



FOUNTAIN HILLS
COMMUNITY ASSOCIATION, INC.

VIOLATION ENFORCEMENT PROCEDURE

Adopted: July 2006
Revised: March, 2008
Revised: February 2011

WHEREAS, all homes and Lots within the Fountain Hills community are subject to the Declaration of Covenants, Conditions and Restrictions and By-Laws for the Fountain Hills Community Association (Association); and

WHEREAS, Article VIII, ARCHITECTURAL CONTROL, sets forth covenants relative to exterior modifications and use restrictions for the Property as well as provisions relative to the enforcement of violations of the covenants; and

WHEREAS, it is the desire of the Board of Directors for the Association to promulgate an orderly process by which violations of the covenants, policies and/or rules and regulations of the Association may be enforced,

NOW, THEREFORE, BE IT RESOLVED THAT In accordance with the Declaration of Covenants, Conditions and Restrictions (Declaration) and Bylaws for the Fountain Hills Community Association (Association), the Board of Directors hereby adopts the following violation enforcement procedure:

I. Violation and Enforcement Procedures

A. Types of Violations:

1. Any change to the exterior of a unit home or Lot without submitting an application to the Architectural Review Committee (ARC);
2. Any change to the exterior of a unit home or Lot that is disapproved by the ARC or expressly prohibited by the Declaration, By-Laws, or ARC Guidelines; or
3. Any change that does not comply with any approved rule or guideline adopted by the Association.
4. Other violations of the Declaration and/or approved Association policies or rules.

B. Identification of Violations: Violations may be identified in any of the following manners:

1. By written complaint from a resident of the Association

A written complaint is required when a violation is of such a nature that it may not be independently verified by a third party (e.g., dog running at large).

2. By any ordinary inspection process, including, but not limited to:



Fountain Hills Community Association
Violation Enforcement Procedure

- a. Regular inspections by Management, the Board or Architectural Review Committee (ARC);
- b. Scheduled maintenance inspections; or
- c. Special inspection to verify a complaint.

C. Notification of Violations

1. A notice will be delivered to the Member advising the Member of the potential violation.
2. The Member will then have a period of time of not less than one (1) day or more that fifteen (15) days from the date of the violation notice to correct the violation.
3. If the violation is not corrected, a second notice will be delivered to the Member advising the Member:
 - a. The violation remains uncorrected,
 - b. That, should they desire a hearing with the Board of Directors on this matter, they may make a request, **in writing**, within a time period of not less than one (1) day or more than five (5) days of the date of the notice or, in the alternative, they may respond, **also in writing**, acknowledging that a violation has occurred as alleged and promising that it will cease and not recur.
 - c. That each recurrence of the above noted violation may be deemed a separate offense and may be subject to a monetary fine of up to twenty five dollars (\$25.00) for each offense or the Association may take steps to enter upon their property to correct the violation(s) and place any expenses incurred on the Member's account to be collected as an assessment.
 - d. That each day that the violation remains uncorrected may be deemed a "recurrence".
4. Should the Member request, in writing, a hearing with the Board of Directors, the matter will be presented to the Board at their next regularly scheduled meeting, the Board will set a hearing for a date and time within a period of not less than ten (10) nor more than sixty (60) days.
5. The notice of the hearing will include the following:
 - a. The nature of the alleged uncorrected violation.
 - b. The time and place of the hearing which may not be less than ten (10) days nor more than sixty (60) days from the date of the notice;
 - c. An invitation to attend the hearing and produce any statement, evidence, and witness on the Member's behalf.
6. The Member is required to appear at this hearing. If the Member does not attend the hearing or provide a written statement, a decision will be made without the Member's input.



Fountain Hills Community Association
Violation Enforcement Procedure

D. Uncorrected Violations

If the Board determines that the Member is in violation and the violation is not corrected by the date specified by the Board, a fine will apply. The fine may be assessed at up to \$25 per day that the violation exists. These fines will be placed as a charge against the particular Lot involved and will be subject to collection as if it were part of the annual assessment.

If the violation is not corrected after the thirtieth (30th) day, no further fines will accrue. The matter will be turned over to legal counsel for the Association or a complaint will be filed with the Montgomery County Commission on Common Ownership Communities (CCOC) for appropriate action to attain correction of the violation. Once a matter has been turned over to legal counsel, all further communication between the Member and the Association will take place through legal counsel.

A Member will have the right to appeal any action taken by the Board.

E. Recurring Violations

If a Member corrects a violation and subsequently commits the same violation, a recurring violation has occurred. Recurring violations that occur within a twelve (12) month period are subject to a fine without further warning.

The member may request, in writing, a hearing before the Board of Directors regarding the alleged recurring violation and its associated fine within five (5) days of receipt of the notice of the recurring violation and fine. Should a hearing be timely requested, the Association should schedule a hearing no earlier than ten (10) days, nor later than sixty (60) days from the date of the request for hearing and should send a notice of hearing to the member.

The notice will contain the following information:

- a. The nature of the alleged recurring violation.
- b. The time and place of the hearing, which may not be less than ten (10) days nor more than sixty (60) days from the date of the notice;
- c. An invitation to attend the hearing and produce any statement, evidence, and witness on the Member's behalf.

The Member is required to appear at this hearing; if the Member does not attend the hearing or provide a written statement, a decision will be made without the Member's input.

The hearing before the Board of Directors will be conducted as herein specified.

If the Board determines that the Member has committed a recurring violation, the fine for the recurring violation will be in effect. This fine will be placed as a charge against the particular Lot involved and will be subject to collection as if it were part of the annual assessment.



Fountain Hills Community Association
Violation Enforcement Procedure

If the Member fails to correct the recurring violation by the date specified by the Board, the violation will be treated as an uncorrected violation as specified in Section D.

A Member will have the right to appeal any action taken by the Board to the Circuit Court of Montgomery County, the CCOC, or any other body with proper jurisdiction.

II. Hearings before the Board of Directors

At a hearing before the Board of Directors, the following procedures will be followed:

- A. Proof of the notice of hearing and the invitation to be heard will be placed in the minutes of the hearing. This requirement is waived if the Member appears at the hearing.
- B. The complainant will present the information concerning the alleged violation. The complainant will be afforded a presentation time not to exceed ten (10) minutes.
- C. The Member, if present, may present information regarding the alleged violation. The Member will be afforded a presentation time not to exceed twenty (20) minutes.
- D. Any other parties who wish to speak at the hearing will be allowed a time period not to exceed three (3) minutes each.
- E. Within fifteen (15) days after the date of the hearing, the Member will be advised, in writing, of the decision made by the Board of Directors.
- F. If the Board of Directors confirms the existence of a violation, the Member will be notified in writing of the corrective actions required and the time by which the corrective actions must be completed. The Member will be afforded a minimum of 15 days to complete corrective actions.