



**RESOLUTION OF THE BOARD OF DIRECTORS  
VISTOSO COMMUNITY ASSOCIATION  
ADOPTED: August 27, 2020**

This resolution is adopted by the Board of Directors of Vistoso Community Association pursuant to Arizona Revised Statutes §33-1803, which provides that the Association's Board of Directors is entitled to impose fines for violation(s) of the Declaration of Covenants, Conditions and Restrictions (CC&Rs) and any rules adopted by the Board of Directors. The procedure for imposing fines for such violation(s) is set forth below and supersedes any other such procedure previously adopted by the Board. This policy is presumptive for all violations regarding a condition on a Member's Lot. In its discretion, the Board may deviate from the policy depending on the facts and circumstances of an individual violation.

**I. "Friendly Reminder"** In most cases, and when appropriate as determined by the Association Manager or the Board, the first notification to an Owner of their violation of the CC&Rs or a rule will be by means of a "friendly reminder" letter. The Association Manager will issue the letter.

**II. "Notice of Violation"** - If compliance is not gained by the time of the next inspection, a written "**Notice of Violation(s)**" together with a request to cease and desist from an alleged violation(s) may be sent to the Owner of the Lot via regular mail at a cost to the Member. Additionally, the Association may also apply stickers to improperly parked vehicles. The Notice of Violation shall specify the relevant facts relating to the violation.

Pursuant to ARS §33-1803, the Notice of Violation shall include:

- (A) The First and Last Name of the individual who sited the violation;
- (B) The provision or provisions in the Declaration or Rules that has allegedly been violated;
- (C) The date or dates the alleged violations were observed; and
- (D) The process the Owner must follow to contest the notice.

If the Owner is leasing his/her home, the Association may provide a copy of the Notice of Violation(s) to the Owner's tenant in addition to the Owner. In the Board's discretion, the Board may begin the process with the Notice of Violation, bypassing the Friendly Reminder. The Board may deviate from any guidelines herein based on the application of the factors contained in paragraph VI below.

**III. Definition - Continuing Violation(s)**. Each day a violation(s) continues after notice to cease has been given by the Board to the Owner constitutes a separate violation(s) and can be subject to a fine.

**IV. "Notice of Hearing"** - In its discretion, the Board may decide to send the Owner a written "**Notice of Hearing**" at a cost to the Member. The notice should contain:

- (a) The nature of the alleged violation(s);
- (b) The time and place of the hearing, which shall be not less than ten (10) days from the date of the notice;

- (c) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his or her behalf;
- (d) The proposed sanction to be imposed, which includes the imposition of a fine and the payment of any attorney fees incurred by the Association; and
- (e) Information pertaining to the manner in which the penalty will be

#### **V. Hearing.**

- (a) The hearing shall be held pursuant to the Notice of Hearing. The complaining Member and the Owner shall be afforded a reasonable opportunity to be heard. In cases in which a complaining homeowner initiated the process, the Board shall evaluate the proof according to protocol adopted by the Board.
- (b) Before any sanction becomes effective, the Association shall submit proof of the notice and the invitation to be heard.
- (c) Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered into the Owner's lot file.
- (d) The notice requirement is satisfied if the Owner appears at the meeting.
- (e) The minutes of the meeting shall contain a written statement of the results of the hearing and the sanctions, if any, to be recommended to the Board.

#### **VI. Imposition of Fine and any other Sanctions.**

(a) **Fines.** At the conclusion of the hearing, the Owner may be excused from the hearing and the Board of Directors shall deliberate on the amount of the fine to be imposed, if any, based on:

- The seriousness of the violation(s),
- Whether this is a first violation or a continuing violation(s)
- Whether the type of offense poses a danger to property or any person
- Any other extenuating circumstances and whether the Owner agrees in good faith to correct the violation(s) within the time specified by the Board of Directors.
- Whether the amount is sufficient to obtain compliance, based on the facts
- Impact on property values
- After the Board of Directors determines the amount of the fine, the Board of Directors shall send notice to the Owner of the amount of the fine and its due date.
- The Board of Directors is empowered to impose a fine for each day that the violation(s) continues. **SEE FINES GUIDELINES.**
- **The attached Fines Guidelines are not binding. The Board of Directors may impose a fine in any reasonable amount, based on the application of the factors above**

(b) **Costs.** Owners to whom certified mail notices are sent shall be assessed the management company's charge to the Association for the mailings. Owners may also be assessed an administrative processing charge of \$3.00. Each letter issued after a Friendly Reminder shall incur a cost to the Member (please see fine guidelines).

#### **VII. Request for Reconsideration to the Board of Directors.**

- (a) The Owner may request reconsideration by the Board of Directors.
- (b) In order to schedule an appearance before the Board, the Owner must submit a written request to the Association Manager within ten (10) business days of receipt of notice of the sanctions.
- (c) The meeting shall be scheduled and the Owner notified of the date, time and location via certified and regular mail.
- (d) The meeting will be held in Open session, unless otherwise requested by the owner, pursuant to the Notice of Hearing and the Owner shall be afforded a reasonable opportunity to be heard.
- (e) At the conclusion of the meeting, the Owner may be excused from the meeting and the Board shall issue a ruling on whether the sanction stands, is modified or is rescinded.
- (f) The Board shall send a written notice to the Owner of its ruling. (g) The ruling of the Board will be final.

**VIII. Payment of the Fine and/or Penalties.** The Board shall advise the Owner that any fine, which is not paid within fifteen (15) days of its due date, is delinquent and subject to late fees and interest the same as any other assessment, subject to applicable Arizona law.

**IX. Collection.** Fines and penalties will be collected from the Owners.

**X. Injunctive Relief.** If an owner fails to correct a violation after receiving notice of a violation, the Board of Directors may refer the matter to an attorney to file a lawsuit against an Owner to get a court order compelling the Owner to fix the violation. However, nothing in this Resolution or the attached Fine Guidelines shall limit the Board's right to seek immediate court intervention 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 requires immediate action.

**Effective Date.** The effective date of this resolution is August this 27th day of 2020

VISTOSO COMMUNITY ASSOCIATION

By:  \_\_\_\_\_, President

Attest:  \_\_\_\_\_, Secretary



## Fine Guidelines

1. No fine shall be assessed until the Owner who has committed a violation has been given due written notice and opportunity for a hearing:
2. Monetary fines for violations of the governing documents, rules and regulations of the Association are as follow:
3. All violations after a friendly reminder will receive a \$3.00 administration fee.

All vehicle violations	\$50.00 per observation/per vehicle
Second Violation	\$100.00 per observation/per vehicle
Third Violation	\$200.00 per observation/per vehicle
Each Violation after the third of the same nature	\$500.00 per observation/per vehicle

Other Violations	
First Violation	\$50
Second Violation	\$100
Third Violation	\$200
Each Violation after the third of the same nature	\$500

Monetary immediate fines per occurrence:

Trashcan violations:	\$25.00 per observation
Sales: yard, garage, estate, etc.	\$250 per observation
Common area alterations or damage	\$150-\$500 + cost to restore

**These Fines Guidelines are not binding. The Board of Directors may impose a fine in any reasonable amount, based on the application of the factors above**