

How to Properly Levy and Collect Fines

CONDOMINIUMS (may include Townhomes)

(1) (a) If authorized in the declaration, bylaws, or association rules, the management committee of a residential condominium project may assess a fine against a unit owner after the requirements of Subsection (2) have been met for a violation of the rules and regulations of the association of unit owners which have been promulgated in accordance with this chapter and the declaration and bylaws.

(b) The management committee of a nonresidential condominium project may not assess a fine against a unit owner.

(2) Before assessing a fine under Subsection (1), the management committee shall give notice to the unit owner of the violation and inform the owner that a fine will be imposed if the violation is not cured within the time provided in the declaration, bylaws, or association rules, which shall be at least 48 hours.

(3) (a) A fine assessed under Subsection (1) shall:

(i) be made only for a violation of a rule or regulation which is specifically listed in the declaration, bylaws, or association rules as an offense which is subject to a fine;

(ii) be in the amount specifically provided for in the declaration, bylaws, or association rules for that specific type of violation, not to exceed \$500; and

(iii) accrue interest and late fees as provided in the declaration, bylaws, or association rules.

(b) Cumulative fines for a continuing violation may not exceed \$500 per month.

PLANNED UNIT DEVELOPMENTS (may include Townhomes)

(1) Unless otherwise provided in the association's governing documents, the board of a homeowner association may assess a fine against a lot owner for a violation of the association's governing documents after the requirements of Subsection (2) are met.

(2) Before assessing a fine under Subsection (1), the board shall:

(a) notify the lot owner of the violation; and

(b) inform the owner that a fine will be imposed if the violation is not remedied within the time provided in the association's governing documents, which shall be at least 48 hours.

(3) (a) A fine assessed under Subsection (1) shall:

(i) be made only for a violation of a rule, covenant, condition, or restriction that is specifically listed in the association's governing documents;

(ii) be in the amount specifically provided for in the association's governing documents for that specific type of violation or in an amount commensurate with the nature of the violation; and

(iii) accrue interest and late fees as provided in the association's governing documents.

(b) Unpaid fines may be collected as an unpaid assessment as set forth in the association's governing documents or in this chapter.

(4) (a) A lot owner who is assessed a fine under Subsection (1) may request an informal hearing to protest or dispute the fine within 14 days from the date the fine is assessed.

How to Properly Levy and Collect Fines

(4) A unit owner who is assessed a fine under Subsection (1) may request an informal hearing to protest or dispute the fine within 30 days from the date the fine is assessed. The hearing shall be conducted in accordance with the standards provided in the declaration, bylaws, or association rules. No interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered.

(5) A unit owner may appeal a fine issued under Subsection (1) by initiating a civil action within 180 days after:

(a) a hearing has been held and a final decision has been rendered by the management committee under Subsection (4); or

(b) the time to request an informal hearing under Subsection (4) has expired without the unit owner making such a request.

(6) A fine assessed under Subsection (1) which remains unpaid after the time for appeal under Subsection (5) has expired becomes a lien against the unit owner's interest in the property in accordance with the same standards as a lien for the nonpayment of common expenses under Section **57-8-20**.

(b) A hearing requested under Subsection (4)(a) shall be conducted in accordance with standards provided in the association's governing documents.

(c) No interest or late fees may accrue until after the hearing has been conducted and a final decision has been rendered.

General Questions:

1. What if your documents do not mention fining authority?

2. Can you simply add an unpaid fine to the assessment ledger?

3. Can you file a lien for an unpaid fine?

THE XYZ HOMEOWNERS ASSOCIATION

Resolution of the Board of Directors

WHEREAS, Article II, Section 2 of the Association's Declaration of Protective Covenants, Conditions and Restrictions for the XYZ Homeowners Association, empowers the Board of Directions to levy fines for violations of the Association's Declaration, Bylaws, Rules and Regulations;

WHEREAS, the Board finds it appropriate to establish a schedule of fines which may be assessed for said violations;

NOW, THEREFORE, IT IS RESOLVED that the attached schedule of fines be adopted by the Board of Directors and published to all members of the Association:

Date: _____

ATTEST:

THE XYZ HOMEOWNERS ASSOCIATION

President

Secretary

THE XYZ HOMEOWNERS ASSOCIATION
SCHEDULE OF FINES

VIOLATION	FINE	FREQUENCY
Failure to keep lot neat, clean and lawn mowed	\$50	
Failure to keep structures, landscaping and improvements maintained	\$50	
Failure to screen drying laundry from view	\$50	
Obstruction, damage, or interference with use of the common areas	\$100 or cost of repairs	
Unauthorized parking of a vehicle, boat, trailer, bus, motor home, camper, recreational vehicle or inoperable vehicle	\$50	
Unsafe, hazardous, noxious, illegal or offensive activities	\$100	
Violation of architectural rules and regulations	Established by review committee	
Violation of car repair restrictions	\$50	
Violation of landscaping restrictions	\$50 or cost of landscaping improvements	
Violation of pet restriction	\$50	
Violation of prohibition on outdoor burning of trash or any other debris	\$50	
Violation of prohibition on transient use of property	\$50	
Violation of prohibition on unauthorized structures	\$50	
Violation of sign restrictions	\$50	
Violation of any provisions of the Declaration, Bylaws, or Association Rules and Regulations not set forth above	\$40	

The above fines may be imposed on a one-time, each occurrence, or continuing daily, weekly, or monthly basis as determined by the Board.