

FOOTHILLS PROPERTY OWNER'S ASSOCIATION
Fine Schedule and Enforcement Policy

A. BACKGROUND

1. We all purchased our homes in The Foothills development in order to enjoy the attractive residential environment that the development provides. With the purchase of a home in this community comes a legal obligation to adhere to the Covenants, Conditions & Restrictions (CC&Rs), By-Laws, related policies, and guidelines. It also comes with a clear expectation that all other association members will also legally comply with those same documents so as to maintain an attractive residential environment with common amenities and, as far as possible, protect property values.
2. The Foothills Property Owners Association (FPOA) Board of Directors has a legal obligation to exercise reasonable judgment in acting in the best interests of the entire community. The FPOA Board also has an affirmative duty to enforce the CC&Rs, By-Laws, policies, and guidelines. Occasionally, the only practical tool for enforcement of these governing documents is a monetary fine. Per Arizona ARS 33-1803/A.R.S. 33-1242, (statutes that govern Homeowners' Associations), Boards may "levy reasonable fines for violations of the declaration, bylaws, rules and regulations of the association, provided that the charge imposed or the fine levied by the association is based on: 1) a separate monetary penalty schedule in place before imposing fines against owners and 2) owners having a notice and an opportunity to be heard before fine is assessed." (See A.R.S. 33-1803/A.R.S. 33-1242).

B. POLICY STATEMENT

1. This policy establishes an FPOA Schedule of Fines prepared by the FPOA Board of Directors. It outlines specific violations of the CC&Rs, By-Laws, policies and guidelines and lists the penalty/fine for those violations. This policy also specifies procedures to be followed in the event of violations.
2. The purpose of fines is to encourage compliance with our CC&Rs, By-Laws and policies. This schedule of fines serves to provide each homeowner a clear understanding of the penalties involved for violations of our CC&Rs, By-Laws and policies, and for failure to respond to notice of alleged violations.

C. PROCEDURE FOR ASSESSMENT OF FINES

1. Since the goal of this resolution is to maintain quality in our neighborhood and not to collect fines, a verbal/email courtesy reminder will be provided the homeowner in the event of an alleged violation. The homeowner has 24 hours after the courtesy reminder to cure the violation, unless otherwise indicated below. Some violations, by their nature, do not exist for more than 24 hours. For these violations, notice will be given and subsequent violations of the same kind occurring after 24 hours shall be considered a continuation of the initial alleged violation and shall be subject to a fine.

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2. If the courtesy reminder does not compel compliance, a Notice of Violation (Atch1) will be sent to the Homeowner stating the alleged violation and the amount of the fine to be imposed. The homeowner has 21 days (from the postmark on the notice of violation) to request a hearing before the board to discuss the violation and proposed fine. **(Failure to request a hearing in a timely manner is a waiver of the owner's right to challenge the violation and imposition of all fines.)**
3. When the Board receives notification that the homeowner requests a hearing, it will provide the affected owner with written Notice of Hearing (Atch2). The hearing will be in front of the Board which must meet in open session or in front of a Board appointed Hearing Committee which may meet in closed session or open session. Unless the Board and the affected owner mutually agree upon a date and time for the hearing, the hearing shall be set for between 10 and 60 days after the receipt of the timely request for a hearing. The Notice of Hearing shall include:
 - i. A statement of the alleged violation;
 - ii. The proposed action and/or fine, including fines that continue to accrue;
 - iii. The date, time, and place of the hearing; and
 - iv. Any time limits placed upon the presentation of evidence.
4. If the owner intends to have an attorney present at the hearing, the owner must notify the Board at least ten (10) days before the hearing.
5. A reasonable amount of time to present evidence and argument will be afforded the homeowner. Specific time limits may be set out in the Notice of Hearing. Additional time may be granted by mutual agreement. Other owners may present evidence or argument relating to the alleged violation at the discretion of the Board or Hearing Committee and in accordance with procedures established by the Board.
6. One or more alleged violations may be combined and heard in one hearing, at the discretion of the Board or Hearing Committee. If additional alleged violations and fines occur by the same owner subsequent to the Notice of Hearing and before the date of the hearing, the Board or Hearing Committee may also, at their discretion, hear those additional alleged violations at the scheduled hearing, provided the owner is given notice of the subsequent alleged violations and fines before the date of the hearing.
7. After the homeowner presents their case, the Board or Hearing Committee will determine if the violation has been committed and whether any changes in the fines imposed should be made. The Board may issue its decision at the hearing or at a later-scheduled Board meeting if further information or consideration is required. The Board or the Hearing Committee will send the owner a Notice of Decision (Atch 3) in writing no later than fourteen (14) days after the hearing. This Notice of Decision shall confirm any fines due, the date upon which such fines become payable, and whether fines are continuing to accrue. Any fines imposed after a hearing shall become due and payable

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immediately. All costs associated with notification of the violation will be billed to the homeowner's account, including, but not limited to postage, envelopes, paper, etc.

