

**THE SANCTUARY ON SPRUCE CREEK
HOMEOWNERS ASSOCIATION
ARCHITECTURAL REVIEW COMMITTEE
ENFORCEMENT PROCEDURE FOR
UNAPPROVED AND NON-COMPLIANT STRUCTURES**

Board-Adopted: 4/9/2026

Revised: 7/9/2026

Effective Date: 7/10/2026

I. PURPOSE

This procedure establishes a consistent, fair enforcement process that protects both Association and homeowner rights when addressing structures built without ARC approval or violations that do not comply with applicable standards.

II. AUTHORITY

This procedure is adopted pursuant to Article VIII of the Declaration of Covenants and Restrictions and Florida Statutes Chapter 720.

Good-Faith Reliance:

The ARC and the Board may rely in good faith on the Association's governing documents, adopted guidelines, management reports, professional advice, photographs, and information provided by homeowners when making decisions under this procedure. Decisions made in good faith and within the scope of authority shall not be deemed arbitrary or capricious solely because reasonable minds could differ.

III. SCOPE AND INITIATION

A. Complaint-Based Enforcement

Enforcement under this procedure is initiated based on complaints received from community members or as a result of the ARC's inspection.

B. Owner Cooperation

Homeowners are expected to cooperate reasonably with the ARC, the Board, and our management company during the review and enforcement process, including responding to information requests and providing access where required by the governing documents.

C. ARC Review of Complaints

Upon receiving a complaint, the ARC shall review the matter and determine whether to dismiss or pursue enforcement. The ARC has discretion to dismiss complaints that are frivolous, lack merit, or involve de minimis violations.

D. De Minimis Violations

A de minimis violation is one that is so minor that enforcement would not meaningfully benefit the community or is disproportionate to the burden on the homeowner. The ARC may decline to pursue enforcement of de minimis violations.

E. Emergency Situations

This enforcement procedure does not apply to emergency situations addressed under Section IV.E of the ARC Meeting and Decision Procedures. Homeowners who take emergency protective action without prior approval must submit a retroactive application as provided in that policy; such applications are not treated as enforcement matters unless the retroactive application is denied.

F. Complaint Register

The Property Manager shall maintain a complaint register logging all complaints received by the Association. Each entry shall include the date received, the property address, the nature of the alleged violation, and the disposition, including the basis for any dismissal by the ARC. The complaint register shall be provided to the Board and ARC prior to each annual neighborhood inspection, and violation categories that generated complaints during the prior year shall be incorporated into the inspection checklist.

IV. ENFORCEMENT PROCESS

STEP 1: DISCOVERY AND DOCUMENTATION

- Identify the alleged violation based on the complaint received.
- Photograph the alleged violation with date stamp. Note relevant context (e.g., visibility from street or neighboring properties).
- Research: Was an ARC application submitted? If so, was it approved? What conditions applied?
- Identify the specific Declaration section or published guideline that has been violated.
- Document all findings in a violation file. The violation file shall reflect reasonable documentation sufficient to support the ARC's determination. The Association is not required to document or investigate every conceivable alternative or mitigating factor.
- All violation and enforcement documentation shall be maintained by the Property Manager.

STEP 2: COURTESY LETTER (Days 0–7)

Send a friendly initial notice that includes:

- Description of the observed violation
- The specific Declaration section or published guideline provision
- A request to either submit a retroactive ARC application within 30 days OR cure the violation to achieve compliance within 60 days (these deadlines run concurrently)
- Contact information for questions

Tone: "This may be an oversight. We would like to work with you toward compliance." No fine is threatened at this stage.

Courtesy letters and subsequent written notices under this procedure are issued by the Association's management company at the direction of the ARC or the Board, as applicable.

STEP 3: RETROACTIVE APPLICATION REVIEW (If Submitted)

Retroactive applications are evaluated under the same substantive standards as prospective applications; however, the burden remains on the homeowner to demonstrate compliance or entitlement to approval or variance.

- Treat as a regular ARC application.
- Review under the standards that were in effect when the structure or modification was installed (see Grandfathering Policy).
- The ARC may approve, approve with conditions, or deny.
- If denied, the homeowner may appeal to the Board per the ARC Meeting and Decision Procedures. Proceed to Step 5 only after any appeal is resolved or the appeal period expires.

STEP 4: VARIANCE REQUEST OPTION

The owner may request a variance from the Board only after a retroactive ARC application (Step 3) has been submitted and denied, or the ARC determines that the proposed structure cannot meet existing standards without a variance. The owner may request a variance from the Board by submitting a written request explaining:

- Why compliance creates an undue hardship
- Unique circumstances of the property
- How the variance would not harm community aesthetics

The Board (not ARC) votes on variances at a regular meeting. A variance requires a majority Board vote.

Definition of Undue Hardship: A circumstance where strict application of ARC standards would create a unique and disproportionate burden due to property characteristics not shared by similarly situated homes, or would require corrective action whose cost is excessive in relation to the incremental aesthetic or community benefit achieved, or would

otherwise prevent reasonable use of the property in a manner consistent with the community.

Note: Undue hardship does NOT include personal preference, convenience, cost savings alone, or dissatisfaction with adopted standards. Variances are intended to be rare and do not establish precedent.

