

Whisper Mountain HOA

Newsletter

October 2020



2020 - 2021 Board of Directors

President: Greg Wingert
Vice Pres: Rob Graham
Secretary : Pam Serna
Director : Gary Rosenbeck
Director : Ronna Green

Community Management Company

Preferred Communities
480-649-2017



info@gothoa.com
www.gothoa.com

Mon – Thurs 7:30am – 5:00pm
Closed Fri, Sat, Sun

Contact Preferred Communities regarding anything HOA related. If there is an emergency in the common areas after hours, please call 480-649-2017 and leave an emergency message.

Community Website

www.gothoa.com/WhisperMountain
All governing documents, approved color palettes and the Architectural Request Form are available on the website.



MyAccountPortal

<https://gothoa.com/myaccountportal>
Sign up for Access to your HOA account to view your balance or any violations and make payments online. Board Meeting minutes are also available on the MyAccountPortal. You must have an email registered with Preferred Communities to sign up.

Open Board Meeting **Tuesday, October 27, 2020** **5:30pm**

All homeowners are encouraged to attend the meeting! Due to the Covid19 restrictions, meetings will only be held virtually, until further notice.

ZOOM MEETING

<https://us02web.zoom.us/j/84651412096?from=addon>

Meeting ID: 846 5141 2096

Passcode: 981524

If you are unable to join by video, you may join by phone, by entering the above listed Meeting ID and Passcode.

602-753-0140 (Phoenix)

778-907-2071 (Canada)

Note: The Board will be meeting in Executive/Closed session before the Open Meeting, at 5:00pm, pursuant to ARS 33-1804 Paragraph A.1 and 5.

Updated Collection & Enforcement Policies

The Board unanimously adopted the attached Collection Policy Resolution and the Enforcement and Fine Schedule Resolution. Please take a few minutes to familiarize yourself with the new Resolutions.

The Resolutions are also available on the community website at www.gothoa.com/WhisperMountain and on [MyAccountPortal](#).

If you would like a paper copy of the Resolutions, please contact Preferred Communities.

Board Member Appointment

During the September 28, 2020 Open Board Meeting, Ronna Green was unanimously appointed to fill Connie Wells' vacated Board position. Ronna will serve the remainder of Connie's term. Welcome to the Board Ronna!



E - Statements

If you haven't signed up for E-Statements, please sign up today!

Arizona Revised Statute 33-1807 requires that the Association send a hard copy statement of account to every homeowner on a monthly basis, unless the homeowner opts to receive the statement electronically only.

It costs the Association \$1.50 for every hard copy statement that is mailed. This price increases based on postage increases and if additional inserts are sent with statements. If all 64 homeowners opted to receive Electronic or E-Statement, that would be a savings of over \$900.00 per year.

As of October 19, 2020, only 17 out of the 64 homeowners have opted out of receiving paper statements.

Please help us keep the Association's costs low and opt for E-Statements now!
Simply send an email to info@gothoa.com stating you don't want paper statements any longer.

Hottest Summer on Record!

Record heat, nonexistent monsoon, WHAT A SUMMER!

Weather Records

- Hottest Summer! Average temperature 96.7 Fahrenheit.
- Most days of high temperatures at or above 110 Fahrenheit (53 days).
- Most days of high temperatures at or above 115 Fahrenheit (14 Days).
- Phoenix never dropped below 90 degrees at night for a 28 straight days.
- Most days of high temperatures at or above 100 Fahrenheit (145 Days).... Hopefully we have seen the last 100 degrees this year?
- Driest Monsoon ever for the valley.
- Depressed monsoon has caused all of Arizona to be classified in drought and 78% of the state is classified as Extreme Drought!



How have these weather records affected the vegetation? We have seen a decline in plants & trees across the valley, even after increasing irrigation watering.

- Plants on commercial properties or urban environments are affected more drastically due to a hotter microclimate.
- Due to the hot nights, the plants & trees were unable to get relief. Even the native plants are wilting, losing leaves and struggling to survive.

Why hasn't increased irrigation helped the vegetation flourish? Rain gives vegetation a needed cool down period and it helps to wash debris, dust and pollutants from the foliage, which makes transpiration and the production of sugars easier for the vegetation. Without the rain, the vegetation only received irrigation water, usually by a drip system (so no water touched the foliage). The irrigation water also has chemicals and is much harder than the rainwater.

Pay a little extra attention to your vegetation right now. Trim off of the dead foliage to allow the vegetation to grow back healthier & stronger. Hopefully the temps will continue to trend downward, and rain will head our way!

**UNANIMOUS CONSENT TO ACTION BY THE BOARD OF DIRECTORS OF
WHISPER MOUNTAIN HOMEOWNERS ASSOCIATION
C/O PREFERRED COMMUNITIES
PO BOX 5720, MESA, ARIZONA 85211-5720
PHONE (480) 649-2017 FAX (480) 649-0902**

Pursuant to the authority contained in the Arizona Revised Statutes and the Governing Documents of the Association, the Board of Directors of Whisper Mountain Association hereby adopts the following resolution by unanimous consent for and as the actions of the Whisper Mountain Association, during the duly noticed Open Board Meeting on September 28, 2020.

