

Questions and Answers Concerning Policy #4
(Enforcement of Association Covenants and Policies; Procedures for Resolving Disputes
Between the Association and its Members)

If you own a residence in the Fountain Greens Subdivision (the “Subdivision”), you automatically are a “Member” of Fountain Greens Homeowners Association, Inc. (the “Association”). Members are subject to the Covenants and Policies of the Association. If you ignore or violate these Policies or Covenants—or threaten to do so—you may be fined under Policy #4, which describes how the Association handles disputes between the Association and its Members, how fines may be imposed, and what appeal rights Members have before a fine can be imposed. These questions and answers may help Members understand their rights and obligations under Policy #4.

1. Are fines against Members by the Association legal? Yes. The Colorado Common Interest Ownership Act (“CCIOA”) specifically authorizes an Association to fine its Members if the requirements of that law are met.

2. Are fines necessary? Yes, unfortunately. Most Members comply with the Association’s covenants and policies. Some few need extra encouragement to do so.

3. What rules do Members have to obey to keep from getting fined? When the Subdivision was created in the late 1970’s, the developer recorded in the Boulder County Recorder’s office certain rules and regulations in neighborhood covenants (the “Covenants”). The Covenants allow the Board of Directors of the Association (the “Board”) to develop rules and regulations (“Policies”) to implement and enforce the Covenants. These documents can be reviewed on the Association’s Website: <https://www.fountaingreenshoa.com/>. All Members are strongly encouraged to do so.

4. What happens if a Member violates one or more of the Covenants? First, the Member is given a written “Courtesy Notice” that a possible violation occurred. If the Member corrects the violation within ten (10) days of the Courtesy Notice, no fine will be imposed (unless it is for a repeat violation, which is discussed below).

5. What if a Member ignores the Courtesy Notice? If the Member makes no response to a Courtesy Notice, then a Final Notice will be sent to the Member. This Final Notice will be in writing, will describe the potential violation, will state the fine imposed because of the violation, and will generally describe the Member’s rights to a hearing and rights appeal a fine. If the Member who receives a Final Notice does not respond promptly, the Final Notice will be considered a “Final Determination,” and the Member will be liable for the stated fine and will have to correct the violation as soon as reasonably possible. A failure to do both will mean additional fines can be imposed upon the Member.

6. What happens if a Member thinks the Courtesy Notice or the Final Notice is Erroneous? Before a fine can be imposed, a Member can dispute whether a violation actually occurred by

filing a timely request for a Hearing (a “Response”). If a Member believes either a Courtesy Notice or a Final Notice was sent in error, then the Member may demand a hearing to determine whether a Violation occurred. However, a Member must make a timely request for a Hearing to dispute an alleged Violation. No Response by the Member means that the fine and corrective action specified in the Final Notice must be paid and can’t be challenged. If a timely request for a Hearing is filed by the Member a hearing before impartial Architectural Review Committee (“ARC”) members or Board Members will be scheduled. At this Hearing, these impartial members will listen to the Member and any other witnesses and determine whether the Member accused of violating the Covenants or Policies did so.

7. If a Member doesn’t think the Board’s or ARC’s decision following a Hearing is fair or just, can the Member appeal? Yes. Members may demand mediation and then binding arbitration to resolve such a dispute. The detailed procedures for filing this form of an appeal are specified in Policy #4.

8. What are the time limits for a Member’s Response under Policy #4? The important time limits are:

a. The Association must give the Member an initial written (“Courtesy” or “First Notice”) describing the Potential Violation. If the Member who receives a First Notice thereafter corrects the alleged Violation(s) within ten (10) days of the Notice Date of the First Notice, no Fine or other punishment will be imposed on that Member (unless that First Notice relates to a Repeat Violation). Alternatively, the Member can file a written Response within that 10-day period demanding a Hearing because the Member disputes the alleged Violation.

b. If the Member receiving a First Notice does not correct the alleged Violation or file a Response to the First Notice requesting a Hearing within ten (10) Business Days after the Notice Date of the First Notice for a Fine or Order to be imposed, an additional written Final Notice of Possible Violation(s) (“Final Notice”) must be given to that Member. The Final Notice will state the fine potentially due because the Courtesy Notice was ignored. That fine will be payable if the Final Notice is ignored.

c. Unless a Member who receives a Final Notice of Potential Violation files a Response to that Notice within the time allowed for same (as explained below), the Final Notice of Potential Violation will be a Final Determination that the Violation occurred. Thereafter, and within ten (10) Business Days of the Final Notice Date, the Member must correct the Violation and pay the fine specified in the Final Notice.

d. A Response requesting a Hearing concerning an alleged Violation must be filed by the tenth (10th) Business Day after the Notice Date of the Final Notice to the Member, or it will not be considered as timely.

e. If a Member makes a timely request for a Hearing, that Hearing must be held within thirty (30) calendar days of the date the member’s Response is filed.

9. If a Member loses an appeal to the Board, does the Member have further appeal rights?
Yes. Policy # 4 gives a Member the right to ask for Mediation and then Binding Arbitration to resolve a dispute after the Board has ruled against that Member. However, any such appeal must be filed with the Association's Manager no later than thirty (30) calendar days after the day of the Final Determination by the Board. The procedures for that mediation and then Binding Arbitration are specified in Article VII of Policy #4.

10. Is there a Schedule of Fines Payable for Violations? Yes. It is attached to these Q's and A's.

11. What does "Repeat Violations" mean? The third (3rd) or subsequent time or instance during any calendar year a Member commits a Violation substantially similar to two (2) previous Violations for which the Member received a First Notice or Final Notice. Repeat Violations are punished with a fine regardless of how soon a Member corrects them.

12. What if a Member is out of town or hospitalized? There are special rules for this situation. Basically, if a Member is out of town or disabled, the Board can waive the time limits specified in Policy #4 until the Member returns and can address the Potential Violation promptly. However, the best way to avoid this situation is for each Member who plans to be out of town for an extended period to furnish the Association with their current E-Mail address.

Fines Payable

Nature of Violation	Fine Payable
First Violation Not Otherwise Described Below	\$50.00
Second (substantially identical) Violation to First Violation	\$100.00
Third and Subsequent Violations (Repeat Violations)	\$200.00
Failure to Pay a Fine by the Fine Payment Date	\$100.00 plus \$100.00 for each calendar month (or portion thereof) subsequent to the calendar month in which the Fine Payment Date occurs until (but including) the calendar month in which payment of the Fine is made.
Failure to Obey Order by the Order Date	\$100.00 plus \$500.00 for each calendar month (or portion thereof) subsequent to the calendar month in which the Order Date occurs until (but including) the calendar month in which compliance with the Order occurs.

The answers stated above are summaries of the requirements of Policy #4. In the event of any conflicts between the language of Policy #4 and these answers, the language of Policy #4 governs.