

**THE FOOTHILLS CLUSTERS HOMEOWNERS ASSOCIATION
RESOLUTION OF THE BOARD OF DIRECTORS**

WHEREAS, The Foothills Clusters Homeowners Association (the "Association") is governed by the Amendment to Declaration of Covenants, Conditions and Restrictions for The Foothills Clusters, recorded on July 11, 1975 at recorded at Docket 5057, page 141, in the Official Records of Pima County, Arizona, and all amendments thereto (the "Declaration") and Bylaws and all amendments thereto (the "Bylaws");

WHEREAS, the Restatement (Third) of Property (Servitudes) § 6.7(1)(a) states:

Except as limited by statute or the governing documents, a common-interest community has an implied power to adopt reasonable rules to govern the use of the common property;

WHEREAS, the Declaration at Article II, Section 1(a) states:

Every owner shall have a right and easement of enjoyment in and to the Limited Common Area, which shall be appurtenant to and shall pass with the title to every Lot, subject to the following provisions: the right of the Association to promulgate rules and regulations for the use of any facility situated upon the Common Area ...;

WHEREAS, Article VII, Section 1(b) of the Bylaws provides that the Board of Directors (the "Board") has the power to:

Adopt policies and procedures which govern the conduct and actions of Members, tenants, visitors, and guests on the Lots and the Limited Common Areas which are not otherwise covered in the Governing Documents;

WHEREAS, the roads within the Foothills Clusters are private roads owned by the Association and are, therefore, Limited Common Area;

WHEREAS, the Board of Directors have recognized a need to implement a policy regarding vehicles and parking on the property of the Association;

WHEREAS, the Board desires to give notice to the Members of the implementation of a policy regarding vehicles and parking within the Association and the procedure that will be followed to enforce such policy;

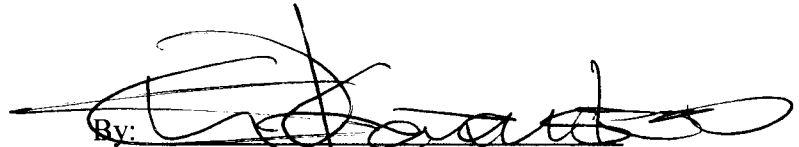
WHEREAS, Article VII, Section 1(c) of the Bylaws provides that the Board has the authority to impose fines and/or penalties on Members for violation of the Governing Documents "[a]fter notice and an opportunity for a hearing;"

WHEREAS, on 4th day of March, 2019, at a Board Meeting, the Board voted and approved the following policies and processes;

BE IT THEREFORE RESOLVED, that the Board, in full compliance with Arizona law and the Association's Governing Documents hereby adopts the following Vehicle and Parking Policy and Vehicle and Parking Policy Enforcement Process.

DATED this 15 day of April, 2019

The Foothills Clusters Homeowners Association

By: 
Frank Karnauskas, President

**THE FOOTHILLS CLUSTERS HOMEOWNERS ASSOCIATION
VEHICLE AND PARKING POLICY**

Effective April 4, 2019

In addition to the Declaration, the following Vehicle and Parking Policy (the "Policy") has been established by the Association to support the usability of its roads and safety of its users, and to clarify the Declaration's enforcement authority. This Policy is deemed part of the Association's rules and is subject to amendment or modification at any time by the Board.

RESPONSIBILITY FOR COMPLIANCE:

Owners are responsible for compliance of this policy by residents and guests of their Lot.

NO PARKING IN LIMITED COMMON AREAS:

Parking of any vehicle of any type at any time is prohibited in the Limited Common Areas except the specifically enumerated exception detailed below. This prohibition on parking includes parking of any kind on the "islands" in the turnarounds at the end of cul-de-sacs. This provision excludes those vehicles specifically allowed by A.R.S. § 33-1809, as may be amended from time to time. Parking any vehicle, camper, boat or trailer on landscape is not permitted. Except as provided below, all vehicles shall be parked in garages, carports, driveways, or enclosed parking areas.

