

## **Fine and Enforcement Policy of \*Association, Inc.**

1. **Purpose.** The purpose of imposing fines, sanctions and other enforcement penalties, such as suspension of voting rights or ability to use common areas, is to prevent and remedy violations of the **Declaration of Covenants, Conditions, Restrictions, Reservations and Easements for the properties submitted into the \_\_\_\_\_ Homeowners Association, Inc.** (the “Association”); the Articles of Incorporation and By-Laws of the Association; and its duly adopted Rules and Regulations (collectively the “Governing Documents”), to encourage Members in violation of the Governing Documents to correct such violations as quickly as possible, and to serve all other purposes expressly or impliedly provided in the Governing Documents.

2. **Authority.** The Board, acting through its authorized agents and pursuant to the Governing Documents, has the power to impose fines, sanctions and other enforcement penalties. The Board may designate one or more persons or committees to document violations, to determine the type and amount of proposed sanctions, to provide notice of violations and proposed sanctions, to determine whether violations have ceased or abated, to hold hearings concerning violations and sanctions, to make final determinations concerning violations and sanctions, and to pursue self-help remedies to abate violations.

3. **Notice of Violation.**

A. **Courtesy Notice.** Upon receipt of documentation of a violation the Board shall cause an initial “Courtesy Notice” written notice via prepaid, first-class U.S. mail or personal delivery to the lot, or to the Owner’s address as it appears on the books of the Association, if different, which “Courtesy Notice” shall include (i) a description of the nature of the violation; (ii) a period to cure the violations; and (iii) a statement that unless the violation is cured, the Owner may be subject to sanctions and any costs and expenses incurred by the Association, including its attorney’s fees.

B. **Notice of Proposed Sanctions and Opportunity for Hearing.** Prior to imposition of any sanction for a violation of the Governing Documents (except the suspension of voting rights for nonpayment of Dues and Assessments, which shall be automatic as of the day same is declared late or delinquent hereunder), and in the event that an Owner fails to cure a violation after the receipt of a Courtesy Notice, the Board shall provide the owner of the lot and/or tenant with written notice via prepaid, first-class U.S. mail or personal delivery to the lot, or to the Owner’s address as it appears on the books of the Association, if different. In the event that the Owner has provided the Association with an electronic mail address, then the Association, in lieu of providing notice by first-class U.S. Mail or personal delivery, may choose to deliver said notice to the electronic mail address provided by the Owner. By providing an electronic mail address to the

Association, the Owner expressly elects to receive any notice of violation exclusively through said electronic mail address. The written notice shall describe, at a minimum:

- (1) the nature of the alleged violation;
- (2) the proposed sanction to be imposed;
- (3) a period of not less than ten (10) days to cure the alleged violation or present a written request to the Board for a hearing (the "Cure Period"); and
- (4) a statement that the proposed sanction shall be imposed unless (i) the violation is cured to the reasonable satisfaction of the Board, or (ii) a hearing is requested in writing within Cure Period.

It shall be the violator's duty and burden to present the Board with evidence that the violation has been remedied within the Cure Period. If the violation is not cured or written notice requesting a hearing is not received in the time allotted, the action stated in the notice shall be imposed.

C. Notice of Sanction. If an Owner fails to cure the violation or fails to request a hearing within the Cure Period, then the sanction set forth in the Notice of Proposed Sanctions and Opportunity for Hearing shall become final and the Association shall cause a written notice via prepaid, first-class U.S. mail or personal delivery to the lot, or to the Owner's address as it appears on the books of the Association, if different, stating that the sanction is final, that it will continue until the violation is cured, and that the Owner will be responsible for all additional costs and expenses incurred by the Association, including its reasonable attorneys' fees, as it relates to the violation and the sanction.