RESOLVED: the following Resolution is Effective November 1, 2020 and rescinds all previous Collection Policies

WHEREAS Section 6.10 of the Declaration of Covenants, Conditions and Restrictions for Whisper Mountain Homeowners Association provides the Board of Directors with the authority to set forth collection policies. The Board has adopted the rules below pertaining to the collection of Assessments.

The purpose of this policy is to ensure the timely and fair collection of Assessments to ensure the Association has the funds necessary to provide for the management, maintenance, and care of the areas of association responsibility.

The scope and intent of this resolution is to apply uniformly to all members of the Association.

The actions of this policy regarding collection of assessments owed the community are as follows:

- a) 15 days after the monthly assessment due date, a late notice is sent to the homeowner and a late fee of fifteen dollars (\$15.00) is assessed,
- b) 45 days after the monthly assessment due date, a final notice is sent to the homeowner and a final notice fee is assessed as outlined in the Association's contract with the management company,
- c) 60 days after the monthly assessment due date, an "Intent to Lien" notice is sent to the homeowner and an "Intent to Lien" notice fee is assessed to the homeowner's account as outlined in the Association's contract with the management company,
- d) 75 days after the monthly assessment due date, a lien is recorded with the County Recorder, a copy is sent to the homeowner and a Lien recording fee is assessed to the homeowner's account as outlined in the Association's contract with the management company,
- e) 90 days after the monthly assessment due date, "Intent to Sue" notice of the total amount due plus an "Intent to pursue legal action" notice fee is assessed to the homeowner's account as outlined in the Association's contract with the management Company,
- g) Further collection & legal action will be taken as necessary, including, but not limited to: turning account over to 3rd Party Collection Agencies & Law Firms, default judgment, summary judgment, garnishment of wages, or foreclosure pursuant to Arizona Revised Statutes and Declaration of Covenants, Conditions and Restrictions for Whisper Mountain Homeowners Association.

- e) Payments will be applied to an account as follows (according to Arizona State Law):
1. Past Due Assessments
 2. Late Charges
 3. Collection Fees
 4. Attorney Fees/Costs
 5. Fines

RESOLVED, that the Whisper Mountain Homeowners Association Board of Directors and Preferred Communities shall not consider waiver of late fees, collection fees or attorney collection fees uncured on an account where the assessment was not paid in accordance with the Assessment Collection Policy through no fault of the Association or its Agent.

RESOLVED, that the Whisper Mountain Homeowners Association Board of Directors and Preferred Communities shall afford homeowners the opportunity to request a hearing as provided by the Association documents to contest any late fee or fine assessed; and

RESOLVED, that the Whisper Mountain Homeowners Association Board of Directors and Preferred Communities shall afford homeowners the opportunity to initiate a time-payment plan in order to reduce or eliminate their outstanding debt to the Association, specified in writing and mutually agreed to by the homeowner and Whisper Mountain Homeowners Association Board of Directors; and

RESOLVED, that any subsequent default, cessation or refusal to make timely and consistent payments on such time-payment plan shall constitute default on the part of the homeowner and shall result in initiation of legal collection procedures; and

RESOLVED, that the board shall retain the right to amend or repeal this resolution.

**WHISPER MOUNTAIN ASSOCIATION
RESOLUTION BY THE BOARD OF DIRECTORS**

ENFORCEMENT & FINE RESOLUTION

Pursuant to the authority contained in the Arizona Revised Statutes and the Governing Documents of the Association, the Board of Directors of Whisper Mountain Association hereby adopts the following resolution by unanimous consent for and as the actions of the Whisper Mountain Association, during the duly noticed Open Board Meeting on July 20, 2020.

RESOLVED: the following Resolution is Effective November 1, 2020 and rescinds all previous Enforcement and Fine Schedules and/or Policies.

The scope and intent of this resolution is to apply uniformly to all members of the Association. The Board shall, at all times in enforcing the provisions of the Governing Documents, remain fair and impartial, and treat all Owners in the same manner as any other Owners.

Reporting Violations to the Association:

- (1) Owners or residents within the community may report alleged violations only if they personally observed the alleged violation.
- (2) Alleged violations are to be reported in writing to the Association's Manager, or if no Manager, then to the Board of Directors.
- (3) The complaint must be detailed and provide the provisions of the Governing Documents claimed to be violated, the time, date, and place of the violation, and any witnesses to the violation.
- (4) The Board or its authorized agent(s) should review the written complaint and supporting documents, if any.
- (5) If the Board or its authorized agent(s) determines that the complaint is valid and sets forth a valid violation of provisions of the Governing Documents, then the Board shall send a notice to the Owner.
- (6) Notwithstanding reports from Owners, the Board or its authorized agent(s) may also conduct its own inspections and send notices of violations to Owners.
- (7) Per Arizona Law (**A.R.S. §33-1242** and **A.R.S. §33-1803**), any complaint lodged with the Association will NOT remain anonymous. Your first and last name will be disclosed to the violator upon request.

