

CATALINA FOOTHILLS ESTATES NO. 8
HOMEOWNERS ASSOCIATION

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June 12, 2018

Dear Homeowner,

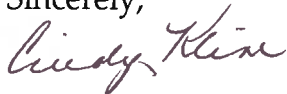
I am writing to you on behalf of the Board of Directors of the Catalina Foothills Estates #8 in regards to a Fine Policy.

A recent ruling by the Arizona Court of Appeals states that a community association must adopt a fine policy, with specific fine amounts, in order to impose fines for violations. In the past, the Board has determined fines on a case by case basis, depending on the circumstances. Those type of ad hoc fines are no longer enforceable as a result of the Court of Appeals ruling. Although the need for fines to ensure compliance with our CC&Rs is rare, there are times when fines are necessary. Your Board of Directors has adopted the enclosed fine policy.

No fine will be assessed until the homeowner has been given due written notice and an opportunity for a hearing. Typically, a homeowner will be notified of a violation by a "Friendly Reminder" letter. In almost all cases, the homeowner corrects the violation after receiving that letter. If the violation is not corrected, the homeowner will receive a second letter which is the "Notice of Violation" letter. If the violation is still not corrected after receiving the "Notice of Violation" letter, the homeowner will receive an "Invitation to Appeal" letter to appeal their violation at the next Board meeting. Only after those steps, and consideration of extenuating circumstances, will a fine be imposed by the Board.

Please feel free to contact my assistant, Clair Martinez or me if you should have any questions.

Sincerely,



Cindy Kline
Community Manager
Stratford Management
For the Catalina Foothills 8 Board of Directors

Enclosure (1)

**RESOLUTION OF THE BOARD OF DIRECTORS
CATALINA FOOTHILLS ESTATES NO. 8
ADOPTED June 5, 2018**

This resolution is adopted by the Board of Directors of CATALINA FOOTHILLS HOMEOWNERS ASSOCIATION NO. 8 pursuant to Arizona Revised Statutes §33-1803, which provides that the Association's Board of Directors is entitled to impose fines for violation(s) of the Declaration of Covenants, Conditions and Restrictions (CC&Rs) and any rules adopted by the Board of Directors. The procedure for imposing fines for such violation(s) is set forth below and supersedes any other such procedure previously adopted by the Board. This policy is presumptive for all violations. In its discretion, the Board may deviate from the policy depending on the facts and circumstances of an individual violation.

I. "Friendly Reminder" In most cases, and when appropriate as determined by the Association Manager or the Board, the first notification to an Owner of their violation of the CC&Rs or a rule will be by means of a "friendly reminder" letter. The Association Manager will issue the letter.

II. "Notice of Violation" - A written "**Notice of Violation(s)**" together with a request to cease and desist from an alleged violation(s) may be sent to the Owner of the Lot via regular mail and shall specify the relevant facts relating to the violation.

If the Owner is leasing his/her home, the Association may provide a copy of the Notice of Violation(s) to the Owner's tenant.

In the Board's discretion and based on the facts, the Board may begin the process with the Notice of Violation or Notice of Hearing. The Board may deviate from any guidelines herein based on the application of the factors contained in paragraph VI below.

Whether the Association begins the process with a Friendly Reminder, Notice of Violation or Notice of Hearing, the initial communication should contain:

- (A) The Name of the complaining Member or Property Manager;
- (B) The provision or provisions in the Declaration or Rules that has allegedly been violated;
and
- (C) The date or dates of the alleged violations;
- (D) How to appeal the violation; and
- (E) Notice of the member's option to petition for an administrative hearing on the matter in the state real estate department pursuant to section 32-2199.01.

III. Definition - Continuing Violation(s). Each day a violation(s) continues after notice to cease has been given by the Board to the Owner constitutes a separate violation(s) and can be subject to a fine.

IV. "Notice of Hearing" - In its discretion, the Board may decide to send the Owner a written "**Notice of Hearing**" at any step in the process. The notice should contain:

- (a) The nature of the alleged violation(s);
- (b) The time and place of the hearing, which shall be not less than ten (10) days from the date of the notice;
- (c) An invitation to attend the hearing and produce any statement, evidence, and witnesses on his or her behalf; and
- (d) The proposed sanction to be imposed, which includes the imposition of a fine and the payment of any attorney fees incurred by the Association.

