

Board policy on enforcement of governing documents.

Authority to develop, implement, and enforce policy:

The current By-Laws of The Tides West Association, Article III section 8, and the Washington State statutes 64.30.020 grant the board of directors both implicit and explicit authority to develop, implement, and enforce board policy related to its Articles of Incorporation, By-Laws and covenants.

Articles of Incorporation: Article 3, section 3

By-Laws: Article III, Section 8, letters d) f) and l).

RCW 64.38.020: 11) 12) 13), 14)

Purpose and Function of board policy on enforcement:

This policy is intended to supplement the procedures in Tides West By-Laws and covenants. It does not supersede and must not conflict with governing documents. If there is such a conflict, Tides West By-Laws and Covenants shall prevail.

1. A board enforcement and fine policy will guide the Association board in consistently and fairly dealing with members who are in violation of By-Laws and Covenants.
2. A board enforcement and fine policy will inform members regarding what can be expected when By-Laws and Covenants are violated and how to appeal board decisions related to enforcement.
3. This policy will apply to Tides West governing documents only. Although the association may inform members if they are in violation of Pacific County codes, we will not be obliged to enforce county regulations unless there is also a violation of Tides West By-Laws or covenants. Individual members, however, may file a complaint directly with Pacific County regarding a neighbor's violation of county codes.

General Enforcement Procedures:

Owners bear first and primary responsibility for themselves, guests and tenants regarding compliance with Tides West covenants and Bylaws. The owner will be primarily responsible for correction of any violations or fines that may be issued. Annual dues are the sole responsibility of the owner/member. (Protective Covenants VII,17,c)

Any member may seek reparation from any other member in law and in equity. If the issue is resulting from a violation of Protective Covenants, the member may also seek enforcement by the Tides West board of directors. *"..Covenants may be enforced at law and in equity by any owner, purchaser, or lawful occupant of land in Tides West , including the Association, against any person who shall violate or attempt to threaten to violate them."* Protective Covenants II-2.

As board policy, these procedures may be adjusted or modified by the board as needed to react to changing long-term circumstances impacting effective enforcement. Except in case of an emergency situation, the board will notify membership of proposed changes in policy and allow a period for input from members prior to implementation.

The Tides West Board will have discretion regarding how to investigate an alleged violation, the frequency of investigating an alleged violation, and, except as otherwise specified in the

covenants or this policy, whether a series of related actions or inactions constitutes one or multiple violations.

Fine letters and other letters authorized by this policy must be signed by an authorized board member of Tides West. The Association shall keep records documenting the violation and containing the fine letter and other correspondence and information regarding the violation, but failure to maintain such records will not invalidate any fine that is imposed.

In an appropriate circumstance, as determined by the president of Tides West Community Association Board of Directors, Tides West may, at any time, enter into a compliance agreement with a member regarding a covenant violation and/or to obtain compliance with the covenants on that member's lot or lots. This compliance agreement shall be in written form, signed by the member and a representative board member. This compliance agreement may include, among other things, waiving fines for violation of the covenants if the member complies with the agreement. This agreement must receive the approval of the board and be entered into the board minutes at the next regular meeting. However, each compliance agreement must require that if it is not complied with, all fines for violations as established in this policy shall be imposed and collected.

Enforcement Sequence:

1. **Determination of Violation:** When a member, reports a violation to the board, the board will cause an investigation to be completed and then make a determination regarding whether there is a violation of By-Laws or covenants.
 - a) Should the determination be that there is no violation, the member making the complaint will be notified as such.
 - b) Should the determination be that a member is in violation of governing documents, the board may institute, a number of increasingly invasive steps to seek compliance.

2. **Steps to Rectify the violation:**
 - a) A board member, in addition to causing a written notice of violation to be sent, may attempt to contact the member in violation in order to arrive at an agreement to correct the issue. This contact and the resultant action will be reported to the board as a whole and documented in board minutes. When board minutes are posted on the website, the person's name will be redacted.
 - b) The violation letter will be sent first class mail and must contain the following:
 - 1) A description of the violation and cited section of governing documents.
 - 2) Steps needed to correct the violation.
 - 3) Procedures for appealing.
 - 4) The amount of the fine: \$50 for every month or part of a month not in compliance, to begin 30 days from the sending of the violation letter if not successfully appealed.
 - 5) Non-payment of fines will result in a statutory lien against the property in question.
 - 6) Citing further steps that may be taken by the Association to bring the violation into compliance.

