

MILLSTONE HOMEOWNERS ASSOCIATION **ENFORCEMENT POLICY & FINE SCHEDULE**

A. Introduction

The Association is governed by the following documents (the “**Project Documents**”):

- a. Declaration of Covenants, Conditions and Restrictions Millstone and all amendments thereto (Declaration);
- b. The Bylaws of Millstone Homeowners Association (Bylaws);
- c. The Millstone Homeowners Association Rules & Regulations (Rules);

The Association enforces the Project Documents for the benefit of all Owners and residents in the Association. Compliance with the Project Documents helps protect the aesthetics and property values within the community. The Association’s role is to administer and enforce the Project Documents in a fair, reasonable, and non-discriminatory manner, following the procedures and utilizing the authority granted to it in its governing documents and under Arizona law.

Violations of the Project Documents (“Violations”) typically fall into one of three categories:

- (1) Architectural – Any alteration, modification, addition or improvement within the Project for which approval is required under the Declaration but has not been obtained will be deemed a Violation under this Policy.
- (2) Lot Use Restrictions – Any activity or condition continuing or existing within any Lot that is in violation of the Project Documents, which is not expressly authorized by the Association, will be deemed a Violation under this Policy.
- (3) Common Element/Amenity Violations – Any activity, action or behavior exhibited upon the Common Elements or community amenities that is in violation of the Project Documents will be deemed a Violation under this Policy.

B. Authority to Enforce Project Documents

The authority of the Association to enforce the Project Documents is set forth in Sec. 14.2 of the Declaration. Per Sec. 8.8.11 of the Declaration and A.R.S. § 33-1803, the Association may impose reasonable monetary penalties (fines) on members for Violations after notice and opportunity to be heard.

C. Enforcement and Fine Policy

1. **Applicability.** *This Enforcement and Fine Policy (“Policy”) applies to any Violation, except to violations relating to non-payment of Assessments and other amounts owed to the Association. Unless otherwise defined in this Policy, capitalized terms shall have the meaning assigned to such terms in the Declaration.*
2. **Identification and Reporting of Violations.**
 - a. Management staff (“Management”) routinely inspects the community to note Violations. A resident may report a suspected violation to the Association’s

management staff (“Management”) only if such situation is personally observed by such resident. A report from a resident must be in writing and must contain the information required by Management or the Board, including the date, time and place of the Violation and the name of the resident reporting the violation.

- b. If Management determines that a Violation exists, Management may send a “Courtesy Notice” as set forth in detail below and shall have the right, but not the obligation, to take further enforcement action, as provided in the Project Documents, this Policy and/or Arizona law.
3. **Courtesy Notice.** In most cases, the first notification to an Owner of the Violation will be by means of a Courtesy Notice identifying the Violation and the date the Violation was observed or reported. This letter will be sent by mail to the Owner’s address on file with the Association. The Owner is responsible for curing any Violation notwithstanding any failure of the Owner to notify the Association of his or her mailing address. This letter should state a compliance completion deadline, which in most cases will be **ten (10) days** from the date of the letter.

At Management’s discretion, the Association may bypass the Courtesy Notice and begin with the Notice of Non-Compliance.

4. **Notice of Non-Compliance.** If compliance is not obtained or a reasonable corrective action plan is not provided to Management on or before the completion deadline set forth in the Courtesy Notice, a “Notice of Non-Compliance” letter may be sent by mail to the Owner’s current address on file with the Association. The notice(s) may also be sent by certified mail or hand-delivered. If a Lot is owned by more than one person or entity, a Notice of Non-Compliance to one of the joint Owners shall constitute notice to all joint Owners.

To satisfy the requirements of A.R.S. 33-1803, the 1st Notice of Non-Compliance shall include:

- a. The provision of the Project Documents that has been violated.
- b. The date of the Violation or the date the Violation was observed.
- c. The first and last name of the person or persons who observed the Violation.
- d. The process the Owner must follow to contest the notice -- i.e. request a Hearing before the Board.
- e. A statement advising the Owner of the Owner’s right to petition for an administrative hearing on the matter in the Department of Real Estate pursuant to A.R.S. 32-2199.01.

The 1st Notice of Non-Compliance will also notify the Owner that failure to comply with the demand or failure to provide a reasonable corrective action plan and schedule to Management within **ten (10) days** (the “Cure Period”) from the date of the letter may result in the imposition of fines and/or other sanctions.

If the Owner is leasing the Lot, the Association may provide a copy of the Notice of Non-Compliance to the Owner’s tenant(s) or sublessors if known, although the Owner is responsible for the actions of his/her tenants.

5. **Subsequent Violation Notices.** If the Owner does not cure the Violation within the Cure Period (or alternate time frame if approved by the Association), or if the Violation *reoccurs* after the **ten (10) days** (the “Cure Period”) of the original Violation, subsequent Violation notices may be sent to the Owner. Subsequent Violation notices may inform the Owner of the amount of fines imposed by the Association against the Owner, the due date for payment of

any fines, and that, if the Violation continues or occurs again after the **ten (10) days** (the “Cure Period”) the Association may impose additional fines.

