



FOUNTAIN HILLS
COMMUNITY ASSOCIATION, INC.

**TERMS OF REFERENCE
ENFORCEMENT COMMITTEE**

Adopted: July 2012

WHEREAS, all homes and Lots within the Fountain Hills community are subject to the Declaration of Covenants, Conditions and Restrictions (Declaration) 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, Article VIII, Section 14 of the Declaration, the Board of Directors may appoint an Enforcement Committee charged with determining whether there is probably cause that any of the provisions of the Declaration, By-Laws, Articles of Incorporation, or the rules and regulations of the Association regarding the use of the dwelling units, Lots, Common Areas, or other Association property, are being or have been violated.

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 the following terms of reference be adopted for an Enforcement Committee:

I. Purpose:

The primary responsibilities of the Enforcement Committee (hereinafter Committee) are as follows:

- A. To conduct plain site violation inspections;
- B. To advise the Board with respect to the enforcement of the community by-laws;
- C. To assist the Board of Director in the execution of the policies and procedures established by the association;

II. Organization:

- A. Membership:
 1. Members of the Committee may be homeowners or residents, appointed by the Board of Directors.
 2. Number or Members.



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- a. The Board of Directors will endeavor to appoint a Committee comprising a number of at least three (3) homeowners or residents of the Association.
 - b. Total membership shall not exceed seven (7) without approval of the Board of Directors.
3. All members of the Committee are appointed by, and will serve at the pleasure of the Board of Directors.
4. If zero (0) homeowners or residents are willing to serve on the Committee, the Board of Directors may assume all functions and duties of the Committee as time may permit.
5. A member of the Board of Directors shall be appointed as a liaison to the Committee and to provide updates of the Committee activities, if necessary, beyond the Committee's monthly written report (if necessary).
6. Chairperson:
 - a. A Chairperson shall serve as the Chair of the Committee, be a homeowner appointed by the Board of Directors, and serve a one (1) year term.
 - b. Functions of the Chairperson include, but are not limited to:
 - (1) To coordinate and supervise the Committee activities and meetings to assure that committee responsibilities are met;
 - (2) Encourage and support participation by all Committee members, and ensure that such persons are kept advised of Committee activities;
 - (3) Prepare written Committee reports (as needed) for submission to the Board of Directors via the Management Agent, no later than ten (10) days prior to each Board meeting;
 - (4) Insure that all members of the Committee are familiar with its terms of reference;
 - (5) Attend all Board meetings (as needed) *in an advisory capacity* concerning Committee-proposed motions; and
 - (6) Ensure that all members of the committee are adhering to the established Terms of Reference.
7. Board Liaison
 - a. The Board of Directors shall appoint a member of the Board to serve as a member of, and as the Board's liaison to, the committee, and to provide updates of the committee activities, if necessary, beyond the committee's monthly written report, if necessary.
 - b. The Board Liaison may also serve as the Chairperson, subject to approval from the Board of Directors.
 - c. If the Committee does not have an appointed Chairperson, the Board Liaison will serve as the interim Chairperson.
8. Vacancies



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- a. The Chair shall serve at the discretion of the Board of Directors. The membership of the Committee may vote to recommend to the Board of Directors the removal of the Chair with or without cause.
- b. Vacancies created by removal, death, or by resignation of the Chair, shall be filled by an acting Chair selected by the Committee membership until an appointment is made by the Board of Directors.

III. Duties

If there are sufficient members to constitute an Enforcement Committee, the Board may delegate responsibility for regular violation inspections to the Enforcement Committee. The following guidelines should be followed by the Enforcement Committee in performing such inspections:

- A. The Enforcement Committee shall do inspections to identify homeowner violations of the covenants and/or rules at intervals not to exceed every 3 months, or as otherwise directed by the Board of Directors.
 - i. The Enforcement Committee shall try to perform inspections on non-trash or recycling pickup days.
 - ii. The Chair of the Enforcement Committee shall be notified prior to any inspection.
 - iii. The Enforcement Committee shall inform the board liaison in writing after the inspection has been completed with a summary of the inspection and any significant violations.
 - iv. If there are specific areas of the community which require attention (based on homeowner complaints, observations, etc.), the Board of Directors will pass those concerns to the Chair of the Enforcement Committee for consideration during the next inspection.
- B. Follow up on violations shall be performed by the Enforcement Committee to determine if a violation has been corrected.
 - i. If a violation has not been corrected after the stated period of time in the violation notice, a 2nd violation letter should be issued by the Enforcement Committee.
 - ii. If a violation has not been corrected after the stated period of time in the 2nd violation notice, a fine should be issued by the Enforcement Committee. Fines for a violation shall not exceed five hundred dollars (\$500).
 1. Fines related to violations which can be corrected and then recur are to be issued on the days they are observed. (Trash cans, recycling bins, etc.)
 2. Fines related to violations which are unlikely to be corrected and recur are to be rolling. (Deferred maintenance on property, damage to house, etc.)
 - iii. After issuing the fine, if a violation is not corrected after thirty (30) days, no additional fines shall accrue and the Enforcement Committee should refer the violation to the Board of Directors.
- C. The Enforcement Committee shall attempt to document all violations via photograph (if possible) in the event a violation is challenged, a hearing is requested with the Board of Directors, or the case is filed with the Commission on Common Ownership Communities (CCOC).