In evaluating undue hardship, the Board may consider the visibility, scale, and community impact of the non-compliance relative to the cost and disruption required to achieve strict compliance.

Approval of a variance is limited to the specific facts presented and shall not establish precedent for future ARC or Board decisions.

STEP 5: FORMAL VIOLATION NOTICE (If Not Resolved)

Send a formal violation notice if: (a) no retroactive application is submitted within 30 days and the violation is not cured within 60 days; OR (b) a retroactive application is denied and any appeal has been resolved or the appeal period has expired. The notice must state:

- That the specific violation continues
- Prior notice(s) sent with dates
- Compliance deadline: 30 days from date of notice
- That after the deadline, fines may be imposed per the Association's fine schedule (adopted separately)
- The owner's right to a hearing before a fining committee per Florida Statute §720.305

STEP 6: FINING PROCESS (If Not Resolved)

After the compliance deadline expires, the Board may initiate the fining process by scheduling a hearing before the fining committee. The Board may, in its discretion, elect to forgo this step and proceed directly to Step 7; doing so does not constitute an escalation of enforcement and does not affect the homeowner's rights under this procedure.

Fining Committee Requirements (per Florida Statute §720.305):

- At least three members who are not Board members, officers, or employees of the Association, or their spouses, parents, children, brothers, or sisters
- The owner has the right to attend and present their case
- The committee decides whether a violation exists and whether to approve the fine proposed by the Board

Fining committee appointment, procedures, and fine schedules are established by separate Board policy.

STEP 7: ATTORNEY REFERRAL AND PRESUIT MEDIATION

If the matter remains unresolved after Step 5 (or Step 6 if the fining process was initiated), the Board shall refer the matter to the Association's attorney. Consistent with the Board's

current enforcement preference, the attorney shall initiate presuit mediation by serving a written demand on the homeowner in accordance with Florida Statute §720.311(2). Presuit mediation is mandatory before any lawsuit may be filed for covenant enforcement disputes under Chapter 720.

The mediation must be conducted by a mediator certified as a circuit court civil mediator pursuant to Florida Supreme Court requirements. Unless otherwise agreed by the parties, the costs of mediation are shared equally. The mediation conference must be held within 90 days of the demand, unless extended by mutual written agreement.

If the homeowner fails to participate in the presuit mediation process (including failure to appear for a scheduled session), the Association is entitled to proceed directly to court and to seek an award of mediation costs, fees, and attorney's fees associated with the mediation.

If mediation does not resolve the matter, the Board may authorize the attorney to file for injunctive relief or other appropriate legal action following a Board vote and cost-benefit analysis.

V. SUSPENSION OF ENFORCEMENT DURING APPEALS

If a homeowner appeals a denial of a retroactive application to the Board, enforcement timelines and any fines are suspended during the pendency of the appeal. Enforcement resumes upon the Board's final decision or if the homeowner withdraws the appeal.

VI. NO IMPLIED APPROVAL

The existence of a violation for any period of time without enforcement action does not constitute approval, waiver, or estoppel unless expressly approved in writing by the ARC.

VII. COMMUNICATIONS

For purposes of this procedure, "written" communication includes email. Notices may be sent by regular mail, email, or hand delivery to the address on file with the Association.

VIII. CONSISTENT APPLICATION

CRITICAL: This procedure must be applied consistently to all violations of a similar nature, taking into account documented differences in facts or circumstances. Failure to enforce a provision of the Declaration or these procedures in any instance shall not constitute a waiver of the right to enforce the same or any other provision in the future.

When a homeowner raises a claim of selective or inconsistent enforcement, the Board and management company shall not suspend or withdraw the enforcement action on that basis alone. The Board shall invite the homeowner to submit a written complaint identifying the specific property and alleged violation they believe is being overlooked. Any such complaint shall be processed under this procedure. The existence of an undetected or unreported violation elsewhere in the community does not constitute a defense to an enforcement action that is otherwise valid and properly initiated.

IX. TIMELINE SUMMARY

The following table summarizes the enforcement timeline:

Stage	Timeline
Step 1: Discovery	Day 0 (complaint received)
Step 2: Courtesy Letter (<i>sent by property manager</i>)	Days 0–7
Homeowner Response (<i>notice of receipt sent by property manager</i>)	30 days to submit retroactive application, OR 60 days to remove/modify (concurrent)
Step 3: ARC Review	45 days from complete application (per Declaration)
Appeal (if denied) (<i>notice of receipt sent by property manager with cc: to Board</i>)	10 days to file; Board hearing within 60 days; decision within 30 days of hearing
Step 5: Formal Notice (<i>sent by property manager</i>)	After 60 days (if no resolution) or after appeal resolved
Compliance Deadline (<i>monitored by property manager</i>)	30 days from formal notice
Step 6: Fining Process (<i>notification issued by property manager, if initiated</i>)	After compliance deadline expires
Step 7: Attorney Referral and Presuit Mediation (<i>initiated by Board direction to Association attorney</i>)	After Step 5 compliance deadline expires (or after Step 6, if initiated); mediation conference within 90 days of demand

X. SEVERABILITY

If any provision of this procedure is held invalid or unenforceable, such determination shall not affect the remaining provisions, which shall continue in full force and effect.