

ARBOR TERRACE HOMEOWNERS ASSOCIATION
Resolution Number Four – Compliance Violation: Remedies and Formal Enforcement
Procedures, Sanctions, Fees, and Administrative Charges

WHEREAS, Recitals and various Articles of the Declaration of Protective Covenants Conditions and Restrictions (Declaration), including Article 4, Section 4.24, Association Rules and Regulations, of the Declaration, and Article 4, Section 4.7 Powers and Section 4.15 (f) Enforcement Policies, of the Bylaws for Arbor Terrace Homeowners Association (Bylaws), delegates and describes the powers and duties of the Board of Directors of Arbor Terrace Homeowners Association (Association), a nonprofit corporation formed under the laws of the State of Oregon (Articles of Incorporation) to provide for the jurisdiction and powers to administer to the management of the affairs and financial matters of and for the Association, including the authority to adopt, modify or revoke Rules and Regulations governing the conduct of persons and the operation and use of the common areas and the lots as it may deem necessary or appropriate in order to preserve the peaceful and orderly use and enjoyment of the community;

AND WHEREAS, an intent of the CC&Rs is to protect the common interests of all owners by helping to preserve optimum property values and enjoyable living and to provide an organization that works on behalf of the community's common interests;

AND WHEREAS, the economic well being of the Association is dependent on the timely payment by owners of all assessments, fees, and charges payable to the Association;

NOW THEREFORE, BE IT RESOLVED THAT apparent compliance violation issues within the Arbor Terrace Homeowners community shall be dealt with as follows:

- I. **Observations made by the Association:** When the Board/Managing Agent directly observes a violation, it will begin with V, below. No written complaints are required to be filed.
- II. **Direct resolution preferred:** Owners disturbed by a neighbor's actions, or believing that a neighbor is in a compliance violation with an Arbor Terrace Homeowners' rule or regulation are expected to personally and directly express their grievance with the involved neighbor as the incident/activity is occurring, if possible, or as soon thereafter as feasible. Most disturbances are believed to be unintentional and immediate resolution by responsible neighbors, if possible, is desirable and expected. However, if Owners feel this interaction poses a threat to their personal safety, they may file a written complaint (see section IV) with the community's property management company instead.
- III. **Definitions:** In this Resolution, an activity that offends or potentially violates a rule or regulation will be known as a violation. The person purportedly doing this activity will be known as the Violator, and the owner filing the complaint will be known as the Complainant.
- IV. **Written complaint:** If a resolution to the situation is not achieved through the initial direct discussion between the involved parties, or is recurrent, the Complainant may

submit a signed, written complaint to the Association. This written complaint shall document the disturbance/violation created by which neighbor, on what date, time, and place. The complaint must describe the activity in enough detail that an objective person could comprehend the concern and understand just what personal and direct steps the Complainant has taken to resolve the situation, and what effects those efforts have elicited.

V. Association's initial response to a complaint:

- A. After receiving a valid, written complaint (see steps 1, 2, & 3 above) the Association, will mail a written notice via first class mail to the owner of record, regarding the issue and urging the violator to take action to resolve the Complainant's concern. This notice may clarify time frames for substantial compliance to be evidenced and/or fines that may apply for non-compliance. Repeat compliance infractions and some other serious and/or hazardous situations, may not require advance notice before the Association takes steps to remedy a situation or assess a fine.
- B. Each owner is responsible for providing correct current owner information, including phone numbers and mailing addresses, to the Association (through its management company, where owner records are maintained). Successful Violator notification is based on the date the notice is mailed first class, whether or not the owner's address is current and correct in the Association's records.

VI. In a situation where there is an **immediate threat to health, safety, or the environment**, the Association may elect to rectify the situation immediately, without notice, and charge the owner(s) for any and all costs incurred.

VII. **Compliance violation sanctions and procedures:** Unless specifically addressed elsewhere in the CC&Rs or prior exception has been granted¹ * ² the following sanctions and procedures shall be applied to situations where the Association finds a compliance violation exists after the Complainant has personally discussed the situation with the Violator (see above # I. through V.), so that it then becomes necessary for the Association to formally address the situation in the following manner:

¹ Such as, there may be extenuating circumstances where it would be reasonable for an owner to request a variation in time or activities that are covered by the CC&Rs and/or these Resolutions. If so, the owner must communicate in a timely manner with the appropriate Association representative. Under special circumstances, and on a case-by-case basis, the Association may issue permits for time extensions and/or schedule variations. However, owners cannot ignore the rules and then expect to have consideration given to their variations after the fact.