RESIDENT AND GUEST PARKING ALLOWED:

Vehicles owned by residents or their guests can be parked on roads between the hours of 6:00 AM and 1:00 AM. "Resident or Guest Vehicle" means any personally owned car, pick-up, or standard-size passenger van with a residential license plate.

Free movement of public safety vehicles is of utmost importance. Vehicles parked on the roads shall not block the flow of any traffic including that of large firefighting, emergency medical, or utility services' vehicles. **VEHICLES BLOCKING THE FLOW OF ANY TRAFFIC ARE SUBJECT TO IMMEDIATE TOWING ACCORDING TO THE VEHICLE AND PARKING POLICY VIOLATION ENFORCEMENT PROCESS.**

In a situation where a large number of guest vehicles are parked on the roads, vehicles should be parked on one side of the road only so as to provide adequate clearance for large public safety vehicles.

Vehicles parked on the roads shall not block driveways at any time or park so close to trash containers or mailboxes that such services are impeded.

Requests for temporary, short-term exceptions to park on the roads between the hours of 1:00 AM and 6:00 AM must be submitted to the Association for review and may be approved on a case-by-case basis.

OTHER VEHICLES PARKING:

Commercial Vehicles:

No Commercial Vehicles shall be parked on any roads. "Commercial Vehicle" means any vehicle designed, used, and maintained for the transportation of persons or property for hire, compensation, profit, or in the furtherance of a commercial enterprise, whether it be a for-profit or non-profit entity.

Derelict Vehicles:

No Derelict Vehicles shall be parked on any roads. "Derelict Vehicle" means a vehicle without a current license plate or any vehicle that cannot be operated in its current condition either because it cannot be legally operated, because of missing or broken equipment, or is in a state of disrepair. The Board, in its sole and absolute discretion can make a determination as to whether a vehicle is a Derelict Vehicle.

Vehicle Repair:

No vehicles under repair shall be parked on the roads except for emergency repair such as a battery or flat tire. Such a repair must be completed within 6 hours and the vehicle must not be left unattended.

Vehicles for Sale:

No Vehicles for Sale shall be parked on the roads at any time.

Customers' Vehicles for a Permitted Residential Business:

No Customers' Vehicles visiting for the purpose of permitted residential business shall be parked on the roads. Vehicles present for such activity shall be parked in the driveway of the home.

Customers' Vehicles for a Professional Estate Sale:

An outside business planning to conduct an estate sale must contact the Association 30 days in advance of the sale. The firm shall present the Association with its plan for facilitating traffic and parking for the event. The Association has the right, at its sole and absolute discretion, to disapprove the plan if it is deemed inadequate.

Recreational Vehicles:

No Recreational Vehicles shall be parked on the roads at any time. "Recreational Vehicles" mean any vehicle, trailer, or boat as defined by the Declaration at Article VII, Section 8. Recreational Vehicles can be parked in the driveway of a home for the purpose of loading and unloading only, and not to exceed 48 hours in any 30-day period. Parking on the lot for this purpose requires that the owner/resident notify the Association prior to the use.

Service Vehicles:

No Service Vehicles shall be parked on the roads. Residents requiring home service, lot maintenance or moving or deliveries shall inform their contractors that contractors should not park on the roads. However, there will always be a time when on-street parking is necessary to carry out the needed service. The Association recommends that the on-road parking be as short as possible and that the driver be immediately available to move the vehicle in an emergency situation.

Disability Parking:

Vehicles used for transportation of persons with disabilities are required to generally follow this Vehicle and Parking Policy except that they can be temporarily parked as necessary for the safe boarding of passengers. Any other exceptions to this Policy for disability purposes will need to be submitted in writing to the Association for consideration of a modification to the rules.