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- D. The Enforcement Committee shall inspect all single family homes, village homes, townhomes, and condominiums only on Rushing Water Way and Harmony Woods Way for violations, unless otherwise directed by the Board of Directors.
- E. The Enforcement Committee shall complete the inspection forms after each inspection.
 - i. The pink copy shall be kept for the Enforcement Committee records and the yellow and white copies shall be given to Management.
 - ii. The yellow copy will be kept for Association records, and the white copy will be promptly mailed to the homeowner of record. If there is a tenant, a copy will be mailed to the tenant.
- F. The Enforcement Committee shall ensure that the inspection database for tracking violations after each inspection is updated and shall ensure that inspections and the allotted time for residents to correct violations shall be consistent across the entire community.
- G. If a violation is identified via Section I.B. of the Violation Enforcement Procedure and determined to be time-sensitive, Management shall document the violation and send out a notice of the violation and provide a copy of the violation letter to the Chair of the Enforcement Committee, unless directed otherwise by the Board of Directors.
 - i. The Chair of the Enforcement Committee should ensure that Management-issued violations are tracked in the inspection database.
 - ii. Management-issued violations shall be followed-up by the Enforcement Committee at no later than the next planned enforcement inspection.
- H. Any communication between any Enforcement Committee member and Management, or vice versa, should include a copy of that communication to the appointed Board Liaison to the Enforcement Committee.

IV. Meetings:

- A. The Committee shall meet as necessary throughout each calendar year.
- B. All meetings of the Committee shall be open to attendance by members of the Association; non-committee members may participate, but not vote, at Committee meetings, at the discretion of the Chairperson.
- C. The Committee is responsible for advising the Board of Directors and Management Agent of the date, place, and time of each meeting at least two (2) days in advance of each meeting.
- D. Quorum: Forty percent (40%) of appointed members must be present at a Committee meeting for a quorum to be reached and business to be conducted.
- E. Voting: The affirmative vote of a majority of the voting members present at a meeting where a quorum is achieved is required to make any decision pursuant to the authority contained in this resolution.



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V. Removal of Members:

- A. A member of the Committee will be deemed to be automatically removed from the committee if, at any time, the member's assessments remain unpaid for a period exceeding thirty (30) days.
- B. A member of the Committee will be deemed to be automatically removed from the committee for failure to attend three consecutive committee meetings or failure to attend four committee meetings, including any special purpose meetings, during any twelve (12) month period.
- C. A member of the Committee will be deemed to be automatically removed from the committee if, at any time, the member is in violation of any covenant or rule of the Association.
- D. A member of the Committee may be removed from the committee at any time at the sole discretion of the Board of Directors.

VI. Reporting:

- A. The Committee shall keep minutes of all meetings and shall provide a copy of all minutes to the Board of Directors at or before each monthly Board of Directors meeting.
- B. The Enforcement Committee shall complete an Enforcement Report after the inspections and send the report to Management to be included in the next board packet to the Board of Directors.
 - i. The Enforcement Report shall include the updated inspection database reflecting violations cited in the last inspection;
 - ii. the Enforcement Report shall include the members of the Enforcement Committee who performed the inspection;
 - iii. the Enforcement Report shall identify the scope of the inspection (date, time, and area of the community inspected) and any significant violations;
 - iv. the Enforcement Report shall identify violation notices, 2nd violation notices, and any fines issued by the Enforcement Committee;
 - v. the Enforcement Report shall identify any uncorrected violations for residences which the Board of Directors should request a hearing; and
 - vi. the Enforcement Report shall identify any uncorrected violations for residences which the Board of Directors should consider filing with the CCOC.