

EAGLES RESERVE RESOLUTION ON VIOLATIONS / FINES / SUSPENSION OF USE RIGHTS

Effective Date: April 11, 2017

- 1. **Purpose.** To foster a harmonious, well-regarded community by consistently and fairly implementing and enforcing rules, policies and procedures that comply with §720.305 (2) and (3) of Florida Statutes (2016):
 - A. The Board of the Association may levy fines for violations of the Association’s Governing Documents; and
 - B. The Board of the Association may suspend rights to use common areas and facilities if a lot owner, tenant, guest or invitee of a lot owner is more than 90 days delinquent in paying any fee, fine, or other monetary obligation due to the Association until the fee, fine, or other monetary obligation is paid in full; and
 - C. The Board of the Association may establish procedures for the imposition of fines and suspensions and to fix the fine or suspensions for some common violations.

2. **Definitions.**

- A. **Governing Documents.** The term “Governing Documents” throughout this resolution are the Declaration of Covenants and Restrictions (C&R) for Eagles’ Reserve as it may have been amended from time to time, and any Community Rules and Regulations (R&R) passed by the Board of Directors as they may have been amended from time to time.
- B. **Violator.** The term “Violator” throughout this resolution shall include the lot owner. If the person who has committed the violation is a tenant, guest, or invitee of a lot owner, then the lot owner and the person who has committed the violation shall be deemed a Violator. They shall both be entitled to any notices and right to a hearing, and shall be jointly and severally liable for any fine or suspension.
- C. **Violations/Fine Amount** shall be as follows:

	Violation	Fine Amount
1)	Property alterations and/or improvements made without Architectural Review Committee (ARC) approval	\$100/day for a continuing violation up to a maximum of \$1,000.00 aggregate
2)	Allowing tenants to move in prior to Board approval per Supplemental Leasing Rules	
3)	Garbage cans improperly stored	
4)	Unauthorized signs on property	
5)	Not removing holiday decorations by 15 th day after the holiday	
6)	Visible advertising signage on personal vehicle parked in driveway or parking lot	

If the violation does not fall within the above categories, then the Board shall consider the imposition of the fine on a case by case basis.

3. **Noticing Procedure.**

- A. **Courtesy Letter.** For the first violation of any provision of the Governing Documents a friendly reminder (Courtesy Letter) shall be sent to the Violator. **See template “Courtesy Letter” attached.**
- B. **Warning Letter.** If the Violator does not come into compliance after receiving the Courtesy Letter, a second letter (Warning Letter) will be sent to the Violator informing the Violator that a fine or suspension shall be levied against him unless compliance is achieved by a specified date. **See template “Warning Letter” attached.**
- C. **Fine Letter.** If the Violator does not come into compliance after receiving the Warning Letter, a third letter (Fine Letter) will be sent to the Violator. A fine will be imposed for violations as described in paragraph 2.C above without any further action by the Board of Directors. The fine will be final unless the Violator requests a hearing before the Fining Committee. The

procedures for the Fining Committee are in paragraph 4 below. **See template "Fine Letter" attached.**

- D. Note: expense of certified letters/return receipt requested will be charged to the lot owner's account.

