

THE BOULDERS AT LA RESERVE HOMEOWNERS ASSOCIATION

Violation(s) of Condominium Documents Policy and Procedures

NOW, THEREFORE, IT IS RESOLVED that the Board of Directors of The Boulders at La Reserve Homeowners Association, pursuant to Arizona Revised Statutes 33-1242(A)(11), 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&R's) 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 / Resident of their violation of the CC&R's or a rule will be by means of a "friendly reminder" letter. The Association Manager will issue the notice to the resident. If the resident is not the owner, the notice will also be sent to the unit owner via email. If a current email is not available, the notice will go to the owner via US Mail to the owner's address of record.
- II. **"Notice of Violation"**: If within five (5) business days of the date of the "Friendly Reminder" compliance is not gained, a written **"Notice of Violation(s)"** together with a request to cease and desist from alleged violation(s) may be sent to the Owner of the unit via regular mail and shall specify the relevant facts relating to the violation.

Pursuant to ARS 33-1242(C), the Notice of Violation(s) shall include:

- (1) The provision (s) in the Declaration or Rules that has allegedly been violated
- (2) The date(s) of the alleged violation(s) or the date the violation was observed
- (3) The first and last name of the person or persons who observed the violation
- (4) The process the unit owner must follow to contest the notice

If the owner is leasing his/her unit, the Association may also provide a copy of the Notice of Violation(s) to the owner's tenant. At the Board's discretion, the Board may begin the process with the Notice of Violation, bypassing the Friendly Reminder. The Board may deviate from any guidelines herein based on the applications of the factors contained in paragraph VI below.

Per ARS 33-1242 (B): Within ten (10) business days after the date of the Notice of Violation, the owner must either correct the violation(s) or must provide the Association with a written response, by certified mail, directed to the address specified in the notice. As a result, one of three actions shall be taken:

1. If the violation(s) is corrected in response to the Notice of Violation(s) within ten (10) business days, no fine shall be levied against the owner.
2. If the owner contests the violation by requesting a hearing with the Board of Directors (at a time and date to be set by the Board at its earliest possible convenience), the Board shall respond to the owner within ten (10) business days after receipt of the owner response with the hearing date, time and location (and any other details required to conduct the hearing) via U.S. mail.
3. If the owner fails to correct the violation(s) or does not request a hearing by the Board of Directors within ten (10) business days after the date of the Notice of Violation, use of recreational Common Element privileges, including pool, spa, clubhouse and fitness center, may be suspended and fine(s) may be assessed.

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

IV. Hearing:

- (a) The hearing shall be held in Executive Session, pursuant to the Condominium Documents, either in person or through technological devices, and the unit owner shall be afforded a reasonable opportunity to be heard. In cases in which a complaining unit owner initiated the process, the Board shall evaluate the proof according to protocol adopted by the Board.
- (b) Should the unit owner fail to appear at the hearing, sanction(s) become effective immediately, provided the Association is able to produce 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 unit owner's file.
- (d) The notice requirement is satisfied if the unit owner appears at the meeting.
- (e) At the conclusion of the meeting, the unit owner will be excused from the meeting and the Board shall issue a ruling on whether sanction(s) will be imposed, including suspension of rights, fine(s), payment of administrative cost(s) and attorney fees incurred by the Association.
- (f) The minutes of the meeting shall contain a written statement of the results of the hearing and the sanctions, fines, costs and fees, if any, as recommended by the Board.
- (g) The Board shall send written notice to the unit owner of its ruling.
- (h) The ruling of the Board will be final.

V. Imposition of Fine and any other Sanctions:

- (a) **Fines** – At the conclusion of the hearing, the unit owner may be excused from the hearing and the Board of Directors shall deliberate on the amount of the fines to be imposed, if any, based on:
 - The seriousness of the violation;
 - 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 and whether the unit 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 determines the amount of the fine, the Board of Directors shall send notice to the unit owner of the amount of the fine and its due date;
 - The Board of Directors is empowered to impose a fine for each day that the violation(s) continues. **SEE ATTACHMENT A - FINES GUIDELINES;**
 - **The attached Fine Guidelines are not binding. The Board of Directors may impose a fine in any reasonable amount, based on the application of the factors above.**

VI. Payment of the Fine and/or Penalties: The Board shall advise the unit owner that any fine, which is not paid within ten (10) business 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 unit owners.

VIII. Effective Date: The Board of Directors of Boulder Canyon adopted this Violation(s) of Condominium Documents Policy and Procedures on the 21st day of January 2015.

IX. Associated Policies: Please see the following documents (located on the Boulder Canyon HOA web site at: <http://bouldercanyonhoa.com/Documents.html>) which contain additional requirements associated with this Boulder Canyon HOA violation policy:

- (a) Pool/Spa & Fitness Center Rules
- (b) Lease Requirements and 30 Day Rental Policy

ATTACHMENT A – FINES GUIDELINES

1. No fine shall be assessed until the unit owner who has committed a violation has been given due written notice and an opportunity for a hearing.
2. Presumptive fines are as follows:
 - (a) Violations of the 30 day leasing / rental policy: \$300.00 for first and subsequent occurrences;
 - (b) Unapproved and unauthorized use of common element areas for events or parties other than those which have received explicit PRIOR Board approval are prohibited: \$300.00
3. The Board shall also have the authority to increase the presumptive fines above for additional violations of the same nature.
4. Monetary fines for other violation(s) of the governing documents and/or rules and regulations of the Association may be assessed as follows:
 - First violation \$ 100
 - Second violation (of the same nature) \$ 150
 - Third violation (of the same nature) \$ 200
 - Each violation after the third (of the same nature) \$ 300
5. An additional fine that accrues each day may be assessed after the aforementioned fines have been assessed if the violation is a continuing one. (**Example:** A unit owner installs an improvement without ARC approval. A first violation fine of \$100 is assessed. If the violation continues uncorrected, an additional fine in a reasonable amount may be assessed for each day until the violation is corrected. The unit owner ultimately corrects the violation. The unit owner installs another improvement without ARC approval. A second violation fine of \$150 is assessed. If the violation continues uncorrected, an additional daily fine may be imposed until the violation ceases).
6. The amounts of the: 1) presumptive fines above; 2) other fines; 3) daily fines and 4) increasing fines of similar violations are mere guidelines. The Board shall have the specific authority to deviate from these guidelines 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 unit 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
7. The Board may impose non-monetary penalties in lieu of, or in addition to, the fines above, including, but not limited to, the suspension of member voting rights; suspension of recreational Common Element privileges, including the pool, spa, clubhouse and fitness center; or placing violation stickers on wrongfully parked vehicles.

It is the obligation of the unit owner to advise the Association in writing, via email or U.S. Mail, that the violation has ceased.