V. Hearing.

(a) The hearing shall be held pursuant to the Notice of Hearing. The complaining Member and the Owner shall be afforded a reasonable opportunity to be heard. In cases in which a complaining homeowner initiated the process, the Board shall evaluate the proof according to protocol adopted by the Board.

(b) Before any sanction becomes effective, the Association shall submit proof of the notice and the invitation to be heard.

(c) Such proof shall be deemed adequate if a copy of the notice together with a statement of the date and manner of delivery is entered into the Owner's lot file.

(d) The notice requirement is satisfied if the Owner appears at the meeting.

(e) The minutes of the meeting shall contain a written statement of the results of the hearing and the sanctions, if any, to be recommended to the Board.

VI. Imposition of Fine and any other Sanctions.

(a) Fines. At the conclusion of the hearing, the Board of Directors shall deliberate on the amount of the fine to be imposed, if any, based on:

- The seriousness of the violation(s),
- Whether this is a first violation or a continuing violation(s)
- Whether the type of offense poses a danger to property or any person
- Any other extenuating circumstances such as hardship
- Whether the Owner agrees in good faith to correct the violation(s) within the time specified by the Board of Directors.
- Whether the amount is sufficient to obtain compliance, based on the facts
- Impact on property values
- After the Board of Directors determines the amount of the fine, the Board of Directors shall send notice to the Owner of the amount of the fine and its due date.
- The Board of Directors may impose a fine for each day that the violation(s) continues.

(b) **Costs.** Owners to whom certified mail notices are sent shall be assessed the management company's charge to the Association for the mailings. Owners may also be assessed an administrative processing charge in an amount established by the Board.

VI. Payment of the Fine and/or Penalties. The Board shall advise the Owner that any fine, which is not paid within fifteen (15) days of its due date, is delinquent and subject to late fees and interest the same as any other assessment, subject to applicable Arizona law.

VII. Collection. Fines and penalties will be collected from the Owners.

VIII. Effective Date. The effective date of this resolution is June 5, 2018.

DATED this 5th day of June 2018.

CATALINA FOOTHILLS ESTATES NO. 8

By: Bill Reed 06/05/18, President

Attest: Mary Ann Shortman, Secretary

FINE SCHEDULE

No fine shall be assessed until the Member has been given due written notice and an opportunity for a hearing.

Monetary fines for violating the governing documents and rules and regulations of the association are as follows:

1. Violation of Article IV, sections 13 & 15 – **Mailbox, Exterior Lights** – ex. failure to maintain mailbox, exterior lights directed towards surrounding lots \$25.00
2. All other violations of Article IV – **Architectural Standards** - ex. failure to complete construction by deadline, failure to obtain ARC approval prior to beginning construction, deviating from plan without ARC approval, or failure to comply with ARC request for corrective action \$500.00
3. Violation of Article III, section 6 - **Vehicle Restrictions** – ex. trailer, camper, RV parking, etc. \$75.00
4. Violation of Article III, section 10 - **Nuisances** - ex. trash container visible to street or neighboring property \$25.00 per observation
5. Violation of Article III, section 3 - **Leasing** - Failure to Register Tenants with Association (Property Manager) \$15.00
6. Violation of Article VII, section 3 – **Trash collection** – Use of trash collection company other than the company chosen by HOA \$50.00
7. All other violations of Article III \$50.00
8. The Board shall also have the authority to increase the monetary fines above for each consecutive month that violations of the same nature continue.
 - a. Second month violation increase original fine by 25 percent
 - b. Third month violation increase original fine by 50 percent
9. An additional fine of \$10.00 that accrues each day *may* be assessed after the aforementioned fines have been assessed if the violation is a continuing one.
10. If a corrected violation reoccurs within 90 days of resolution of the violation, the fine may immediately resume at the next level.

The Board shall have the specific authority to deviate from this fine schedule by applying the factors below:

- The seriousness of the violation(s).
- Whether this is a first violation or a continuing violation(s).
- Whether the type of offense poses a danger to property or any person.
- Whether the Owner agrees in good faith to correct the violation(s) within the time specified by the Board of Directors.
- Whether the amount is sufficient to obtain compliance, based on the facts
- Impact on property values.
- Any extenuating circumstances including hardship

It is the obligation of the Member to advise the Association in writing that the violation has ceased.