4. Fining Committee Procedure.

- A. The Fining Committee ("Committee") of at least three members (who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of an officer, director, or employee) shall be appointed by the Board.
- B. A majority of the Committee shall constitute a quorum.
- C. At least a fourteen (14) day written notice of the Committee hearing by certified mail/return receipt shall be given to all persons who may be fined or suspended, and if the person to be fined or suspended is a tenant, guest, or invitee of the lot owner, then the lot owner shall be provided notice as well.
- D. If a Violator makes a timely request for a Committee hearing, at the hearing:
- 1) The Association shall provide to the Committee copies of all notices that have been given to the Violator.
 - 2) The Association shall provide any other evidence of the violation that it deems appropriate.
 - 3) The Violator shall provide to the Committee any evidence in defense as he or she deems appropriate.
 - 4) The Committee shall not be governed by any rules of evidence. Each Committee member may weigh the facts and determine the reliability of the evidence as he or she may decide.
 - 5) When the Association and the Violator have completed their submissions, the Committee shall deliberate. The Committee may exclude the Violator from its deliberations.
 - 6) Upon the close of deliberations, the Committee shall vote. The Committee may exclude the Violator from its vote.
 - 7) If the Committee, by majority vote, does not approve a proposed fine or suspension, it will not be imposed. The Committee cannot change the amount of the proposed fine.
 - 8) If the Committee votes in favor of a fine or suspension the Association will provide written notice of such fine or suspension by certified mail/return receipt or hand delivery to the lot owner and, of applicable, to any tenant, guest, or invitee of the lot owner. **(See template "Notification of Decision" attached.)**
 - 9) A lot owner will be jointly and severally liable for any fine imposed upon his or her tenant, guest, or invitee, and shall be subject to any suspension imposed upon his or her tenant, guest, or invitee.
 - 10) The person to be fined shall be given 30 days from the date of the notice to pay the fine.
- E. If a Violator does not make a timely request for a Committee hearing, the fine shall be deemed final and shall be due as set forth in paragraph 4.D.10 above.

5. Suspension of the right to use common areas (pool, tennis court, parking lots) for those who are more than 90 days delinquent in monetary obligations:

- A. Must be approved at a properly noticed Board of Directors meeting, and recorded.
- B. The timed, serial notices and hearing requirements specified above in relation to the violation/fines procedure do not apply to use rights suspension for monetary violations. See 720.305 (3).
- C. The Association's Manager will send the owner a Suspension of Rights Use Notification letter when requested to do so by the Board, after approval at the properly noticed meeting. **(See template "Suspension of Use Rights Notification".)**

COURTESY LETTER

Eagles' Reserve Homeowners' Association, Inc.
c/o Ameri-Tech Community Management, Inc.
24701 US Highway 19 North, Suite, 102
Clearwater, FL 33763
727-723-1101 (Ext 256)

(Date)

(Name/address)

Re: Violation of Governing Documents / First Notice

Dear (Owner Name):

It is the obligation of the Board of Directors to ensure that each resident and homeowner in our Community adheres to the Declaration of Covenants and Restrictions (C&R) set forth in our governing documents, and to the established Community Rules and Regulations (R&R). This is important in order to preserve and maintain property values, and to promote harmony and wellbeing in our community. In keeping with this responsibility, the Board of Directors and management routinely review the use and condition of properties to ensure compliance, which affects the community as a whole.

It has been observed that you are in violation of the Association's Governing Documents.

- The violation is the following: **state violation**
- The provision of the Governing Documents that is being violated is the following: **(C&R/R&R paragraph #) which says: copy the sentence...**
- To come into compliance you must: **state remedy**
- We require that you come into compliance within **X** days of the date of this letter.

If you have any questions or concerns about this notice or the expected outcome, please feel free to contact me at the telephone number listed above.

On behalf of the Eagles' Reserve Board of Directors, thank you for your prompt attention to this concern.

Sincerely,

Manager's Name

Notes:

1. If the person who has committed the violation is a tenant, guest, or invitee of a lot owner, then the lot owner and the person who has committed the violation are jointly responsible for the violation and coming into compliance. If the Association knows that this dwelling is occupied by a tenant, both the owner and the tenant will receive this notice.
2. For the purposes of this letter, the "Governing Documents" are the Declaration of Covenants and Restrictions (C&R) for Eagles' Reserve as it may have been amended from time to time, and any Rules and Regulations (R&R) passed by the Board of Directors as they may have been amended from time to time.

