

# ARROYO MOUNTAIN ESTATES

## ENFORCEMENT & FINE RESOLUTION

The Arroyo Mountain Estates Homeowners Association (“Association”) “Governing Documents” (i.e. the Declaration of Covenants, Conditions and Restrictions; Articles of Incorporation; Bylaws; Rules and Regulations) and state laws authorize the Association, by and through its Board of Directors, to enforce its Governing Documents. Accordingly, this Enforcement Resolution is adopted by the Board in furtherance of its duty to exercise its discretionary powers, including enforcement.

Duties to Remain Fair and Impartial: The Board shall, at all times in enforcing the provisions of the Governing Documents, remain fair and impartial, and treat all Owners in the same manner as any other Owners.

Reporting Violations to the Association:

(1) Owners or residents within the community may report alleged violations only if they personally observed the alleged violation.

(2) Alleged violations are to be reported by telephone, e-mail, or US mail to the Association’s Management Company, or if no Management Company, then to the Board of Directors.

(3) The complaint must be detailed and provide the provisions of the Governing Documents claimed to be violated, the time, date, and place of the violation, and any witnesses to the violation.

(4) The Board or its authorized agent(s) should review the written complaint and supporting documents, if any.

(5) If the Board or its authorized agent(s) determines that the complaint is valid and sets forth a valid violation of provisions of the Governing Documents, then the Board shall send a notice to the Owner.

(6) If the reporting party wishes to remain anonymous the Board or its authorized agent(s) shall not send notice to the owner allegedly responsible for the violation unless the board or its authorized agent is able to independently witness and verify the alleged violation.

(7) Notwithstanding reports from Owners, the Association may also conduct its own inspections and send notices of violations to Owners.

Fine Schedule for Violations: The Board adopts the following fine procedure and accompanying amounts:

**First Notice of Violation:** A letter will be sent to the Owner of the property outlining the violation. In the event that the Owner of the property is identified as an absentee Owner, a copy of the violation letter may also be sent to the tenant at the property address in addition to the mailing address on file with the Association, if applicable. The Owner will be given thirty (30) days to bring the violation into compliance. The First Notice shall include a warning that if the violation is not cured within thirty (30) days that a fine of \$50 shall be assessed. This letter shall also state that the Owner may petition the Department of Real Estate pursuant to ARS 32-2199.01.

**Second Notice of Violation and Assessment of Initial Monetary Penalty:** The Association will issue a second Notice if the Owner has not complied with the first Notice, or if the violation has returned or has been repeated. The second Notice will inform the Owner that the Initial Monetary Penalty, in the amount of \$50, has been imposed. This letter shall also tell the Owner that if the violation is not cured within fourteen (14) days that a fine of \$100 will be assessed. The Owner will also be responsible for any certified letter processing fees.

**Third Notice of Violation and Assessment of Additional Monetary Penalty:** The Association will assess an Additional Monetary Penalty, in the amount of \$100, if the Owner has not corrected or removed the violation as stated in the time frames in the first and second Notice, or if the violation has returned or has been repeated. The Owner will also be responsible for any certified letter processing fees. This letter shall also provide that if the violation is not cured within fourteen (14) days, that all subsequent fines shall be \$250 upon each subsequent inspection where it is found that the violation is still not cured.

**Additional Monetary Penalties:** After the imposition of the Initial Monetary Penalty and the Additional Monetary Penalty, another penalty, in the amount of \$250 (the Maximum Additional Monetary Penalty), may be imposed upon subsequent inspection, if the Owner has not corrected or removed the violation, or if the violation is repeated or has returned. Inspections will be conducted to coincide with the terms of the notices. The Owner will also be responsible for any certified letter processing fees.

Should a period of time of at least 90 days lapse between violation letters of the same offense, the next letter will be a First Notice again.

**Special Provisions for Painting Violations:** For painting violations the remedy periods to bring the violation into compliance shall be as follows; one hundred eighty (180) days after the First Notice, ninety (90) days after the Second Notice and Initial Monetary Penalty, and ninety (90) days after the Third Notice and Additional Monetary Penalty. Should a period of time of at least 360 days lapse between painting violation letters, the next letter will be a First Notice again.

**Special Provisions for Pool Draining or Back Washing Violations.** For the violation of pool draining or back washing on common area tracts, drainage ways, streets, or other individual's property there will be an automatic \$100 Monetary Penalty for each occurrence of the violation. The First Notice of violation will inform the Owner and/or

Tenant of the \$100 Monetary Penalty and their opportunity to be heard regarding the violation, after which the board of directors will impose the Monetary Penalty of \$100. There will be no remedy period or lapse period between violations of this type.

Additional Remedies. The Association has the right, without proceeding through the steps outlined in the fine schedule above, to exercise its legal remedies against an Owner who is in violation of provisions in the Governing Documents, or to exercise self-help, if applicable. Nothing in this Resolution prohibits the Association from seeking immediate redress, filing an action for any reason authorized by law, while also seeking injunctive relief for violations that are continuing or that affect the health, safety or welfare of the Community. Subject to the Governing Documents, the Association shall be entitled to its attorney fees and costs to compel compliance, regardless of whether a lawsuit is filed.

Hearings Before the Association: If the Owner timely requested a hearing before the Board in writing, the following should govern the hearing before the Board:

(1) Alleged violators are entitled to notice and opportunity for a hearing on the merits before a fine is imposed upon them by the Board.

(2) Notice of violations setting a fine may set forth a date and time for the hearing or allow for the scheduling of a hearing.

(3) The hearing will be before the Board, with any “interested” board member disqualified to be a part of the hearing panel.

(4) At the hearing, the alleged Owner or the Owner’s designated representative and the Complainant may make an opening statement, present evidence and testimony, present witnesses and make a closing statement.

(5) Additional evidence and testimony may be presented by an officer, Board Member or the Association’s Manager, if any, and/or any person involved in the performance of the investigation of the alleged violation.

(6) Neither the Complainant nor the alleged violator is required to be in attendance at the hearing.

(7) The presiding officer may also impose other rules of conduct as may be appropriate under the circumstances.

(8) Unless otherwise requested by the Owner, the hearing may be open or closed to attendance by all Owners.

(9) The hearing must be fair and impartial to the Owner accused of the violation, as outlined above.

(10) The Board may render its decision in writing within 30 days, or a longer period as the Board may set.

(11) In its decision, the Board may, at its sole discretion, impose the fine, waive all or a portion of the fine, or condition waiver or partial waiver of the fine.

(12) Failure to strictly follow the hearing procedures is not grounds for appeal of the Board's decision, absent a showing of denial of due process.

Non-Waiver: The failure of the Association to enforce its Governing Documents does not constitute a waiver of the right to enforce the Governing Documents in the future.

### CERTIFICATION

I, JIM HINKLE, am the President of the Association and affirm that on the 7 day of JULY, 2022, the Association's Board of Directors met in a duly noticed open meeting and adopted the above Resolution.

By:   
Its: President