

ATALON COMMUNITY ASSOCIATION
ENFORCEMENT POLICY & FINE SCHEDULE

A. Introduction

The Association is governed by the following documents (the “**Governing Documents**”):

- a. Declaration of Covenants, Conditions and Restrictions for Atalon Community Association (CC&Rs).
- b. The Bylaws of Atalon Community Association (Bylaws).
- c. The Atalon Community Association Rules and Regulations (Association Rules).
- d. The Design Review Committee Rules (Design Review Committee Rules).
- e. Any Resolutions or Policies adopted by the Board.

The Association enforces the Governing Documents for the benefit of all Owners and residents in the Association. Compliance with the Governing Documents helps protect the aesthetics and property values within the community. The Association’s role is to administer and enforce the Governing Documents in a fair, reasonable, and non-discriminatory manner, following the procedures and utilizing the authority granted to it in its governing documents and under Arizona law.

Violations of the Governing Documents typically fall into one of two categories:

- (1) Architectural – Any alteration, modification, addition, or improvement on a Lot for which approval of the Design Review Committee is required but has not been obtained will be deemed a violation under this Policy.
- (2) Lot Use Restrictions – Any activity or condition continuing or existing within any Lot that is in violation of the Governing Documents, which is not expressly authorized by the Association, will be deemed a violation under this Policy.

B. Authority to Enforce Governing Documents

The authority of the Association to enforce the Governing Documents is set forth in Article IX, Section 2 of the CC&Rs. Per the CC&Rs and A.R.S. § 33-1803, the Association may impose reasonable monetary penalties (fines) on members for violations of the Governing Documents after notice and opportunity to be heard.

C. Enforcement and Fine Policy

1. **Applicability.** *This Enforcement and Fine Policy (“Policy”) applies to any violation of the Governing Documents, except to violations relating to non-payment of Assessments and other amounts owed to the association. Unless otherwise defined in this Policy, capitalized terms shall have the meaning assigned to such terms in the CC&Rs.*

2. **Identification and Reporting of Violations.**

- a. Any resident may report violations to the Association's management staff ("Management") so that a determination can be made if a violation exists, and corrective action may be taken. In addition, Management staff members may inspect the community periodically to note any violations of the Governing Documents.
- b. If Management determines that a violation of the Governing Documents exists, Management may send a "Courtesy Notice" as set forth in detail below and shall have the right, but not the obligation, to take further enforcement action, as provided in the Governing Documents, this Policy and/or Arizona law.

3. **Courtesy Notice.** In most cases, the first notification to an Owner of the violation of the Governing Documents will be by means of a Courtesy Notice identifying the violation and the date the violation was observed or reported. This letter will be sent by mail to the Owner's address on file with the Association. The Owner must inform the Association of his/her current mailing address, and the Owner is responsible for curing any violation notwithstanding any failure of the Owner to notify the Association of his or her mailing address. This letter should state a compliance completion deadline, which in most cases will be **twenty-one (21) days** from the date of the letter.

At Management's discretion, the Association may bypass the Courtesy Notice and begin with the Notice of Non-Compliance.

4. **Notice of Non-Compliance.** If compliance is not obtained or a reasonable corrective action plan and schedule is not provided to Management on or before the completion deadline set forth in the Courtesy Notice, a "Notice of Non-Compliance" letter may be sent by mail to the Owner's current address on file with the Association. The notice(s) may also be sent by certified mail or hand delivered. If a Lot is owned by more than one person or entity, a Notice of Non-Compliance to one of the joint Owners shall constitute notice to all joint Owners.

To satisfy the requirements of A.R.S. 33-1803(E) the 1st Notice of Non-Compliance shall include:

- a. The provision of the Governing Documents that has been violated.
- b. The date of the violation or the date the violation was observed.
- c. The first and last name of the person or persons who observed the violation.
- d. The process the Owner must follow to contest the notice -- i.e. request a Hearing before the Board.
- e. A statement advising the Owner of the Owner's right to petition for an administrative hearing on the matter in the Department of Real Estate pursuant to A.R.S. § 32-2199.01.

The 1st Notice of Non-Compliance will also notify the Owner that failure to comply with the demand or failure to provide a reasonable corrective action plan and schedule to Management within **twenty-one (21) days** (the "Cure Period") from the date of the letter may result in the imposition of fines and/or other sanctions.

If the Owner is leasing the Lot, the Association may provide a copy of the Notice of Non-Compliance to the Owner's tenant if known, although the Owner is responsible for the actions of his/her tenants.

5. **Subsequent Violation Notices.** If the Owner does not cure the violation within the Cure Period (or alternate time frame if approved by the Association), or if the violation reoccurs within **three (3) months** of the original violation, subsequent violation notices may be sent to the Owner. Subsequent violation notices may inform the Owner of the amount of fines imposed by the Association against the Owner, the due date for payment of any fines, and that, if the violation continues or occurs again within a **three (3) month** period, the Association may impose additional fines.

