

TEMPE HOMESTEAD HOMEOWNERS ASSOCIATION
AMENDED
FINE/ENFORCEMENT POLICY
EFFECTIVE May 17th, 2018

This Amended Fine/Enforcement Policy of Tempe Homestead Homeowners Association (“Tempe Homestead”) is adopted pursuant to Article X, Section 4 of the Declaration of Covenants, Conditions and Restrictions and A.R.S. §33-1803, and supersedes and replaces the Monetary Penalty Schedule adopted July 23, 1998, as amended June 2, 2009, as well as the Enforcement of Rules and Regulations section of the Rules and Regulations dated November, 2000.

GENERAL FINE SCHEDULE

FIRST NOTICE: An initial notice of the violation shall be mailed to the Owner requesting compliance within twenty-one (21) days - **NO FINE**.

SECOND NOTICE: If violation still exists twenty-one (21) days after the date of the first notice, a second notice requesting compliance within twenty-one (21) days shall be mailed to the Owner. The appropriate/applicable fine amount based on the penalty schedule will be assessed with the second notice.

THIRD NOTICE: If violation still exists twenty-one (21) days after the date of the second notice, a third notice requesting compliance within twenty-one (21) days shall be mailed to the Owner. The appropriate/applicable fine amount based on the penalty schedule will be assessed with the third notice.

CONTINUING VIOLATIONS: If the violation continues without resolution twenty-one (21) days after the date of the third notice. The appropriate/applicable fine amount based on the penalty schedule shall be assessed **every twenty-one (21) days** until the violation is resolved.

CONTENT OF NOTICES: Consistent with Arizona law as may be amended, any notice will state the process the Owner must follow to request an appeal/hearing to contest the notice, and will also give notice of the Owner’s right to petition for an administrative hearing with the Arizona Department of Real Estate pursuant to A.R.S. §32-2199.01.

FINES: No fine shall be imposed without first providing a notice of the violation from the Association to the Owner describing the violation and stating that failure to correct the violation within twenty-one (21) days or ***another recurrence of the same violation within 21 days*** of the original violation shall make the Owner ***subject to imposition of a fine***. Under Arizona law, the Association can sue to collect fines and obtain a judgment lien.

SUPPLEMENTAL FINE POLICIES/SCHEDULES: The Board of Directors may adopt supplemental fine policies/schedules (or amend this Policy) to address specific violations in the community (i.e. parking, architectural violations, etc.). If a supplemental fine policy is not adopted, this general fine policy and schedule shall control. SEE specific schedules that follow:

FINE SCHEDULE RE: Short-Term Rental Violations

These are specific Rules about Violation of Section Article VI, Section 21 of the Declaration, which includes prohibiting short-term rentals (for a term less than twelve months):

If an owner/member violates Article VI, Section 21 by renting/leasing a unit for a period less than one year, the Association will mail a courtesy notice requesting compliance within twenty-one (21) days. If short-term rentals occur beyond the initial twenty-one (21) day period, the Association will mail a Notice (subject to an opportunity for a hearing) that the Board is imposing a fine of **\$5,000.00 for each identifiable short-term rental subsequent to the first courtesy notice concerning the first identifiable short-term rental. If the rental runs for a period of months but less than twelve (12) months, a fine of \$5,000.00 will be imposed every 21 days.** The Association will rely on complaints of residents, personal observation, website information, registration forms and all other such available information to assist in identifying short-term rentals.

All Owners acting as landlords shall provide the Association, through its managing agent or Owner, the following:

- The beginning and ending date of the lease term.
- Names of each of the lessees and each person residing in the Unit during the lease term.
- Name, address, phone number of a person whom the Association can contact in case of an emergency.
- A description and the license plate numbers of the tenants' vehicles.

The Unit owner must provide the lessee with copies of the Declaration and the Rules. The Unit owner is liable for any violation of the Declaration by the lessees or other persons residing in the Unit. Upon demand, the Unit Owner must correct any such violations.

SEPARATE SCHEDULE FOR: Unapproved Alterations: Installation of an addition, alteration, repair, change, or other work which in any way alters the exterior appearance including but without limitation, the exterior color scheme or any lot or other improvement(s) on a lot without written approval of the HOA Board of Directors.