- c) Any member may appeal any determination, fine, or order under this policy. If the fine or order is not appealed in the time stipulated, it will be deemed valid. All appeals must meet the following criteria and sequence to be considered:
- 1) Appeals must be in writing and submitted by first class mail to the association.
 - 2) Appeals must be mailed within 10 days of receiving the violation letter.
 - 3) Appeal letters must include the following:
 - a. The name of the appellant.
 - b. Contact information for the appellant including address, phone number, and email if available.
 - c. A statement identifying precisely what is being appealed.
 - d. An explanation, including relevant facts, of why the appellant believes the determination is wrong.
 - e. A statement of what relief the appellant is requesting.
 - 4) If the member wishes to appeal, in person, to the board, this needs to be specifically stated in the appeal letter. "In person" may mean physical presence at a regularly scheduled board meeting or a special meeting by zoom with at least 4 board members participating.
 - 5) Determination by the board on the merits of the appeal will be reached in a timely manner.
 - 6) The board shall affirm, reverse, or modify the original determination of non-compliance. The appellant will be notified in writing and the determination will be included in the minutes of the next regular board meeting.
 - 7) Should the violation be affirmed, the timeline for correction or fines will begin with the receipt of the original violation letter.
 - 8) The board's determination will be considered final.
- d) Should the violation not be corrected within the 30 days allotted, or if the violation is repealed, the fine will commence and will be officially recorded by the Tides West Treasurer who will keep track of additional fine amounts and interest accrued.
- e) Fines of \$50 per month plus interest on the unpaid balance of 1% per month will continue to accumulate until the violation is brought into compliance with Tides West covenants.
- f) If the fine is delinquent for more than 3 months, the association may, at any time, exercise the option of seeking legal judgement through small claims court and/or Pacific County Superior Court. Attorney and court costs will be included in the judgement sought.
- g) Fines shall be paid by mail to the Tides West Association and the treasurer will issue a receipt and record payments.
- h) Simply paying the fine will in no way relieve the member of the obligation to comply with the covenants.
- i) If a member is delinquent in paying a fine or complying with the covenants for more than two months, He or she will no longer be considered by the association as a member in good standing. (see below)

Non-Payment of Annual Dues Enforcement Sequence:

Annual member dues shall be due January first of each year. The assessments, together with costs, attorney's fees and costs reasonably incurred shall be the personal obligation of the member assessed. (By Laws Article VI Section 2)

1. A reminder of Dues and fines owed will be sent to each member of record before the first of the year. Failure of notification shall in no way relieve the members of the responsibility for timely payment.
2. Payments received after February first will incur a late penalty of \$10.
3. Payments received after April first shall be assessed an additional \$25 late fee.
4. Failure to pay by June First will result in the filing of a lien against the land owned by the member.
5. Should a member have unpaid dues and fines, the Tides West Board may choose to exercise any of the following options:
 - a) A statutory lien against the owner's property to be collected at the time the property is sold.
 - b) A judicial lien in Pacific County Superior Court for dues, interest, fines, expenses and attorney's fees.
 - c) The hiring of a collection agent whose expenses will be included in the amount sought.
 - d) If there is more than \$200 in unpaid dues, excluding fines and other charges, the Association may pursue foreclosure on the property as per RCW 64.38.100

“Member in good standing” designation: All members, by default, are considered a “Member in good standing” unless, by determination of the board as a whole, they are found to be in violation of the covenants for a period of more than two months, are more than two months delinquent in payment of fines, or are more than two months behind in annual dues. Members who are not in “good standing” will not be allowed to serve on any association committees nor can they be appointed to the Tides West board in the event of a vacancy. Should a member “not in good standing” choose to run for the Tides West board of directors, The board will inform voting members of their status before the vote.