Enforcement and Fine Policy
Fountain of the Sun Condominiums (Quail Run)
Parcel 8 Phase 1&2

Adopted by the HOA Board of Directors – September 16, 2026

1. Purpose and Authority

This policy establishes the procedure the Association will follow to enforce its Declaration (CC&Rs), Bylaws, and Rules and Regulations, and to impose reasonable monetary penalties for violations. It is adopted under the Board's authority in the governing documents. Pursuant to **A.R.S. § 33-1242(E)**, the Association and its Board of Directors explicitly recognize and adhere to their statutory **duty to act reasonably** in the exercise of all discretionary powers, including rule enforcement and the levying of fines. This policy is intended to strictly comply with Arizona's statutory notice-and-hearing requirements.

2. Enforcement Philosophy

The Association favors voluntary compliance over punishment. Enforcement is progressive wherever the violation allows for a cure, and fines are meant to encourage correction — not to fund the Association or punish homeowners. The Board applies this policy consistently and reasonably across all owners, tenants, and occupants.

3. Step One — Formal Notice of Violation

For any violation, the Association sends a written Notice of Violation via a delivery method permitted by law and the Association’s governing documents. This initial notice will include, at minimum:

- **The process** that the member must follow to contest the notice.
- **The specific provision** of the CC&Rs, Bylaws, or Rules and Regulations alleged to be violated.
- **The date** of the violation or the date it was observed.
- **The first and last name** of the person who observed the violation (e.g., a board member, architectural committee member, or property manager).
- **The corrective action** required and a reasonable deadline to complete it.
- **The fine** (or fine schedule) that will apply if the violation is uncured, and any continuing daily fine for ongoing violations.
- **Notice of the owner's right** to request a formal hearing before the Board of Directors before any fine takes effect.
- **Notice of the owner's statutory right** to contest the notice by petitioning the **Arizona Department of Real Estate (ADRE)** pursuant to **A.R.S. § 32-2199.01**.

Statutory 21-Day / 10-Day Response Window: Pursuant to **A.R.S. § 33-1242(B)**, the owner has **21 calendar days** from the date of the notice to respond to the Association via certified mail. If the owner

timely sends a certified mail response contesting the violation, the Association or its management agent will provide a formal written response to the owner within **10 business days** of receipt.

Before sending a formal notice, board members or management are encouraged to reach out informally and neighborly — a phone call, a friendly email, or a conversation in passing — where that seems like it would resolve the matter without needing a written record. This isn't a required step and isn't tracked as part of the formal process; it's simply good-neighbor practice where it fits.

4. Step Two — Hearing Rights

An owner who timely requests a hearing is entitled to contest the violation before the Board of Directors (or an enforcement committee delegated by the Board) before any fine is officially imposed. To protect the owner's privacy while maintaining strict statutory compliance under **A.R.S. § 33-1248**, the Association will conduct hearings using the following two-part procedure:

- **Part A: The Closed Hearing (Discussion Only)**
    - **Statutory Exception:** Pursuant to **A.R.S. § 33-1248(A)(5)**, the discussion of an owner's appeal of a violation or penalty will be held in a closed executive session to protect the member's personal and financial privacy. However, the affected member retains the absolute right to request that their specific hearing be held in an open session instead.
    - **Due Process Meeting:** During the closed portion of the meeting, the owner (and/or their designated representative) may present evidence, question the observer's record, explain mitigating circumstances, and propose a compliance cure or payment plan.
    - **Strict Discussion Limit:** In accordance with the *Sunland Springs Village* appellate precedent, the executive session is strictly limited to information-gathering and board deliberation. **No voting, polling, or final decision-making may occur while the meeting is closed**.
- **Part B: The Open Meeting (Formal Board Vote)**
    - **Public Vote Requirement:** Immediately following the conclusion of the closed executive session deliberation, the Board must reconvene the meeting into an open session.
    - **Anonymized Action:** To respect the homeowner's privacy while fulfilling the law's transparency mandates, the Board will attempt to make its motion and take its formal vote in the open meeting using anonymized identifiers rather than personal names (e.g., *"The Board moves to sustain the trash enclosure violation and apply a $50 fine for Account #1234"* or *"for Unit 45"*).
    - **Written Outcome:** The Board will document its final decision in writing and send a copy to the owner within a reasonable timeframe, updating the owner's ledger accordingly if a fine is sustained.

