

**THE FOOTHILLS CLUSTERS HOMEOWNERS ASSOCIATION
ENFORCEMENT POLICY
ADOPTED FEBRUARY 2018**

WHEREAS, Chapter 16 of the Arizona Revised Statutes, Section 33-1803(C), Arizona Planned Communities Act, sets forth the procedure the Association must follow before proceeding with any action to enforce the Declaration of Covenants, Conditions and Restriction for The Foothills Clusters and any rules or guidelines adopted by the Board of Directors (the "Governing Documents"); and

WHEREAS, Chapter 16 of the Arizona Revised Statutes, Section 33-1803(B), Arizona Planned Communities Act, provides that after notice and an opportunity to be heard, the Board of Directors of The Foothills Clusters Homeowners Association (the "Association") may impose reasonable monetary penalties on Lot Owners for violations of the Governing Documents; and

WHEREAS, the Association has adopted a General Violation Fine Schedule, which empowers it to adopt Supplemental Fine Schedules as necessary, that governs its exercise of its right to impose monetary penalties pursuant to Arizona Revised Statutes, Section 33-1803(B); and

WHEREAS, further to the Arizona Planned Communities Act and the Governing Documents, the Association's Board of Directors wishes to adopt a policy setting forth the Association's enforcement procedures.

NOW THEREFORE, LET IT BE HEREBY RESOLVED that the following policy pertaining to the enforcement of the Governing Documents is hereby adopted.

1. Notice of Violation. Upon discovery of any condition on an Owner's Lot that violates any of the Governing Documents, the Association will proceed pursuant to the General Violation Fine Schedule or any applicable Supplemental Fine Schedule.

2. Contents of Notice. Any notice that the Association sends pursuant to the General Violation Fine Schedules or any applicable Supplemental Fine Schedule will state:

- A. The provision of the community documents that has allegedly been violated;
- B. The date of the violation or the date the violation was observed;
- C. The first and last name of the person or persons who observed the violation; and
- D. The process the Owner must follow to contest the notice.

3. Notice of Hearing. If the Owner does not cure the violation by the first compliance deadline set forth in the General Violation Fine Schedule or any applicable Supplemental Fine Schedule, prior to imposing the monetary penalty provided for in the applicable fine schedule, the Association will send the Owner a Notice of Hearing via certified mail, return receipt requested, and first class mail. The Notice of Hearing will invite the Owner to attend the next Board Meeting/Hearing Panel Session, at

which the Owner will have an opportunity to be heard to contest the imposition of fines pursuant to the applicable fine schedule. The Notice of Hearing will state the date, time, and location of the hearing.

4. Hearing Panel. A quorum of the Board of Directors will act as the Hearing Panel at the Board's next regularly-scheduled meeting or at a special meeting. The Hearing Panel will meet in closed session unless the affected Lot Owner requests that the meeting be held in an open session.

5. Designated Representative. A Lot Owner may present to the Board (prior to or at the Hearing) written notification that another person is the Owner's designated representative. A designated representative may speak on behalf of the Owner at the hearing

6. Procedure for Hearing. Procedure for the Hearing will be set by the Board of Directors. The Lot Owner and his/her designated representative will be informed of the procedure before the Hearing begins. The Lot Owner and/or his/her designated representative will be given an opportunity to present supporting documentation and testimony to show cause why a penalty should not be levied by the Board.

7. Proof of Delivery of Notice. Proof of delivery to the Lot Owner of the Notice of Hearing 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 minutes of the meeting, by the officer, director, or agent who mailed or delivered the Notice.

8. Imposition of Monetary Penalties. If the Hearing Panel determines that monetary penalties are appropriate after it has heard the Owner, it will impose a fine in the amounts stated in the General Violation Fine Schedule or any applicable Supplemental Fine Schedule and/or refer the matter to the Association's attorney for further action.

9. Procedure if Owner or Representative Does Not Appear. If the Lot Owner or his/her designated representative does not appear at the hearing, the Board may levy a monetary penalty in the amounts stated in the General Violation Fine Schedule or any applicable Supplemental Fine Schedule and/or refer the matter to the Association's attorney for further action.

10. Hearing Panel's Decision. The Association will send the Owner a notice stating the Hearing Panel's decision, including the amount of any penalty levied by reference to the applicable fine schedule. The notice will further state that the Association will proceed pursuant to the applicable fine schedule and will levy such additional fines as the applicable fine schedule may require if the Owner fails to cure the violation within the times set forth therein.

11. Delinquency of Penalty. Any penalty not paid within 30 days after its stated due date is delinquent, and a late charge of \$15 .00 will be added to the penalty.

12. Repeat Violations. The Association will follow the provisions of the General Violation Fine Schedule or any applicable Supplemental Fine Schedule for repeat or continuing violations.

13. Collection of Penalties. The Association has a lien for penalties and associated late charges, attorney fees, and costs, imposed for non-compliance with the Governing Documents, after the entry of a judgment in a civil suit for penalties, late charges, and associated attorney fees and costs, by a court of


competent jurisdiction, and the recording of that judgment in the office of the Pima County Recorder. This lien is effective on conveyance of any interest in the subject Lot. The Association may collect the amounts due under the judgment prior to conveyance of the Lot by any lawful means.

14. Cumulative Rights and Remedies. All rights and remedies of the Association at law or in equity are cumulative, and the exercise of one right or remedy does not waive the Association's right to exercise another right or remedy. This means that the Association's Board can decide to bring a lawsuit against an owner to enforce an applicable rule, restriction, or statute in addition to or instead of imposing a monetary penalty. This also means that all pertinent provisions of the Declaration also apply.

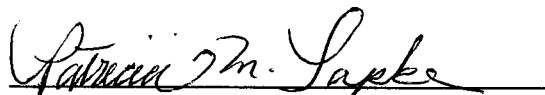
15. Promulgation of Fine Schedules. Immediately upon adoption, the Association will promulgate the General Violation Fine Schedule and all Supplemental Fine Schedules by first class mail to the address of every Owner as listed in the Association's records. Upon request of an Owner, the Association will provide a copy of any previously adopted and promulgated fine schedule. All adopted and promulgated fine schedules will be available on the Association's website.

DATED this 5th day of February, 2018

THE FOOTHILLS CLUSTERS HOMEOWNERS ASSOCIATION
an Arizona non-profit corporation

By: 
Its: President

ATTEST:


Secretary