susceptible to an additional \$300.00 fine.

2.3.5.4 If responding owner cures within the period to cure and the owner sends visual evidence, the violation is deemed cured on that date.

2.3.5.5 If cure claim is made without visual evidence, the association shall inspect as soon as practicable.

2.3.5.6 If no notice from the responding owner, the association shall inspect within 7 days after the first 30 day cure period.

2.3.5.7 If not cured after first 30 day cure period:

2.3.5.8 A 2nd 30 day cure period shall be granted

2.3.5.9 Legal action may be taken after 2nd 30 cure period expires with no cure.

2.3.5.10 Once cured:

2.3.5.11 Notify the responding owner and designated contact in English and preferred language

2.3.5.12 No further fines shall be imposed.

2.3.5.11 The Association shall notify the responding property owner and designated contact of any outstanding balance owed to the Association.

2.3.5.12 For violations that have incurred a fine, the responding property owner shall have 30 days to pay the fine. After 30 days the account shall be deemed delinquent.

3. Delinquencies: Fines

3.1 The POA Treasurer shall initiate delinquency actions. If the delinquency is not current by calendar years end the first step is to place a lien on the property.

3.2 Any referral of a delinquent account to a collection agency shall only begin if a majority of the Executive Board votes to refer via Executive Session.

3.3 The Association shall not impose on a daily basis:

3.4.1 Late fees or,

3.4.2 Fines

4. Conflict of Interest

4.1 The Board of Directors is deemed to be a fair and impartial group charged with validating the initial response to a violation claim, cure requirements, timeline, and fine(s) as recommended by the Covenants Committee.

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4.2 If a Board of Directors member is part of any violation notice they shall be deemed as having a conflict of interest and shall abstain from any votes relating to the violation.

4.3 Any Board of Directors member having a conflict does not have to recuse themselves from the fact verification process but shall not partake in any voting pertaining to violation rulings or fines.

5. Collection of arrearages.

5.1 The Association shall provide to the property owner and any designated contact, on a monthly basis:

5.1.1 Via first class mail and if the Association has the relevant e-mail address by e-mail to the owner:

5.1.2 Itemized list of all:

5.1.2.1 Assessments

5.1.2.2 Fines

5.1.2.3 Fees

5.1.2.4 Charges

6. Collection of **Delinquent Assessments, Fines, or Fees.** *(added bolded wording)*

6.1 **Any effort to collect outstanding assessments, fees, or fines must start with an earnest attempt to contact the Owner. Many issues can be handled with a simple telephone call; for those more difficult the Association will be forced to utilize additional forms of communication.** *(added)*

6.2 Correspondence to the property owner and designated contact shall contain:

6.2.1 Date assessment, **fines or fees (added)** must be paid and when it is considered past due and delinquent,

6.2.2 Late fees and interest,

6.2.3 Returned check charges,

6.2.4 Circumstances which to enter a repayment plan and,

6.2.5 Minimum terms of the repayment plan.

6.3 Before turning over to a collection agency or to an attorney for legal action the POA shall:

6.3.1 Send notice to owner by certified mail return receipt requested specifying:

6.3.2 Total amount due with an accounting how total was determined,

6.3.3 Whether a payment plan exists and instructions for contacting the Association,

6.3.4 Name and contact information if owner requests a copy of the owner's ledger, and

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6.3.5 Action required to cure.

6.4 Failure to cure within 30 days may result in the delinquent account being turned over to a collection agency, a lawsuit being filed against the owner, filing and foreclosure of a lien or other remedies available under Colorado law.

6.5 Method which payments may be applied

6.5.1 First to current assessment then to

6.5.2 Any previous assessments then to

6.5.3 Any outstanding fines then to

6.5.4 Any Interest and charges then to

6.5.5 Any Legal fees

6.6 Legal remedies available to the Association to collect.

6.6.1 Notice of Delinquency must:

6.6.2 Be in English and preferred language,

6.6.3 Specify

6.6.3.1 Unpaid assessments or,

6.6.3.2 Unpaid fines, fees, charges or, both

6.6.3.3 May lead to foreclosure

6.6.4 Include

6.6.4.1 Description of legal action the Association may take,

6.6.4.2 The Associations cure process

6.6.4.3 Description of legal actions the Association may take to file claim in Small Claims Court include:

6.6.4.3.1 Injunctive matter seeking order requiring owner to comply with By-laws, Covenants, or other governing documents of the Association.

6.6.5 Offer a good faith effort to set up a repayment 18-month plan

6.6.5.1 Failure to remit 3 or more installments during an 18-month period violates repayment plan

6.6.5.2 Apply payments first to current assessments.

6.6.6 Within 30 days after the Association has provided the owner with a written offer to enter into a repayment plan the owner has either:

6.6.6.1 Declined repayment plan, or

6.6.6.2 After accepting the repayment plan, failed to pay at least 3 installments within 15 days after monthly installment were due.

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6.6.7 The Association shall not:

6.6.7.1 Charge a rate higher of interest greater than 8%

6.6.7.2 Assess a fee or other charge to recover the cost incurred for providing a statement of total amount due

6.6.7.3 Foreclose on assessment lien if amount owed is only for one or both of the following:

6.6.7.3.1 Fines

6.6.7.3.2 Attorney fees associated with fines

6.7 Total not exceeding \$7500.00 plus interest and costs may be filed in Small Claims Court.