Notice of Violation: The Notice of Violation shall be sent to the Owner, even if it is the Owner's tenants, guests, or invitees that are responsible for the violations of the Governing Documents. The Notice shall be sent to the address registered with the Association, and if none, to the property address of the Association for that Owner. The Notice should be delivered by first class mail. The Notice should state the details of the violation as outlined in the complaint and revealed by the Board's review and investigation, if applicable. The Notice should also provide the Owner an opportunity for a hearing before the Board to refute the complaint. An Owner has a duty to respond in writing within fourteen (10) days to request a hearing. If the Owner does not respond timely or in writing, then the Owner is deemed to have admitted the facts set forth in the Notice, and the Board may enforce the provisions in accordance with this Resolution.

Fine Schedule for Violations: The Board adopts the following fine procedure and accompanying amounts:

1. **First Notice of Violation:** A letter will be sent to the Owner of the property outlining the violation. In the event that the Owner of the property is identified as an absentee Owner, a copy of the violation letter may also be sent to the tenant at the property address. The Owner will be given fourteen (14) days to bring the violation into compliance. The First Notice shall include a warning that if the violation is not cured within fourteen (14) days that the fine policy will be followed. This letter shall also state that the Owner may petition the Department of Real Estate pursuant to ARS 32-2199.01.
2. **Second Notice of Violation:** The Association will issue a second Notice if the Owner has not complied with the first Notice, or if the violation has returned or has been repeated. The second Notice will inform the Owner that if the violation is not cured within fourteen (14) days, that a Monetary Penalty will be imposed. The Owner will also be responsible for any certified letter processing fees.
3. **Third Notice of Violation:** The Association will issue a second Notice if the Owner has not complied with the first Notice, or if the violation has returned or has been repeated. The second Notice will inform the Owner that a Monetary Penal
4. ty, in the amount of **\$25.00**, has been imposed. This letter shall also tell the Owner that if the violation is not cured within fourteen (14) days that a fine will be assessed. The Owner will also be responsible for any certified letter processing fees.
5. **Fourth Notice of Violation:** The Association will assess an Additional Monetary Penalty, in the amount of **\$50.00**, if the Owner has not corrected or removed the violation as stated in the time frames in the previous notices, or if the violation has returned or has been repeated. The Owner will also be responsible for any certified letter processing fees.
6. **Additional Monetary Penalties:** After the imposition of the Initial Monetary Penalty and the Additional Monetary Penalty, another penalty, in the amount of **\$100.00** (the Maximum Additional Monetary Penalty), may be imposed upon subsequent inspection, if the Owner has not corrected or removed the violation, or if the violation is repeated or has returned. Inspections will be conducted to coincide with the terms of the notices. The Owner will also be responsible for any certified letter processing fees.

Additional Remedies. The Association has the right, without proceeding through the steps outlined in the fine schedule above, to exercise its legal remedies against an Owner who is in violation of provisions in the Governing Documents. Nothing in this Resolution prohibits the Association from seeking immediate redress, filing an action for any reason authorized by law, while also seeking injunctive relief for violations that are continuing or that affect the health, safety or welfare of the Community. Subject to the Governing Documents, the Association shall be entitled to its attorney fees and costs to compel compliance, regardless of whether a lawsuit is filed.

Violations that threaten the health, safety and welfare of homeowners and residents, such as drug use and sales, discharging firearms, arson, vandalism and any other violation that the Board deems to be of an egregious nature will be fined at **\$200.00 to \$500.00** per occurrence.

Should a period of time of at least 90 days lapse between violation letters of the same offense, the next letter will be a First Notice again.

Hearings Before the Association: If the Owner timely requested a hearing before the Board in writing, the following should govern the hearing before the Board:

(1) Alleged violators are entitled to notice and opportunity for a hearing on the merits before a fine is imposed upon them by the Board

(2) Notice of violations setting a fine may set forth a date and time for the hearing or allow for the scheduling of a hearing.

(3) The hearing will be before the Board, with any “interested” board member disqualified to be a part of the hearing panel.

(4) At the hearing, the alleged Owner or the Owner’s designated representative and the Complainant may make an opening statement, present evidence and testimony, present witnesses and make a closing statement.

(5) Additional evidence and testimony may be presented by an officer, Board Member or the Association’s Manager, if any, and/or any person involved in the performance of the investigation of the alleged violation.

(6) Neither the Complainant nor the alleged violator is required to be in attendance at the hearing.

(7) The presiding officer may also impose other rules of conduct as may be appropriate under the circumstances.

(8) Unless otherwise requested by the Owner, the hearing may be open or closed to attendance by all Owners.

(9) The hearing must be fair and impartial to the Owner accused of the violation, as outlined above.

(10) The Board may render its decision in writing within 30 days, or a longer period as the Board may set.

(11) In its decision, the Board may, at its sole discretion, impose the fine, waive all or a portion of the fine, or condition waiver or partial waiver of the fine.

(12) Failure to strictly follow the hearing procedures is not grounds for appeal of the Board's decision, absent a showing of denial of due process.

Non-Waiver: The failure of the Association to enforce its Governing Documents does not constitute a waiver of the right to enforce the Governing Documents in the future.