



MULCAHY LAW FIRM, P.C.

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Example Fine Policy

The undersigned, constituting a majority of the members of the Board of Directors of _____ (association name), an Arizona non-profit corporation, hereby take the following action at a duly held Board of Directors meeting on this _____ day of _____, _____ (date).

Resolved, that pursuant to A.R.S. §33-1803/ 33-1242 the Board of Directors hereby approves the following Fine Policy for _____ (association name). The following fine policy is effective as of _____, _____ (date).

Signature of Board Member

Board Member Name/Position

Signature of Board Member

Board Member Name/Position

Signature of Board Member

Board Member Name/Position

Signature of Board Member

Board Member Name/Position

Signature of Board Member

Board Member Name/Position

Fine Policy

The following Fine and Appeals Policy shall be followed for _____ (association name).

First Notice (NO FINE): A courtesy violation letter shall be mailed to the homeowner via U.S. mail and will describe the violation in question, specifically stating the section of the CC&Rs, Bylaws or Rules that is being violated and will require the violation be remedied within 15 days of the date of the letter. The letter should describe the enforcement process, including the right for an opportunity to be heard, potential for fines if the violation continues, and the ability for the Association to intercede and cure the violation (only if the association's CC&Rs contain a self-help provision).

Second Notice: If the homeowner does not respond or cure the violation within 15 days of the first letter, a second notice requesting compliance within 15 days of the date of the letter will be sent via U.S. Mail. A \$25.00 fine will be assessed with the second notice, contingent on an opportunity to be heard.

Third Notice: If the homeowner does not respond or cure the violation within 15 days of the second letter, a second notice requesting compliance within 15 days of the date of the letter will be sent via U.S. Mail. A \$75.00 fine will be assessed with the third notice, contingent on an opportunity to be heard.

Continuing violation: If the homeowner does not respond or cure the violation within 15 days of the third letter, all subsequent correspondence concerning the violation should clearly define what action will be taken or what fines will be assessed to the homeowners account, contingent on an opportunity to be heard. The Board has the right to levy a fine up to \$150.00 for each day the violation continues thereafter.

*The Board reserves the right to impose fines in amounts in excess of those set forth above, so long as the fine is reasonable in correlation to the violation.

Notices/violation letters: The notice of violation shall contain the following:

1. The provision of the community documents that has allegedly been violated.
2. The maximum amount of the monetary penalty that may be imposed by the Board with respect to each Notice, to include the potential for escalating fines.
3. A statement that the homeowner may request in writing a hearing on the subject of the violation before the Board. In order to be heard, the Association must receive a written request for such hearing within 15 days of the date of the letter. A homeowner's failure to request a hearing within the prescribed time period shall be deemed a waiver and forfeiture of the owner's right to a hearing with respect to that notice.
4. A statement that (i) if the homeowner fails to timely request to be heard, the amount of the monetary penalty as set forth in the notice shall be due within 15 days of the date of the letter, and (ii) if the homeowner requests to be heard as prescribed, any amount of monetary penalty imposed by the Board shall be due within 15 days after the date of the Board's notice of decision.

Notice: A notice shall be mailed to the homeowner's address as shown on the records of the Association. If more than one person or entity owns a lot/unit, a notice to one of the joint owners shall constitute notice to all of the joint owners.

Hearing: The Board shall conduct a timely requested hearing. Upon conclusion of the hearing, the Board shall determine, in its sole and absolute discretion, whether a violation occurred and, if so, the amount of the monetary penalty, if any, to be imposed for such violation. Such monetary penalty may not exceed the prescribed amount set forth in the notice. The Board shall mail the Decision to the homeowner. If the homeowner fails to appear at the hearing, then the homeowner shall be deemed to have waived his/her right to a hearing with respect to that violation.