

**ARBOR PARK TOWNHOMES ASSOCIATION, INC.**  
**POLICY AND PROCEDURE**  
**ENFORCEMENT OF THE DECLARATION, BYLAWS, RULES AND**  
**REGULATIONS AND SCHEDULE OF FINES**

Adopted March 17, 2009

The following policy and procedure has been adopted by the Board of Directors ("Board") of Arbor Park Townhomes Association, Inc. ("Association") pursuant to Colorado statutes, for (i) the enforcement of the Association's Declaration, Bylaws, Rules and Regulations (including any design guidelines or architectural controls), collectively referred to as the "Governing Documents;" and (ii) a Schedule of Fines.

1. **Notice of Alleged Violation.** Notice of Alleged Violation of any provision of the Governing Documents shall be provided to the applicable Owner by as soon as is reasonably practicable after the Board's receipt of such violation. The Board may also, at its option, provide a copy of such Notice to any non-owner violator ("Related User"). The Notice shall describe the nature of the violation and shall further state that the Board may seek to protect its rights as they are specified in the Governing Documents.
2. **Service of Notices.** Service of all notices required or permitted to be given hereunder shall be made as follows:

If to an Owner and/or Related User: By personal delivery to the Owner and/or Related User; or by U.S. Mail, certified mail, return receipt requested, addressed to the last registered address of the Owner and/or Related User as contained in the Association's records; or by e-mail, if the Owner and/or Related User has supplied a valid e-mail address to the Association.

If to the Association: By personal delivery or U.S. Mail, postage prepaid, addressed to the Association in care of its registered agent and office, as maintained with the Colorado Secretary of State, or such other address as the parties may be advised of in writing.

Any notice personally delivered shall be deemed received on the date of delivery, and any notice mailed shall be deemed received on the fifth day following the date of mailing.

3. **Request for Hearing.** If an Owner desires a hearing to challenge or contest any alleged violation and possible fine, the Owner must request such hearing, in writing, within thirty (30) days from receipt of the Notice of Alleged Violation. The request for hearing shall describe the grounds and basis for challenging the alleged violation. If a hearing is not requested within the 30 day period, the Board shall determine if there was a violation, and if so, may assess a reasonable fine within the guidelines contained in this Policy and Procedure within thirty (30) days of the expiration of the 30 day period.

The Association shall give notice of said assessment to the applicable Owner as provided in the Association's governing documents or this Policy and Procedure. Unless otherwise provided in the Association's governing documents, the fine assessment is due and

payable immediately upon receipt of notice of the fine assessment.

4. **Board to Conduct Hearing.** The Board shall hear and decide cases set for hearing pursuant to these Policy and Procedure. The Board may appoint an officer or other Owner to act as the Presiding Officer at any of the hearings.
5. **Conflicts.** Any Board member who is incapable of objective and disinterested consideration on any hearing before the Association shall disclose such to the President of the Board prior to the hearing on the case, if possible, or, if advance notice is not possible, then such disclosure shall be made at the hearing, and the Board member shall be disqualified from all proceedings with regard to the hearing. If disqualification of any Board member(s) results in an even number of remaining Board members eligible to hear a case, the Presiding Officer may appoint an Association member, in good standing, to serve as a voting member of the hearing board.
6. **Hearing.** The Board shall inform the Owner of the scheduled time, place and date of the hearing, provided that the Presiding Officer may grant continuances for good cause. At the beginning of each hearing, the Presiding Officer shall explain the rules, procedures and guidelines by which the hearing shall be conducted and shall introduce the case before the Board by reading the Notice of Alleged Violation. Each party may make opening statements, may present evidence and testimony, may present witnesses, and may make closing statements. Neither the complaining parties nor the Owner must be in attendance at the hearing. However, the decision of the Board at each hearing shall be based on the matters set forth in the Notice of Alleged Violation, Request for Hearing, and such evidence as may be presented at the hearing. Unless otherwise determined by the Board, all hearings shall be open to attendance by all members of the Association.
7. **Decision.** After all testimony and other evidence has been presented to the Board at a hearing, the Board shall render its written findings and decision, and impose a reasonable fine, if applicable, within ten (10) days after the hearing. A decision, either a finding for or against the Owner, shall be by a majority of the members of the hearing board present at the hearing. The Board may also issue and present for recording with the County Clerk and Recorder, a Notice of Finding of Violation. Upon satisfactory compliance with the Association's governing documents, the Notice of Finding of Violation may be released by the Association issuing and recording a Release of Notice of Finding of Violation.
8. **Fine Schedule.** Unless otherwise provided in the Rules and Regulations, any violation of the Governing Documents will subject the Owner to a reasonable fine assessment imposed by the Association as follows:
  - (i) Notice of Violation: Written warning letter or posting of notice.
  - (ii) Set schedule

OR

- (ii) Fines shall be determined by the hearing board for each finding of a violation based on the type, severity, repetition and circumstances of each violation based on the following guidelines:

First time or minor violations between \$100 and \$200  
Repeated minor violations between \$200 and \$300  
Repeated or flagrant violations between \$300 and \$500

- (iii) Fines may not exceed \$500 for any one finding of a violation.
- (iv) In the event of a continuing violation, a daily fine may be levied if, and only if, the Association's officer or managing agent performs a daily inspection to verify the violation is continuing.

Notwithstanding any provision of this fine schedule or Policies and Procedures, the Association may use any legal means available at any time to enforce the terms of the Governing Documents.

9. If the accused Owner fails to appear at any of these proceedings, the action of the Board will stand.
10. Any penalty assessed against any Owner that remains unpaid after thirty (30) days shall become a lien on the Owner's Unit and shall be recorded in the same manner as any lien for non-payment of common expenses. The Board may take such other legal action, that it deems necessary, including the filing of a lawsuit, to collect any fines that remain unpaid after sixty days. In the event legal action is necessary, the prevailing party shall be entitled to receive reasonable attorneys' fees and court costs from the losing party.

#### SECRETARY'S

CERTIFICATION: The undersigned, being the Secretary of the Arbor Park Townhomes Association, Inc., a Colorado non-profit corporation, certifies that the foregoing policy and procedure was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board on March 17, 2009, and in witness thereof, the undersigned has subscribed his/her name.

ARBOR PARK TOWNHOMES ASSOCIATION, INC., a  
Colorado non-profit corporation

By: J. TenKewley  
Secretary