6. **Hearing Request.**

- a. Any Owner who receives a Notice of Non-Compliance has the right to request a Hearing before the Board regarding the matter. The request for the Hearing must be in writing and submitted to Management at the address specified in the Notice of Non-Compliance and must be actually received by Management by the deadline set forth in the Notice of Non-Compliance.
- b. If the Owner does not contact the Association to request a Hearing in the time frame prescribed in the Notice of Non-Compliance, the Owner will have waived the right to be heard. If the Owner waives the right to be heard, Management will make a decision on a fine based on the information before it.
- c. If an Owner requests a Hearing as set forth above, Management will schedule a Hearing with the Board at the next scheduled Board meeting not to exceed thirty (30) days from the Owner's request for a Hearing. However, a longer time period may be necessary to accommodate the schedule of both parties.
- d. After the Hearing has been scheduled, Management shall provide the Owner a written notice of the Hearing date, time, and place. The notice of the Hearing shall also advise the Owner of the Owner's right to produce statements, evidence and witnesses on the Owner's behalf and to be represented at the Hearing by an attorney.
- e. The Hearing shall be conducted in a closed/executive session unless the Owner specifically requests, in writing, for the Hearing to occur in an open forum.

7. **Hearing**

- a. If, after a Hearing is scheduled, the Owner does not attend the Hearing or provide sufficient notice of inability to attend the Hearing, the Owner will have waived their right to be heard. In most cases, sufficient notice shall be forty-eight (48) hours.
- b. If the Hearing is held in an open forum, members will be permitted to attend the Hearing under the following conditions:
 - i. The Board may impose reasonable time restrictions on those persons speaking during the Hearing;
 - ii. If one or more members are disrupting the proceedings, the Board, in its sole and absolute discretion, may require the disrupting members to leave the Hearing; and
 - iii. If proceedings remain disrupted or out of order, the Board may adjourn the Hearing.
- c. Management or the Board will introduce all parties.
- d. Management or the Board may, but is not obligated to, read the written statements provided to the Association by the complainant(s) and/or witness(es).
- e. The Owner who is appealing will be asked to state their case and present any applicable documentation and/or statements from persons who witnessed the alleged violation.

- f. Upon completion of the Hearing, Management will state that the appeal has been heard and the matter will be discussed in closed session.
 - g. After the Hearing, Management may contact the complainant(s), witness(es) and/or the violator to ask follow-up and clarification questions.
 - h. Written notice of the Board's decision will be delivered to the Owner within **ten (10) business days** after the conclusion of the Hearing, unless otherwise determined by the Board.
8. **Fines.** The Association may impose fines against an Owner for any infraction of the Governing Documents.
- a. Before fines are imposed, an Owner will be given notice and an opportunity to be heard as outlined above. Therefore, no fine shall be imposed until after the Notice of Non-Compliance.
 - b. The Owner will be given written notice of the amount of any fine imposed against him or her in a subsequent Notice of Non-Compliance and the due date for payment of such fine.
 - c. The amount of the fines imposed by the Association shall be imposed pursuant to the following schedule:

<u>CATEGORY OF VIOLATION**</u>	<u>FINE***</u>
Notice of Unapproved Architectural Modification(s) (unapproved permanent or semi-permanent alteration)*	1 st Notice: \$250.00 2 nd Notice: \$250.00 3 rd Notice: \$300.00 4 th Notice, etc.: \$350.00
Maintenance (failure to properly maintain Lot)*	1 st Notice: \$100.00 2 nd Notice: \$150.00 3 rd Notice: \$200.00 4 th Notice, etc.: \$250.00
Parking (vehicles parked in violation of Governing Documents)*	1 st Notice: \$50.00 2 nd Notice: \$75.00 3 rd Notice: \$100.00 4 th Notice, etc.: \$125.00
Use Restrictions & Nuisances (prohibitions regarding pets, trash/recycling receptacles, non-permanent alterations, noise, other nuisances, inappropriate actions, etc.)*	1 st Notice: \$50.00 2 nd Notice: \$75.00 3 rd Notice: \$100.00 4 th Notice, etc.: \$125.00

*The examples listed in parentheses are not intended to be limiting. In other words, each category of violation may include other violations not listed.

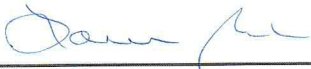
**Some violations may fall into more than one category of violation. The Board shall have the discretion to determine which category best describes the violation at issue.

***Unless otherwise stated in the Notice, the fine amount to be levied shall be a one-time amount per Notice.

- d. If any violation recurs within **three (3) months** from the date of a past violation or the date the past violation was observed, it will be considered a continuation of the original violation.
 - e. Payment of the fine does not grant a variance for the violation. All violations must be corrected to come into compliance.
 - f. The Association may waive any and all fines, or any portion thereof, upon correction of the violation as determined by Management.
 - g. The above schedule of fines may be amended from time to time by the Board.
9. **Suspension of Voting Rights.** Pursuant to Article II, Sec. I(a), an Owner's right to vote as a Member of the Association may be suspended while such Owner is in violation of the Governing Documents.
10. **Tendering to Legal Counsel.** Unless otherwise determined by the Board, Management may turn any unresolved violation matter over to the Association's legal counsel for enforcement after the Notice of Non-Compliance. However, the Board may turn any violation matter over to its legal counsel at any time during the violation notification process in the Board's sole discretion. The Association shall have all rights and remedies available under the Governing Documents and Arizona law in enforcing compliance, including, but not limited to the right to pursue a personal judgment against the Owner for the collection of fines and the right to bring an action for injunctive relief.
11. **Waiver or Variation from Violation and Enforcement Policy.** To the fullest extent permitted by Arizona law and the Governing Documents, the Association retains the right and authority to vary from this Policy.

This Policy shall remain in effect unless and until amended or revoked by a vote of the Board of Directors.

ADOPTED this 19th day of October, 2021



President

Atalon Community Association