Cc: Association file

Certified Mail / Return Receipt

WARNING LETTER

Eagles' Reserve Homeowners' Association, Inc.
c/o Ameri-Tech Community Management, Inc.
24701 US Highway 19 North, Suite, 102
Clearwater, FL 33763
727-723-1101 (Ext 256)

(Date)

(Name/address)

RE: Violation of Governing Documents / Second Notice

Dear (Owner Name):

It is the obligation of the Board of Directors to ensure that each resident and homeowner in our Community adheres to the Declaration of Covenants and Restrictions (C&R) set forth in our governing documents, and to the established Community Rules and Regulations (R&R). This is important in order to preserve and maintain property values, and to promote harmony and wellbeing in our community. In keeping with this responsibility, the Board of Directors and management routinely review the use and condition of properties to ensure compliance, which affects the community as a whole.

This letter is your SECOND NOTICE of a violation of the Association's Governing Documents.

- The violation is the following: **state violation**
- The provision of the Governing Documents that is being violated is the following: **(C&R/R&R paragraph #) which says: copy the sentence...**
- To come into compliance you must: **state remedy**
- This letter is a Notice that unless the violation is corrected within **X** days* of the date of this letter, **A FINE WILL BE IMPOSED AGAINST YOU** for each day that the violation continues thereafter, or in one lump sum. (* This may be at least 14 days, but may be greater.)

In order to avoid having a fine levied against you, your prompt correction of the above-mentioned violation is expected.

Sincerely,

Manager's Name

Notes:

1. If the person who has committed the violation is a tenant, guest, or invitee of a lot owner, then the lot owner and the person who has committed the violation are jointly responsible for the violation and coming into compliance. If the Association knows that this dwelling is occupied by a tenant, both the owner and the tenant will receive this notice.
2. For the purposes of this letter, the "Governing Documents" are the Declaration of Covenants and Restrictions (C&R) for Eagles' Reserve as it may have been amended from time to time, and any Rules and Regulations (R&R) passed by the Board of Directors as they may have been amended from time to time.

Cc: Association File

Certified Mail / Return Receipt

FINE LETTER

Eagles' Reserve Homeowners' Association, Inc.
c/o Ameri-Tech Community Management, Inc.
24701 US Highway 19 North, Suite, 102
Clearwater, FL 33763
727-723-1101 (Ext 256)

(Date)

(Name/address)

RE: Violation of Governing Documents / Imposition of Fine

Dear (Owner Name):

You have previously received two letters from us; each notifying you that you were in violation of the Eagles' Reserve Homeowners' Association, Inc. ("Association") Governing Documents. The second notice informed you that unless the violation ceased by a specific date*, a fine would be imposed against you for each day the violation continued thereafter. (*This was at least 14 days, but could have been more.)

The violation has not ceased. You remain in violation. **This letter IMPOSES A FINE AGAINST YOU subject to your request for a hearing as follows:**

1. A fine is being imposed against you in the amount of \$XXXX, representing a \$XXX fine per day for a continuing violation up to a maximum of \$1,000.00 in the aggregate as described below:

Description of Violation	Date(s) of Violation/Notices	Amount of fine/day	Total Fine

2. This fine is being imposed against you because:
- A. The second notice you received warned you that the violation would result in a fine being imposed against you, and
 - B. Since giving you that written warning, you continue to be in violation
3. The fine shall be due within thirty (30) days of the date of this notice.
4. You may request a hearing before the Association's Fining Committee by delivering a request for a hearing by US certified mail, return receipt requested to the Association manager at the address shown at the top of this letter.
5. Your request for a hearing must be post-marked no later than fourteen (14) days after the date this notice of a violation was received by you.
6. If you do not make a timely request for a hearing, the fine shall be deemed final and shall be due as set forth in #3 above.
7. If you make a timely request for a hearing:
- A. You will be given notice of the hearing, and
 - B. The due date for the fine shall be abated; and
 - C. You may attend the hearing and make a presentation in your defense; and
 - D. After you have made your presentation, the Fining Committee will vote.
 - E. If the Fining Committee by majority vote does not approve the fine, it will not be imposed. If the Fining Committee by majority vote approves the fine, it will be imposed and the abatement will end.
8. The Association will not reply to any communication from you with regard to this matter, except for a reply to your timely request for a hearing before the Fining Committee (in order to notify you of the date, time and location of the meeting).

