



**Armory Park del Sol Homeowners' Association
Procedures for Addressing Noncompliance with the
Governing Documents
Revision Approved by Board (October 18, 2021)**

The Board of Directors (hereafter referred to as the Board) of Armory Park del Sol Homeowners' Association (hereafter referred to as the Association or abbreviated as HOA) adopted this resolution on October 22, 2008; revised it on June 8 and December 14, 2009; June 21, 2010; and July 19, 2011, pursuant to the Planned Communities Act (Arizona Revised Statutes Title 33 Chapter 16). This statute provides that a homeowner's association is entitled to impose fines for noncompliance with its Declaration of Covenants, Conditions and Restrictions (CC&Rs) and/or any other governing documents properly adopted by the Association.

The Board is committed to ensuring compliance with the Association's CC&Rs on a fair and equal basis. To that end, it maintains a CC&R Compliance Committee. This committee and HOA management staff are empowered to act on instances of noncompliance that they have seen themselves. The committee submits appropriate reports and forms to the HOA management company and in turn to the Board. The committee will act on any instance of noncompliance reported by a member of the HOA if the member completes and signs an official HOA Complaint Declaration and submits it to the HOA management company. A copy of the HOA Complaint Declaration is included at the end of this document. Arizona law (A.R.S. § 33-1242 and A.R.S. § 33-1803) does not allow a person who lodges a complaint with the HOA to remain anonymous. Whether the Board is acting on an instance of noncompliance observed by the committee, the management staff, or by a member, it follows the procedure outlined below. At its discretion, based on the nature and/or severity of an individual noncompliance issue, the Board may choose to modify the process outlined below.

I. Inspection and Board review or guidance

- A. The CC&R Compliance Committee is responsible for holding inspections at least once a month for noncompliance with the CC&Rs and any other governing documents. The inspections will be performed by Committee members and HOA management staff. The management staff shall issue any necessary notifications to members regarding matters of noncompliance based on the process provided within this document. A summary of infractions shall be provided to the Board. The Board may modify the violations reported following review or appeal from a member.

II. Initial courtesy letter

- A. In most cases, unless the Board considers it to be inappropriate, the first notice to a member discussing an alleged noncompliance with the CC&Rs or any other HOA governing document shall be by initial courtesy letter.
- B. The courtesy letter shall contain:
 - 1. the specific nature of the alleged noncompliance
 - 2. the sections of the CC&Rs or other HOA governing document relevant to the alleged noncompliance.
 - 3. The date(s) of the alleged violation or the date(s) the alleged violation was observed.
 - 4. The first and last name of the person or persons who observed the alleged violation.
 - 5. the time period within which the Association expects the member to resolve the alleged noncompliance.
- C. Association management staff shall send the letter by email or regular mail.

III. Notice of noncompliance letter

- A. If the member does not comply by rectifying the problem within ten days of the date of the courtesy letter, the Association shall send a notice of noncompliance letter.
- B. This letter shall contain:
 - 1. the specific nature of the alleged noncompliance
 - 2. the sections of the CC&Rs or other HOA governing document relevant to the alleged noncompliance
 - 3. the date (s) of the alleged violation or the date(s) the alleged violation was observed.
 - 4. The first and last name of the person or persons who observed the alleged violation.
 - 5. the time period within which the Association expects the member to resolve the alleged noncompliance.
- C. Association management staff shall send the letter by email or regular mail.
- D. At its discretion, the Board may begin the procedure with a notice of noncompliance letter, bypassing the previous notification.
- E. At its discretion, the Board may ask Association management staff to send a second notice of noncompliance by email or regular mail.
- F. Pursuant to ARS 33-1803, the member may provide the Association with a written response within 21 calendar days of the date of the notice.

IV. Notice of hearing letter

- A. If the alleged noncompliance continues past the time period allowed in the notice of noncompliance letter, or if the member subsequently fails to comply with the same section in the CC&Rs or other HOA governing document, the Association shall send the member a notice of hearing letter.
- B. The notice of hearing letter to the allegedly noncompliant member shall contain:
 - 1. the specific nature of the alleged noncompliance
 - 2. the sections of the CC&Rs or other HOA governing document relevant to the alleged noncompliance
 - 3. the date(s) of the alleged violation or the date(s) the alleged violation was observed.

4. the first and last name of the person or persons who observed the alleged violation
 5. the time and place of the hearing
 6. an invitation to attend a hearing and produce any statement, evidence, or witness(es)
 7. the amount of time the Board will allow for the member to make an opening statement to the Board.
- C. The notice of hearing letter shall include the proposed sanction that may be imposed. The sanction may include the rectification of the noncompliance by the HOA at the owner's expense, the imposition of a fine, and the payment of any attorney fees incurred by the HOA.
- D. Association management staff shall send the notice of hearing letter by certified mail. The member shall pay the certification fee. The Association may also send a copy of the notice of hearing letter by other means, including email.
- E. The hearing shall not take place any earlier than seven days from the date of the notice of hearing letter.