8. An owner is entitled to one hearing per continuing violation. A request for an additional hearing may be denied if the Board or Hearing Committee determines that the same violations are continuing in nature and that no evidence that could be presented by the owner would change the previous decision on the same or similar type of violation.
9. An owner may appeal a fine imposed after a hearing by submitting to the Board, a written notice of appeal setting forth specific objections or mitigating circumstances within ten (10) days after the fine is imposed. **Failure to request an appeal in a timely manner is a waiver of the owner's right to appeal.** The Board will address the appeal in a Board meeting. The appealing owner may, but is not required to, attend the meeting and present testimony or other evidence. The Board will issue a final, conclusive decision within sixty (60) days after receipt of the notice of appeal. The Board's decision on appeal will be final and binding upon the appealing owner. If the Board made the original fine determination, the appeal will be deemed a request for reconsideration.
10. Should a period of at least one year lapse between violations letters of the same offense, the next letter will be a First Notice again.
11. Any fines / notification costs, including late fees, that remain unpaid may result in legal action. The Homeowner shall be responsible for all fines, accrued late charges, and/or legal fees or costs that may be incurred during the collection process.

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D. FINE SCHEDULE

ATTENTION: Please note that the following guidelines and fines shall be effective against all Homeowners. Landlords will be held responsible for any / all violations caused by their tenants. All costs associated with enforcing the following violations will be billed to the homeowner's account including, but not limited to postage, envelopes, paper, legal fees, etc.

DESCRIPTION OF VIOLATION	TIME TO CURE VIOLATION	INITIAL FINE WEEKLY/MONTHLY CONTINUAL FINE
Failure to gain approval from the FPOA ACC for any major property improvements as defined in the ACC Guidelines / renovations. (Including but not limited to painting doors and trim a different color, adding storage buildings, adding additional concrete other than repair to existing parking pads, removing trees, enclosing a deck, etc.)	90 Days	\$150 \$150/Month
Improper parking of vehicles (Commercial vehicles, boats, and trailers are not allowed to be stored on the street or on the homeowner's property; commercial vehicles and trailers are only allowed for temporary use by contractors for current maintenance / repair purposes; vehicles must be parked on paved driveway surfaces;	48 Hrs	\$100 \$100/Week

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Vehicles exceeding provided paved off-street parking)		
Inoperable vehicle parked on the street or homeowner's property.	48 Hrs	\$100 \$100/Week
Maintenance performed on any vehicle not wholly inside the garage	24 Hrs	\$100 \$100/Week
Failure to ensure any work you contract i.e. landscaping, firewise, etc. occurs within the approved working hours and work days as defined in the ACC Guidelines.	24 Hrs	\$50 \$50/Week
Blocking a neighbor's driveway or access to mailbox	24Hrs	\$50 \$50/Week
Trash/landscaping cuttings /buckets/general debris visible from the street and not placed in Trash can	24 Hrs.	\$50 \$100/Week
Improper signs of any nature that do not conform to specifications in the CC&Rs	24 Hrs	\$50 \$100/Week
Nuisance as determined by the FPOA Board	24 Hrs	\$50 \$100/Week
Trash can left on the street after trash pick-up. (Trash carts can be placed at the curb no earlier than 5 P.M. the	24 Hrs.	\$25 \$25 / Week

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day prior to the scheduled collection day. Trash carts must be removed by 8 A.M. on the day following collection.)		
Damage to HOA property including, but not limited to common areas, signage, landscaping, etc.	72 Hrs.	Minimum \$100 Minimum \$100 / Week
Yard / Landscaping not maintained (weeds, overgrowth)	7 Days	\$50 \$50 / Week
Fence Violation (erecting a fence without FPOA ACC approval.	90 Days	\$150 \$150/Month
Property not maintained (Including, but not limited to roofing, paint, exterior structures including mail boxes free standing garages or ACC approved storage structures must be in good repair.)	90 Days	\$150 \$150/Month

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NOTIFICATION LETTER

Foothills Property Owners Association
P.O. Box 2657
Prescott, AZ 86302

June 18, 2023

Owners of Lot XX
XXXX XXXX
XXX XXXXX
Prescott, AZ 86303

Sir/Madam,

The Foothills Property Owners Association finds that you are allegedly in violation of our governing documents. Per A.R.S. § 33-1803, we are notifying you of the alleged violation and our intention to fine you per our Fine Policy Letter dated June 18, 2023 (available online at prescottfoothills.com under the important documents menu).