The Board will provide one courtesy notice with 21 days to cure the violation by removing the alteration, or applying for approval if the Board has asked for an application. **If the Owner does not comply by removal or providing the application, and if the work is not approved, the Board will send a second Notice, notifying the Owner of the imposition of a \$1,000.00 fine, after the opportunity for a hearing. If the violation continues after 21 days, the Board will impose a fine every 21 days.**

INJUNCTIVE RELIEF: If a violation is not cured after the Third Notice in the General Schedule, or after the second Notice for short-term rentals, the Board of Directors may request the Association's Legal Counsel to file an action seeking Injunctive Relief against the Owner to cure the violation(s). However, this Fine Policy shall not limit the Board of Directors right to seek immediate Injunctive Relief at any time regardless of the presence or absence of notices or fines hereunder, for any violation that the Board of Directors determines in its sole and absolute discretion.

LEASED PROPERTY: All Notices shall be sent to the Owner of record of the property involved in the violation. The Owner of the property in violation has the sole responsibility to resolve the violation(s) with any renter(s), tenant(s), user(s) or guest(s).

BOARD DISCRETION: Notwithstanding the above provisions of the Policy, the Board at its sole discretion may at any time assess a fine in an amount up to \$5,000.00 for any incident the Board deems to be egregious, dangerous, that may threaten the life, health, safety, or welfare of any person, resident or owner, or that causes detriment or damage to any Association or other Owner's property. The Board may levy this fine despite any past violation history or lack thereof.

The Board of Directors reserves the right to deviate from the fine amounts set forth herein if, after a hearing on the matter, the Board finds good cause to modify the amount of the fine levied in a particular case. The Board also reserves the right to pursue any and all other remedies set forth in the Declaration at the same time or in lieu of levying the fines set forth in this Fine Policy. This includes turning a matter over to the Association's legal counsel

DAMAGES: *The Board of Directors shall consider the fines set forth in this Fine Policy and schedule to constitute damages sustained by the Association and are intended to compensate the Association for the administrative burden of addressing the violation and the adverse impact of the violation on the community.*

Tempe Homestead Homeowner Association

Monetary Penalty Schedule

Adopted: July 23, 1998

Amended: May 17, 2018

Violation:	Monetary Penalty	Recurring Penalty Every 21 Days
Installation of an addition, alteration, repair, change, or other work which in any way alters the exterior appearance including but not limitation to, the exterior color scheme or any lot or other improvement without written approval of the Architectural Committee.	\$1,000.00	\$1,000.00
Other CCR's violations	\$1,000.00	\$1,000.00
Garbage/refuse/ trash or garbage can visible on any lot/street other than trash days.	\$50.00	\$100.00
Signs	\$50.00	\$100.00
Landscape or Home Maintenance Violations	\$250.00	\$500.00

Note: this is an "illustrative list" of the most common violations and is not exhaustive.

APPEAL PROCESS

- When a violation notice is sent to an Owner, such notice shall include a statement notifying the Owner that he/she has the “RIGHT OF APPEAL”.
- When an Owner desires to appeal a violation, he/she must so notify the Management Company in writing within ten (10) days after the date of the violation notice.
- Appeals shall demonstrate **extenuating circumstances** that require deviation from the Declaration and/or rules.
- Appeal shall include all pertinent backup information to support the existence of the **extenuating circumstance**.
- All decisions of the Board of Directors are final and may not be further appealed.
- Any appeal that does not meet the above requirements shall not be heard by the Board of Directors and shall be considered **DENIED**.
- The Owner appealing the violation will be given written notice that a hearing on the appeal is scheduled.
- The appeal shall be heard in Executive Session.
- The Board President will introduce all parties.
- Lengthy discussions are not a part of an appeal process.
- The Owner who is appealing will be asked to state their case and present any applicable documentation.
- Each Board Member will have the opportunity to ask the Owner specific questions regarding the appeal.
- Upon completion of the question and answer period, the Board President will state that the appeal has been heard and the Board of Directors will make their decision in closed session. Written Notice of the Board’s decision will be delivered to the Owner within seven (7) working days.
- If the appeal is denied, the Owner must bring the violation into compliance within ten (10) days. If the violation still exists after ten (10) days, the Owner shall be subject to the Fine Policy as outlined above until the violation is corrected. In addition, the Board of Directors may seek legal action to remedy the violation. All costs of legal action will be billed to the Owner and collected in the same manner as assessments.