V. Hearing

- A. The hearing shall typically be held during the Executive Session of the Board unless the member requests an open hearing.
- B. If the member requests an open hearing, the hearing shall be open to all HOA members, and all members shall receive proper notice. Notice requirements are stated in the Association's bylaws and per Arizona statute.
- C. The member alleged to be noncompliant shall be given a reasonable opportunity to speak, to provide evidence, and to present one or more witnesses.
- D. Pursuant to ARS 33-1804, the Board shall provide for a reasonable number of HOA members and/or designated representatives of the member to speak on each side of the issue at an appropriate time during the proceedings.
- E. If the member is unable to attend but has signified a wish to participate, the Board shall attempt to reschedule the hearing to a mutually agreeable time and date or arrange a telephonic or computer-based conference call.
- F. The Board shall hold a hearing without the presence of the allegedly noncompliant member if the member does not respond to the notice of hearing or states an unwillingness to attend.
- G. The minutes of the hearing shall contain a written statement of the decisions and the sanctions, if any, that the Board recommends.
- H. Before the imposition of any sanction takes effect, the HOA shall submit proof of the notice of hearing letter, namely a copy of the notice together with certified mail documentation from the post office deposited in the member's file.
- I. The member's appearance at the hearing shall constitute additional proof that the member received the notice.

VI. Imposition of fines and any other sanctions

- A. At the conclusion of the hearing, the Board shall deliberate on the amount of the fine and/or any other sanctions to be imposed.
- B. The fines and/or sanctions shall be based on:
 1. the seriousness of the noncompliance
 2. whether this is a first instance of noncompliance or a continuing instance
 3. whether the noncompliance poses a danger to property or any person

4. any extenuating circumstances
 5. whether the amount of the fine or the severity of the sanction is sufficient to obtain compliance
 6. whether the member has previously been cited for other instances of noncompliance.
 7. Administrative costs incurred by the Association due to the member's noncompliance
- C. Once the Board decides upon the amount of the fine and any other sanctions to be imposed, it shall ask Association management staff to send a notice by certified mail to the member stating these and their due date. The member shall pay the certification fee. The Association may also send a copy of the notice of hearing letter by other means, including email.

VII. Fines

- A. The Association shall not attempt to collect any fine until it has properly notified the member responsible for the noncompliance.
- B. Monetary fines for noncompliance with the CC&Rs and/or any other governing document may be as follows:
- | | |
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| 1. first instance of noncompliance: | \$25 |
| 2. second instance of noncompliance (of the same nature): | \$50 |
| 3. third instance of noncompliance (of the same nature): | \$100 |
| 4. each additional instance of noncompliance after the third (of the same nature): | \$250 |
- C. At the discretion of the Board and depending upon circumstances, the Association may assess an additional fine, which accrues each day, if the noncompliance continues.
- D. The Board may also levy other penalties, such as the cost of landscape work to rectify a landscaping-related violation.
- E. The amounts of the fines listed in Section VII B are non-binding. The Association may impose a fine of any reasonable amount, based on the application of the factors listed in Section VI B.
- F. The Association shall advise the member that any fine not paid within 15 days of its due date is delinquent and subject to late fees and interest, as is the case with any other assessment, subject to applicable Arizona law. (ARS 33-1803.B limits any such interest to the greater of \$15.00 or 10% of the amount due.)

VIII. Collection of the fines

- A. Members shall pay any fines within 15 days of the date of the notification letter from the Association.
- B. The Association shall make every effort to avoid involving any third party other than the HOA management company.
- C. Should a member fail to pay any properly imposed fine or fails to comply with any other sanction, the Association has the right and the duty to use other methods to obtain compliance, as permitted by Arizona Revised Statute 33-1807.

IX. Request to the Board for reconsideration

- A. The member may request reconsideration by the Board.
- B. To schedule an appearance before the Board, the member shall submit a written request to the Association manager within ten days of receipt of notice of the Board-imposed fine or other sanctions.
- C. The Board shall schedule a meeting at a mutually agreeable time and shall notify the member of the date, time and location of the meeting via certified mail. The member shall pay the certification fee.
- D. The Board shall hold the meeting in Executive (closed) Session, unless the member requests an open meeting.
- E. If the member requests an open meeting, the Board shall notify the Association membership of the date, time and location of the meeting. Notice requirements are stated in the Association's bylaws and per Arizona statute.
- F. The Board shall provide the member a reasonable opportunity to speak and present evidence.
- G. At the conclusion of the meeting for the reconsideration, the Board shall record its ruling on whether the fine and/or sanctions stand, are modified, or are rescinded.
- H. The Board shall arrange to have a written notice sent by certified mail to the member stating its ruling. The member shall pay the certification fee. The Association may also send a copy of the notice of hearing letter by other means, including email.
- I. This ruling of the Board shall be final.

X. Effective date

- A. The effective date of this resolution is October 18, 2021.

Dated this (date).

Armory Park del Sol Homeowners' Association

By:  _____, Michael Katz, President

Witnessed by: Beth R. Murphy, Beth Murphy, Secretary

APdS HOMEOWNER GOVERNING DOCUMENT VIOLATION FORM

Per Arizona law (A.R.S. § 33-1242 and A.R.S. § 33-1803) any complaint lodged with the Association related to a violation will **NOT** remain anonymous. The person complaining of the alleged violation must provide his/her first and last name, the date(s) the violation occurred and was observed, and a detailed description of the violation. This information, along with the provision of the governing documents that was violated, will be sent to the homeowner who is accused of the violation.

Address and/or lot # of the property allegedly in violation:

Description of violation (provide as much detail as possible and the governing document provision you feel is in violation); if you have discussed with homeowner, please summarize results of that discussion:

First and Last Name of person who observed the violation: _____

Date(s) the violation(s) were observed: _____

I have personal knowledge of the facts contained in this Declaration. I am competent to declare the facts contained in this Declaration. If requested, I agree to appear and testify in an adjudicatory proceeding to the facts contained in this Declaration. I further agree to appear and testify without being served with a subpoena.

Signature: _____ Date: _____

Address: _____

Phone Number/Email or other contact information: _____

Return completed form to: Current HOA Management Company as listed on Contact Us page on APdS web site.