

**FOOTHILLS CLUB WEST COMMUNITY ASSOCIATION
REVISED FINE POLICY AND APPEAL PROCESS**

Effective January 1, 2011

FINE POLICY

Pursuant to A.R.S. §33-1803(B), the following Revised Fine Policy and Appeal Process shall be followed by Foothills Club West Community Association Board of Directors and its agents to address violations of the Declaration of Covenants, Conditions and Restrictions for Foothills Club West ("CC&Rs"), its Bylaws, Rules and/or Guidelines (together "Governing Documents"):

COURTESY NOTICE: An initial notice of the violation of the Governing Documents shall be mailed to the Owner(s) requesting compliance within fourteen (14) days - **NO FINE**.

SECOND NOTICE: If violation still exists fourteen (14) days after the date of the first notice, a second notice requesting compliance within fourteen (14) days shall be mailed to the Owner(s). A **\$25.00 to \$100.00 FINE** will be imposed in the second notice.

THIRD NOTICE: If violation still exists fourteen (14) days after the date of the second notice, a third notice requesting compliance within fourteen (14) days shall be mailed to the Owner(s). A **\$50.00 to \$200.00 FINE** will be imposed with the third notice.

CONTINUING VIOLATIONS: If the violation continues without resolution fourteen (14) days after the date of the third notice, a **FINE of \$100.00 to \$500.00** shall be imposed every fourteen (14) days until the violation is resolved. In addition, the Board of Directors shall have the right to remedy the violation and/or take legal action, the cost of which shall be assessed against the Owner and collected in the same manner as assessments.

FINES: No fine shall be actually levied against an Owner without first providing a notice of the violation from the Association to the Owner; and either (a) the Owner fails to appeal the violation in writing within fourteen (14) days from the date of the Notice or (b) the Board of Directors denies the Owner's appeal.

A reoccurrence of the same violation within twelve (12) months of the original violation will be considered a continuing violation and subject the Owner to the imposition of continual fines. Failure to pay any fine shall

subject the Owner to the same potential penalties and/or enforcement as failure to pay any assessments under the CC&Rs.

NOTICES: To comply with A.R.S. 33-1803(D) all notices referenced herein shall contain:

1. The provision of the governing documents allegedly been violated.
2. The date of the violation or the date the violation was observed.
3. If available, the first and last name of the person or persons who observed the violation.
4. The appeal process the member must follow to remedy the violation.

SELF HELP: Pursuant to Section 4.2 of the CC&Rs, if any portion of any Lot is so maintained as to present a public or private nuisance, substantially detracts from the appearance or quality of the surrounding Lots, is being used in a manner which violates the Governing Documents or if the Owner is failing to perform any of its obligations under Governing Documents, the Board shall provide written notice to the offending Owner that unless corrective action is taken within thirty (30) days, the Board may cause such action to be taken ("Self Help") at such Owner's cost, which shall constitute a lien on such Owner's Lot.

BOARD DISCRETION: *Notwithstanding the above provisions of the violation policy, the Board at its sole discretion, may at any time assess a fine in an amount up to \$10,000 for any incident the Board deems to be egregious, dangerous, that may threaten the life, health, safety, or welfare of any person, resident or owner, or that causes detriment or damage to any property within the Association. The Board may levy this fine despite any past violation history or lack thereof.*

In addition, nothing in this Fine Policy will limit the Board of Directors' right to seek immediate Injunctive Relief, pursuant to Section 11.8 of the CC&Rs, at anytime regardless of the presence or absence of notices hereunder, for any violation that the Board of Directors determines in its sole and absolute discretion constitutes a material danger to persons or property or requires immediate action for any other substantial reason.

The Board of Directors reserves the right to take any action permitted by law or the CC&Rs, in addition to the above-mentioned fine policy.

APPEAL PROCESS

- When a violation notice is sent to an Owner, such notice shall include a statement notifying the Owner that he/she has the “RIGHT OF APPEAL”.
- When an Owner desires to appeal a violation, he/she must so notify the Management Company in writing within ten (10) days after the date of the violation notice.
- Appeals shall demonstrate extenuating circumstances that require deviation from the Governing Documents.
- Appeal shall include all pertinent backup information to support the existence of the extenuating circumstance.
- All decisions of the Board of Directors are final and may not be further appealed.
- Any appeal that does not meet the above requirements shall not be heard by the Board of Directors and shall be considered ***DENIED***.
- The Owner appealing the violation will be given written notice that a hearing on the appeal is scheduled.
- The appeal shall be heard in Executive Session.
- The Board President will introduce all parties.
- Lengthy discussions are not a part of an appeal process.
- The Owner who is appealing will be asked to state their case and present any applicable documentation.
- Each Board Member will have the opportunity to ask the Owner specific questions regarding the appeal.
- Upon completion of the question and answer period, the Board President will state that the appeal has been heard and the Board of Directors will make their decision in closed session. Written notice of the Board’s decision will be mailed to the Owner within seven (7) working days.
- If the appeal is denied, the Owner must bring the violation into compliance within fourteen (14) days. If the violation still exists after fourteen (14) days, the Owner shall be subject to the Fine Policy as outlined above until the violation is corrected. In addition, the Board of Directors may seek immediate legal action to remedy the violation. All costs of legal action will be billed to the Owner and collected in the same manner as assessments.