Alleged Violation:

Alleged Violation must be corrected no later than XXXX XX, 2023 to avoid the fine.

If the alleged violation is not corrected, a fine of \$XXX.XX will be imposed on XXXX XX, 2023 and assessed against your property on XXXX XX, 2023.

You have the right to request a hearing before the FPOA Board of Directors or a Hearing Committee appointed by the Board. Your request for a hearing must be submitted via written letter via certified mail (within twenty-one (21) days of the postmark on this Notification letter) to the FPOA Board or the right to a hearing will be waived and the fine will be automatically assessed. **Failure to request a hearing in a timely manner is a waiver of the owner's right to challenge the violation and imposition of all fines.** The Board will review your response and respond with a written explanation regarding this notice and your response within ten business days of receipt of the certified mail.

If you request a hearing, we will set a mutually agreeable date for the hearing and you will receive a Notice of Hearing letter from the Board. You will have a reasonable amount of time, at the hearing, to present evidence and argument. If you intend to have an attorney present at the hearing, you must notify the Board at least ten (10) days before the hearing. **Failure to respond to correspondence regarding the setting of the hearing or failure to attend the hearing shall constitute a waiver of your right to a hearing and to challenge the action or imposition of fines as set forth in our policy.**

John Swarsbrook, President
Foothills Property Owner's Association

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NOTICE OF HEARING

The Foothills Property Owners Association (FPOA) is in receipt of your request for a hearing regarding your violation of our governing documents. Per Arizona law (A.R.S. § 33-1803), we are providing you the information below.

Statement of the Violation
Proposed Action/Fine/Accruing Fine
Date/Time/Place of Hearing
Time Limits Placed of Presentation of Evidence

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NOTICE OF DECISION

Foothills Property Owners Association
P.O. Box 2657
Prescott, AZ 86302

XX XXX, 2023

Owners of Lot XX
XXXX XXXX
XXX XXXXX
Prescott, AZ 86303

Sir/Madam,

This Notice of Decision confirms that the Foothills Property Owners Association finds you in violation of our governing documents as enumerated in the Notice of Violation letter dated XXXX XX, 202X. You are hereby fined in the amount of \$XXX.XX which is due on XXXX XX, 202X. You are also advised that if the violation is not corrected the fine will continue to accrue per the fine schedule. Any fines imposed after a hearing become due and payable immediately.

Per A.R.S. 33-1803/A.R.S. 33-1242 you may appeal any fine imposed after a hearing by submitting, to the Board, a written notice of appeal setting forth specific objections or mitigating circumstances within ten (10) days after the fine is imposed. **Failure to request an appeal in a timely manner is a waiver of the owner's right to appeal.** The Board will address the appeal in a Board meeting. You may, but are not required to, attend the meeting and present further testimony or other evidence. The Board will issue a final, conclusive decision within sixty (60) days after receipt of the Notice of Appeal. The Board's decision on the appeal shall be final and binding upon you. If the Board made the original fine determination, the appeal shall be deemed a request for reconsideration.

John Swarsbrook. President
Foothills Property Owner's Association

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MEMBER'S VIOLATION
REPORT FORM

Per Arizona law (A.R.S. § 33-1803) any complaint lodged with the Association related to a violation will NOT remain anonymous. The person complaining of the alleged violation must provide his/her first and last name, the date(s) the violation occurred and was observed, and a detailed description of the violation. This information, along with the provision of the Community Documents that was violated, will be sent to the party who is accused of the violation if requested.

Address of the property allegedly in violation of the Association's Governing Documents: _____	
Nature of the violation(s): 	
First and Last Name of person. who observed the violation: _____	Date(s) the violation(s) were observed _____
I have personal knowledge of the facts contained in this Declaration. I am competent to declare the facts contained in this Declaration. If requested, I agree to appear and testify in an adjudicatory proceeding to the facts contained in this Declaration. I further agree to appear and testify without being served with a subpoena.	
Signature _____	Date _____
Address _____	
Phone Number or other Contact Information _____	

Return completed form to: Jack Swarsbrook 788 Devereaux Dr or email to prescottfoothillshoa@gmail.com

If you are mailing the form, please address to:

Foothills Property Owners Association, P.O. Box 2657, Prescott, AZ 86302