6. **Hearing Request.**

- a. Any Owner who receives a Notice of Non-Compliance has the right to request a Hearing before the Board regarding the matter. The request for the Hearing must be in writing and submitted to Management at the address specified in the Notice of Non-Compliance and must be actually received by Management by the deadline set forth in such Notice.
- b. If the Owner does not contact the Association to request a Hearing by the deadline set forth in the Notice, the Owner will have waived the right to be heard, and Management will make a decision on a fine based on the information before it.
- c. If an Owner requests a Hearing as set forth above, Management will schedule a Hearing with the Board at the next scheduled Board meeting not to exceed thirty (30) days from the Owner’s request for a Hearing.
- d. After the Hearing has been scheduled, Management shall provide the Owner a written notice of the Hearing date, time, and place or details for a virtual hearing. The notice of the Hearing shall also advise the Owner of the Owner’s right to produce statements, evidence and witnesses.
- e. The Hearing shall be conducted in a closed/executive session unless the Owner specifically requests, in writing, for the Hearing to occur in an open forum.

7. **Hearing**

- a. If, after a Hearing is scheduled, the Owner does not attend the Hearing or provide sufficient notice of inability to attend the Hearing, the Owner will have waived their right to be heard. In most cases, sufficient notice shall be forty-eight (48) hours.
- b. If the Hearing is held in an open forum, members will be permitted to attend the Hearing under the following conditions:
 - i. The Board may impose reasonable time restrictions on those persons speaking during the Hearing;
 - ii. If one or more members are disrupting the proceedings, the Board, in its sole and absolute discretion, may require the disrupting members to leave the Hearing; and
 - iii. If proceedings remain disrupted or out of order, the Board may adjourn the Hearing.
- c. The Owner who requested the Hearing will be asked to state their case and present any applicable documentation and/or statements from persons who witnessed the alleged Violation.
- d. Written notice of the Board’s decision will be delivered to the Owner within **ten (10) business days** after the conclusion of the Hearing, unless otherwise determined by the Board.

8. **Fines.** The Association may impose fines against an Owner for any Violation.

- a. Before fines are imposed, an Owner will be given notice and an opportunity to be heard as outlined above. Therefore, no fine shall be imposed until after the Notice of Non-Compliance.
- b. The amount of the fines imposed by the Association shall be imposed pursuant to the following schedule:

<u>CATEGORY OF VIOLATION</u>**	FINE***
Notice of Unapproved Architectural Modification(s) (unapproved permanent or semi-permanent alteration)*	1 st Notice: \$400.00 2 nd Notice: \$600.00 3 rd Notice: \$800.00 4 th Notice, etc.: \$1,000.00
Short-Term Rental Violation (any lease of a Lot for an initial period of less than one (1) month, including a sublease)*	1 st Notice: \$500.00 2 nd Notice: \$1,000.00 3 rd Notice: \$1,500.00 4 th Notice, etc.: \$2,000.00
Maintenance (failure to properly maintain Lot, including failure to maintain exterior lighting)*	1 st Notice: \$150.00 2 nd Notice: \$300.00 3 rd Notice: \$450.00 4 th Notice, etc.: \$600.00
Parking (vehicles parked in violation of Project Documents)*	1 st Notice: \$150.00 2 nd Notice: \$300.00 3 rd Notice: \$450.00 4 th Notice, etc.: \$600.00
Use Restrictions & Nuisances (prohibitions regarding pets, business use, trash/recycling receptacles, non-permanent alterations, noise, etc.)*	1 st Notice: \$150.00 2 nd Notice: \$300.00 3 rd Notice: \$450.00 4 th Notice, etc.: \$600.00

**The examples listed in parentheses are not intended to be limiting. In other words, each category of Violation may include other Violations not listed.*

***Some Violations may fall into more than one category. The Board shall have the discretion to determine which category best describes the Violation at issue.*

****Unless otherwise stated in the Notice, the fine amount to be levied shall be a one-time amount per Notice.*

- c. If any Violation recurs after the **ten (10) days** (the “Cure Period”) from the date of a past Violation, it will be considered a subsequent Violation and a new Violation notice will be sent and subject to another fine as specified in the fine schedule.
- d. The Association may waive any and all fines, or any portion thereof, upon correction of the Violation as determined by the Board.
- e. The above schedule of fines may be amended from time to time by the Board.

9. **Suspension of Right to Use Common Element Amenities.** Pursuant to Sec. 3.9.8 of the Bylaws, the Board may suspend the right of an Owner to use the Common Element recreational amenities (or the right of an Owner to delegate use of the same to a tenant or invitee), due to a Violation for a period of not to exceed sixty (60) days.
10. **Towing of Vehicles.** Pursuant to Sec. 6.8 of the Declaration, the Association may tow vehicles that are parked in violation of the Project Documents.
11. **Self-Help/Corrective Action.** Pursuant to Sec. 4.2 of the Declaration, if a Lot falls into a state of disrepair or an unsanitary/unclean condition and the Owner fail to correct such condition or state of disrepair promptly following written notice from the Association, the Board shall have the right, at the expense of the Owner, to enter the Lot and correct the Violation. Subject to the written notice described above, such right to exercise “self-help” may be implemented at any time during the Violation notification process at the discretion of the Board.
12. **Turnover to Legal Counsel.** Unless otherwise determined by the Board, the Board may turn any unresolved Violation over to the Association’s legal counsel for enforcement after the Notice of Non-Compliance. However, the Board may turn any Violation matter over to its legal counsel at any time during the Violation notification process in the Board’s sole discretion. The Association shall have all rights and remedies available under the Project Documents and Arizona law in enforcing compliance, including, but not limited to the right to pursue a personal judgment against the Owner for the collection of fines and the right to bring an action for injunctive relief.
13. **Waiver or Variation from Violation and Enforcement Policy.** To the fullest extent permitted by Arizona law and the Project Documents, the Association retains the right and authority to vary from this Policy.

This Policy shall remain in effect unless and until amended or revoked by a vote of the Board of Directors.

ADOPTED this May day of 26, 2022.

Millstone Homeowners Association

By: 
President