ENFORCEMENT:

Violations of the Vehicle and Parking Policy will be enforced according to the Vehicle and Parking Policy Enforcement Process, which supersedes the Association's General Violation Fine Schedule.

**THE FOOTHILLS CLUSTERS HOMEOWNERS ASSOCIATION
VEHICLE AND PARKING POLICY ENFORCEMENT PROCESS**

Effective April 4, 2019

Homeowners (“Owner”) are responsible for compliance of this policy by residents and guests of their property. Violations of The Foothills Clusters Homeowners Association Vehicle and Parking Policy shall be enforced as follows:

TOWING:

Any vehicle parked in such a fashion that any vehicle may have difficulty using the road may be towed according to a Towing Policy that may be adopted by the Board of Directors.

WARNINGS:

Because of the potential impact on the safety of residents and guests, the Association requires prompt correction of vehicle and parking violations.

First Notice:

An initial notice of the violation shall be mailed or presented to the Owner requesting compliance within 24 hours of receipt of the notice. The notice may include a warning that the offending vehicle is subject to being towed at the vehicle owner’s expense. No fine shall be assessed. However, if the violation is not resolved and a Second Notice is delivered, the Owner will be financially responsible for administrative and legal costs incurred for delivering the First Notice. The First Notice will include the following information: 1) the provision of the community documents that was violated; 2) the date of the violation; 3) the first and last name of the person(s) who observed the violation; 4) the process the Owner must follow to contest the notice; and 5) a description of the vehicle and license plate number if available.

Second Notice:

If the violation still exists beyond 24 hours or occurs again within six months after receipt of the First Notice, a Second Notice requesting compliance within 24 hours of receipt of notice shall be mailed or presented to the Owner. A \$50.00 fine will be assessed with the Second Notice. However, the Owner will have the opportunity to request a hearing within ten (10) business days prior to the fine being imposed. The Owners’ failure to request the hearing in the allotted amount of time will result in the fine being immediately assessed. The Owner is also financially responsible for administrative and legal costs incurred for delivering the First and Second Notices. Payment of the fine and incurred costs is due immediately upon assessment.

Third Notice:

If the violation still exists 24 hours after receipt of the Second Notice or a third violation occurs within six months after the Second Notice, a Third Notice requesting compliance within 24 hours shall be mailed or presented to the Owner. A \$100.00 fine will be assessed. The Owner is also financially responsible for administrative and legal costs incurred for delivering the First, Second, and Third Notices. Payment of the fine and incurred costs is due immediately.

CONTINUING VIOLATIONS:

If the violation continues without resolution for 24 hours after receipt of the Third Notice, the Board shall have the right to remedy the violation pursuant to the Declaration, including, but not limited to, taking legal action, and/or sending the account to an attorney for enforcement.

FINES:

No fines shall be imposed without first providing a notice of the violation from the Association to the Owner describing the violation and stating that failure to correct the violation within 24 hours will result in the imposition of fines pursuant to this fine schedule. Another recurrence of the same violation within three (3) months of the original violation shall make the Owner subject to a fine pursuant to this fine schedule.

INJUNCTIVE RELIEF:

If a violation is not cured after the Third Notice, the Board may request that the Association's General Counsel file an action seeking Injunctive Relief against the Owner to cure the violation. However, nothing in this Enforcement Process limits the right of the Board to seek immediate Injunctive Relief at any time regardless of the presence or absence of notices or fines hereunder, for any violation that the Board determines in its sole and absolute discretion requires immediate action.

BOARD DISCRETION:

Notwithstanding the above provisions of the Enforcement Process, the Board at its sole discretion, may at any time, assess a fine in an amount up to \$2,000 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 Association or another Owner's property. The Board may levy this fine despite any past violation history or lack thereof.

SUPPLEMENTAL FINE SCHEDULE:

This enforcement process supersedes the Association's General Violation Fine Schedule.

The Board reserves the right to take any action permitted by law or the Declaration, in addition to the above mentioned Enforcement Process.