

Eagles Bluff - Canada Hills 14 Homeowners' Association
Resolution #2019-02 Imposition of a Fine or Other Sanctions

WHEREAS, the Subject Properties in the Eagles Bluff - Canada Hills Village 14 Homeowners Association are under jurisdiction of the Declaration of Covenants, Conditions, Restrictions (CC&R's) for the Association; and

WHEREAS, Covenants, Conditions and Restrictions (CC&R's) of the Eagles Bluff Village 14 Homeowners Association, recorded at Docket 9607 at Page 2275, gives the Board of Directors the power to promulgate rules, regulations, By-Laws, and policies, for the operation of the Association; and

WHEREAS, the Board of Directors desires to adopt a policy as it applies to the imposition of fines; and

WHEREAS, the Board of Directors has followed its own standards and procedures, which are both fair and reasonable; and

WHEREAS, the Board of Directors rendered this decision in good faith, and in a manner which is neither discriminatory nor capricious.

THIS RESOLUTION pertains to the revision to the imposition of fines or other sanctions for the Association, *#2003-03 Resolution of the Board of Directors Regarding the Imposition of Fines*, for when a specific Article, Section or Resolution to the Covenants, Conditions and Restrictions (CC&R's), has not been specified.

THEREBY, GOOD CAUSE EXISTING, IT IS HEREBY RESOLVED:

Pursuant to A.R.S. §33-1803 *Assessment limitation; penalties; notice to member of violation*, which provides that the Association, after notice to the Owner of the Lot, and an opportunity for a hearing, is entitled to impose fines and/or sanctions for violations of the Covenants, Conditions and Restrictions (CC&R's) and any rules, regulations or policies adopted by the Board. The procedure for imposing fines or other sanctions for such violations is set forth below:

1. Purpose of the Fine or Sanction

- 1.1. The Association wishes all its members, residents and guests to follow the rules of the Association. The imposition of a fine or other sanction is imposed as a last resort, when voluntary corrective action by the Owner of the Lot is not obtained.

2. Imposition of a Fine or Other Sanctions.

- 2.1. At the conclusion of a hearing, conducted pursuant to the due process procedures as described in Resolution #2019-01 - *Appeals and Due Process for Nuisances and Non-Compliance of CC&R's*, the Board of Directors shall determine the amount of the fine to be imposed, based on the seriousness of the violation, whether this is a first violation or a continuing violation, whether the type of offense poses a danger to any person or property, and whether the Owner of the Lot agrees to abate the violation within the time specified by the Board of Directors. After the amount of the fine is determined, the Board shall send a notice (An example is shown in Appendix A), to the Owner of the Lot via Registered Mail, Return Receipt, of the amount of the fine, its due date; and any other sanctions imposed by the Board of Directors. The Board has the power to impose a fine for each occurrence of the violation and to increase the fine and/or impose additional sanctions, based on the length of time the violation continues. As an additional penalty imposed upon the Owner of the Lot, the Board may require that the Owner of the Lot reimburse the Association for any attorney fees incurred by the Association or other costs, which relate to the violation and/or the hearing.

3. Continuing Violations

Each week a violation continues after the initial Notice of Violation has been given by the Board to the Owner of the Lot, and hearing conducted, constitutes an additional violation to the original offence, and shall be subject to a fine or other sanction.

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4. Fine and Sanction Schedule

Type of Violation	Week 1	Week 2	Week 3	Week 4	Week 5 - on	Sanction
General CC&R, Rules or Resolution violations, not involving Health & Safety	\$25	\$25	\$25	\$50	\$50/wk and ⁺	+Association may hire contractor to correct the violation and charge the Owner of the Lot for the all cost associated for the work performed.
Health & Safety Violations of the CC&Rs, Rules or Resolutions	\$100 ⁺	\$100 ⁺	\$100 ⁺	\$200 ⁺	\$200/wk and ⁺	+Association may hire contractor to correct the violation and charge the Owner of the Lot for the all cost associated for the work performed.
Non-Overnight Vehicle Parking Violations	\$25	\$25	\$25	\$50	\$50/wk and [*]	*Vehicle(s) may be towed away at owner's expense.
Overnight Vehicle Parking Violations	\$25	\$25	\$25	\$50	**	**Vehicle(s) will be towed away at owner's expense.

5. Payment of the Fine and/or Penalties. The Board shall notify the Owner of the Lot that any fine which is not paid within thirty (30) days of its due date is delinquent and is subject to a monthly late payment penalty of 1.5% of the amount due or \$15.00, whichever is greater.
6. Collection, Lien, Foreclosure.
- 6.1. Collection of any corrective costs incurred by the Association, fines, penalties and interest may be enforced against the Owner of the Lot, in the same manner as the collection of delinquent assessments.
- 6.2. Lien
When the Accounts Receivable for the Owner of the Lot, reaches or exceeds \$500 USD, or the annual assessment of the Association membership, whichever is less, the Association shall place a lien upon the property.
- 6.3. Foreclosure
When the Accounts Receivable for the Owner of the Lot, reaches or exceeds \$10,000 USD or the Pima County Taxable Net Assessed Value of the real estate property, whichever is less, the Association reserves the right to begin foreclosure proceedings, pursuant to A.R.S. §33-1807 *Lien for assessments; priority; mechanics' and materialmen's liens*.

Confirmed this 18th day of April, 2019 at a meeting of the Board of Directors.

The effective date of this resolution is April 30, 2019.

President

Date

Secretary

Date

Eagles Bluff - Canada Hills 14 Homeowners' Association
Notice of a Fine or Other Sanction

[Date]

[Name of Owner]

[Address]

[Address]

[City, State ZIP]

VIA: Registered, Return Receipt Mail

RE: Lot # _____, Imposition of Fine and Sanctions for Violation of the
Declaration of Covenants, Conditions and Restrictions and/or Rules for
Eagles Bluff – Canada Hills Village 14

Dear _____:

After the hearing conducted on _____, the Board of Directors determined that it was appropriate to impose a fine and/or sanction against you for your violation of the Declaration/Rules of Eagles Bluff – Canada Hills Village 14.

[The Board's decision is to include:

(a) The CC&R, Policy or Rule in violation (b) the amount of the fine, and any other sanctions imposed; (c) the amount of time for the Owner of the Lot to abate the violation, to avoid additional fines or sanctions; (d) the probationary length of time in which any subsequent violations of the same CC&R, policy or regulation of the Association Rules will result in automatic fines or sanctions]

This fine must be paid in full, within 30 days of the date of this notice. Any fine which is not paid within that time, will accrue a monthly late charge of 1.5% of the amount of the fine or \$15.00, whichever is greater. In addition, if the fine and any late fee is not paid when due, the Association reserves the right to place a lien against your Lot for such unpaid fines and late fees, and may either bring an action against you personally to collect the unpaid amounts or to foreclose its lien against your Lot. Any administrative and attorney fees incurred by the Association in collecting these fines will also be your responsibility.

Board of Directors of Eagles Bluff
Canada Hills Village 14 Homeowners' Association

Enclosures:
Notice of Violation
Notice of Hearing