² The integrity of the Association's CC&Rs assumes even-handed compliance with the rules. Variations in applying the rules and policies will not establish a precedent.

- A. An initial Compliance Violation Notice will be mailed to an owner to correct a specified problem within fourteen (14) days.³
- B. If the problem has not been corrected by the fifteenth day, a fine of \$35 will be applied.
- C. On day seventeenth, a daily fine of \$25 begins and continues daily until compliance is achieved.
- D. On the seventeenth day Administrative Charges⁴ will also begin.
- E. Day 22, the Association may correct the violation, but is not obligated to do so. If the Association corrects the situation, the owner is responsible for reimbursing all the costs to the Association. There is a minimum \$100 charge by the Association for correcting a matter.⁵
- F. Day 25, the Association may refer the matter to the Association's attorney for legal action.⁶
- G. On day 40, the daily fine doubles to \$50 for each day the Violation remains uncorrected.

VII. Repeat Violators: Each repeat violation by the same owner, guest, contractor, vendor, etc., whether single or multiple locations and/or times, shall begin being fined without further Notice, at the Day 17 step (C., above), with the \$25 daily fine plus administrative charges, and follow the same steps until the violation is rectified permanently.

VIII. Appeal: If the owner does not agree with the issue as stated in the compliance violation notice, owner may file a written appeal, along with supporting documentation, as to why s/he is an exception to the stated Rule, through the following levels:

³ The correction of a Compliance Violation Notice is based on all seven days of the calendar week and does not exclude weekends, holidays, absence, or unavailability of the owner or his/her representative.

⁴ Administrative charges relate to expenses incurred by the Association, including, but not limited to the cost of consultants, architects, engineers, managing agent, legal costs, notices, collections, managing a resolution to a problem and cost for contract work, materials, equipment rental, materials removal and disposal, towing and storage, vehicle mileage, office service and supplies, as well as other similar items and costs related to managing and correcting a violation or causing a problem to be cured.

⁵ Collection of fines and reimbursement for costs are governed by the Association's Assessment and Compliance Payment Policy, Declaration, Bylaws and other policies of the Association.

⁶ Legal action typically leads to the matter being referred to the Association's attorney and resulting in correspondence, filing liens and notices, collections, filing court actions, and pursuing other legal rights and remedies available to the Association.

Level 1. Appeal the Compliance Violation Notice to the appropriate Committee or administrative entity for the Association, which has oversight responsibility in the area, if applicable.

Level 2. Appeal the Committee's decision to the Board of Directors.

Level 3. The Board of Directors makes the final decision.

Any administrative and/or other costs associated with the appeal process shall be borne by the owner(s) filing the appeal. The process through these three levels shall always exhaust Level 1 before advancing to Level 2. The written appeal may request a personal appearance, but whether or not that is deemed necessary will be left up to the committee/administrative entity. This committee/administrative entity will attempt to determine a finding within 30 days, but that may not be possible as some committees, etc. only meet once or twice a year, and/or some situations may require additional time to evaluate, investigate, and/or to effect a solution. Also, at the discretion of the committee or entity, a matter may be decided without a formal meeting, but rather by using written materials, telephone calls and/or electronic communications to coordinate a discussion of the subject at hand.

IX. Additional information relating to compliance actions and charges by the Association:

- A. Owners making requests of the Association, where additional expenses for administration or other services may apply, must pay the Association for any administrative or other expenses involved in processing said request. The Association may not be able to foresee every expense made by owners' and/or their representative's request, so each item's related costs may be evaluated on a case-by-case basis at the time and/or after processing, and the Association fully reimbursed.
- B. Removal, storage and disposal of equipment, materials, and debris are the responsibility of the owner.
- C. Owners are responsible for informing contractors, business invitees, guests, and renters of the Association's CC&Rs, rules, and regulations in an effort to help minimize problems and thereby reduce inconveniences to all members of this Association. Although owners are ultimately responsible for all compliance violations and their consequences, owners may want to have language in their contracts and/or rental agreements that allows for the owner to pass along the reimbursement of fines and other charges to the actual violator.

Approved by the Board of Directors on July 12, 2007.