If no hearing is requested by the owner within the 21-day statutory response window, the Board may formally vote to impose the fine under the published schedule during any regular, open board meeting without a separate hearing track.

5. Fine Schedule

The following escalating fine structure applies to violations of the Association's governing documents:

Occurrence	Action / Penalty
1st Violation (Specific Offense)	Formal Notice of Violation sent. A standard cure period of **14 calendar days** from the letter date is granted (unless an immediate health, safety, or property liability risk requires faster action). **No fine is assessed** if cured.
2nd Violation / Uncured	Second Formal Notice sent. **$50.00 fine** assessed.
3rd Violation / Uncured	Third Formal Notice sent. **$100.00 fine** assessed.
4th+ Violation / Continuing	Formal Notice sent. Maximum recurring fine assessed **daily or weekly** at the Board's discretion until the violation is cured.

Fine Schedule Ground Rules:

- **Per-Offense Basis:** The escalating fine schedule tracks violations on a **per-offense basis**. For example, a first-offense parking violation will not push a subsequent trash-can violation into the "2nd violation" fine tier.
- **12-Month Reset Window:** If a specific type of violation is successfully cured and is not repeated within **12 consecutive months**, that specific violation track resets. Any subsequent infraction of that same rule after 12 months will be treated as a "1st Violation."
- **Proportionality and Caps:** In accordance with the Board's duty to act reasonably, cumulative fines for a single continuing violation are capped at a maximum threshold determined by the Board, and are subject to periodic administrative review. Immediate, higher fines may be levied without a standard cure period only for violations creating verified health, safety, or structural liability risks.

6. Payment, Collection, and Liens

Fines are due within **30 days** of a final determination (either after a hearing, or after the 21-day response window closes without an appeal). Unpaid fines may accrue a late charge, capped by Arizona law at the greater of $15 or 10% of the unpaid amount.

Strict Lien Restrictions under Arizona Law:

- **No Automatic Lien:** Pursuant to Arizona law (**A.R.S. § 33-1256**), monetary penalties and fines **do not** constitute an automatic assessment lien against the condominium unit.
- **No Foreclosure:** The Association **cannot** initiate a foreclosure action based on unpaid fines or late fees associated with fines. The statutory foreclosure thresholds (e.g., 18 months delinquent or $10,000 owed) apply strictly to unpaid regular or special assessments.
- **Civil Judgment Requirement:** To legally secure unpaid fines against a property, the Association must first file a civil lawsuit against the homeowner, prevail, and obtain a formal **civil court judgment**. Once a court judgment is obtained, the Association may record it as a

judgment lien against the property and pursue standard civil collection remedies as permitted by law. The Board retains absolute discretion to offer structured payment plans to owners facing financial hardship.

7. Non-Monetary Remedies

Fines are one tool among several. Depending on the violation and the governing documents, the Board may also pursue the following (not an inclusive list):

- Suspension of common-area privileges (subject to statutory limits)
- Self-help / corrective action by the Association with cost charged back to the owner (typically reserved for clear-cut, low-dispute situations like unmaintained landscaping)
- Injunctive relief or legal action for serious or continuing violations
- Recording a Notice of Violation with the Maricopa County Recorder's Office

8. Consistency, Discretion, and Non-Waiver

- The Board applies the same schedule to comparable violations regardless of who the owner is.
- Declining to enforce a violation on one occasion does not waive the Association's right to enforce it later, against that owner or any other.
- The Board retains discretion to reduce, waive, or adjust a fine where mitigating circumstances warrant it, and documents the reasoning when it does.

9. Recordkeeping

The Association keeps a written record of each notice, hearing request, hearing outcome, and fine imposed, retained per the Association's records policy and available to the owner involved upon request.

10. Annual Review

The Board reviews this policy and its fine amounts at least annually (or after any relevant statutory change) to confirm continued compliance with Arizona law and continued fit with community needs.