Sincerely,

Manager's Name

Note:

If the person who has committed the violation is a tenant, guest, or invitee of a lot owner, then the lot owner and the person who has committed the violation are jointly responsible for the violation and coming into compliance. If the Association knows that this dwelling is occupied by a tenant, both the owner and the tenant will receive this notice.

Cc: Association File

Certified Mail / Return Receipt

NOTIFICATION OF DECISION

Eagles' Reserve Homeowners' Association, Inc.
c/o Ameri-Tech Community Management, Inc.
24701 US Highway 19 North, Suite, 102
Clearwater, FL 33763
727-723-1101 (Ext 256)

(Date)

(Name/address)

RE: **Notification of Decision of the Fines Committee**

Dear (Owner Name):

Your case was presented at the hearing of the Fines Committee held on (date).

Choose either the red text or the blue text and delete the one not used!!!!!!!!!!!!!!

It is the decision of the Committee that a fine of (\$XXX) be charged against your account. Accordingly, an invoice is attached herein. Your payment is due within thirty (30) days.

Note that failure to pay the fine within ninety (90) days may result in the suspension of your right to use common facilities until paid and may result in additional legal and collection actions being taken against you. Please send immediate payment to the address listed above.

OR

It is the decision of the Committee that no fine be levied.

Sincerely,

Manager's Name

Cc: Association File

Certified Mail / Return Receipt

SUSPENSION OF USE RIGHTS NOTIFICATION

Eagles Reserve Homeowners Association
c/o Ameri-Tech Community Management, Inc.
24701 US Highway 19 North, Suite, 102
Clearwater, FL 33763
727-723-1101 (Ext 256)

(Date)

(Name/address)

Subject: **Suspension of Use Rights** Pursuant to §720.305(3), (5) and (6) *Florida Statutes*

Senate Bill 1196 became law on July 1, 2010, and with its enactment Homeowners Associations were empowered with the authority to suspend the use rights for the common areas, common facilities, or other association property if the homeowner is delinquent for more than ninety (90) days in the payment of a monetary obligation due the association.

§720.305, *Florida Statutes*, states:

- (3) *If a member is more than 90 days delinquent in paying any fee, fine, or other monetary obligation due to the association, the association may suspend the rights of the member, or the member's tenant, guest, or invitee, to use common areas and facilities until the fee, fine, or other monetary obligation is paid in full. This subsection does not apply to that portion of common areas used to provide access or utility services to the parcel. A suspension may not prohibit an owner or tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park. The notice and hearing requirements under subsection (2) do not apply to a suspension imposed under this subsection.*
- (5) *All suspensions imposed pursuant to subsection (3) or subsection (4) must be approved at a properly noticed board meeting. Upon approval, the association must notify the parcel owner and, if applicable, the parcel's occupant, licensee, or invitee by mail or hand delivery.*
- (6) *The suspensions permitted by paragraph (2)(a) and subsections (3) and (4) apply to a member and, when appropriate, the member's tenants, guests, or invitees, even if the delinquency or failure that resulted in the suspension arose from less than all of the multiple parcels owned by a member.*

This notice is being sent to you pursuant to the requirements set forth in §720.305(3) and (5), *Florida Statutes*. The Board of Directors of the Eagles' Reserve Homeowners' Association, at a properly noticed Board of Directors meeting on _____, 201_, voted to suspend the use rights for the common areas (including the pool, tennis courts, and common parking lots) because you are at least 90 days delinquent in the payment of a monetary obligation due the homeowners association. It applies to yourself, your tenants, guests or invitees. Note that any costs associated with the towing of a vehicle from a common lot will be the responsibility of the owner of the vehicle. Should further legal action be necessary in this matter, you will be held responsible for any further attorney's fees and costs incurred.

The suspension ends upon full payment of all obligations currently due or overdue the Association. We urge you to contact our office without further delay to make payments.

Should you have any further questions or concerns, please do not hesitate to contact me.

Sincerely,

Manager's Name

Cc: Association File

Certified Mail / Return Receipt