D. Ephemeral Violations. For ephemeral, transient or other violations for which a cure period is inapplicable, then the Board can issue a warning and notice that if the same violation occurs at a later time, the Owner will be subject to sanctions without an opportunity to cure. In that case, the Association shall cause a Notice of Proposed Sanctions and Opportunity for Hearing and a Notice of Sanction for each subsequent violation as applicable. The Owner will not have an opportunity to cure such violation, but will have the opportunity to request a hearing and will be entitled to notice of the fine imposed.

4. Hearing. An owner or resident may request a hearing before the Board by providing the Board with written notice of such a request within the Cure Period, as set forth in the Notice of Violation. Any such written request for a hearing must detail, with specificity, the reason(s) that the alleged violator objects to the characterization of the violation or the proposed sanction. If the Board does not receive a written request for hearing prior to the expiration of the Cure Period, the findings and proposed sanctions set forth in the Notice of Violation shall become final.

If a hearing is requested in a timely manner, the Board shall set a date for the hearing no more than thirty (30) after the date the written request for a hearing is received. The Board shall provide written notice of the date, time and place of the hearing to notice via prepaid, first-class

U.S. mail or personal delivery to the Unit that is subject to the violation, or to the Owner's address as it appears on the books of the Association, if different.

The hearing shall be held at the date, place and time as set forth in the Notice of Hearing. If the person who requested the hearing fails to appear, then the sanctions set forth in the Notice of Violation shall become final and shall be imposed. The person who requested the hearing shall be entitled to produce evidence at the hearing. The Board is not required to produce any evidence at the hearing and shall be entitled to rest on the allegations set forth in the Notice of Violation, which are presumed to be true and accurate.

Within ten (10) days of the conclusion of the hearing, the Board shall provide the person who requested the hearing with a notice of its decision, including sanctions imposed, via prepaid, first-class U.S. mail or personal delivery.

**5. Sanctions.** The Board may enforce violations through fines, sanctions and other enforcement mechanisms, such as the revocation of voting rights or suspension of access to common areas. The nature and amount of any sanction shall be at the discretion of the Board and shall take into account factors such as (i) the nature and seriousness of violation; (ii) prior violations by the Lot owner; (iii) efforts to abate the violation; and (iv) other aggravating or mitigating factors. The Board may impose one-time fines or, for violations of a continuing nature, recurring, such as daily or weekly, fines until the violation is corrected. Attached hereto as **Exhibit A** is a schedule of fines for various violations. The attached exhibit is non-exclusive and the Board shall have the authority and discretion to adjust any fine due to aggravating or mitigating circumstances and to impose a fine upon any violation of the Governing Documents not expressly listed in the attached schedule.

**6. Lien.** Any fine or other monetary sanction imposed for the violation of the Governing Documents, together with interest, costs, and reasonable attorney's fees relating to the violation, failure to pay the fine or other monetary sanction, and enforcement of same, shall be the personal liability of the owner(s) of the lot at the time the fine was imposed and shall also be a charge on the lot, and shall constitute a lien on the lot, beginning on the date the fine or other monetary sanction is imposed, and shall be a continuing lien upon the lot until paid in full.

**7. Additional Enforcement Rights.** Notwithstanding anything to the contrary herein contained, the Association, acting through the Board, may elect to enforce any provision of the Governing Documents by self-help (specifically including without limitation entering into said lot(s) to remedy an uncured violation following notice provided for herein), or by suit at law or in equity to enjoin any violation or to recover monetary damages or both without the necessity of compliance with the procedure set forth herein. In any such action, to the maximum extent permissible, the person who owned the lot(s) at the time of the violation of which abatement was or is sought shall be liable for all costs and expenses incurred in engaging in such self-help and remedying said violation, including without limitation administrative fees, costs, and expenses of such self-help which shall be considered a fine hereunder, and late fees and interest, and attorneys' and professional fees incurred in pursuing in any rights or remedies available under the Governing Documents, and said amounts shall constitute a continuing lien on the lot(s) or unit as stated herein. In the event that an Owner fails to comply with any Governing Document after being provided notice and opportunity to cure same, or fails to pay any duly levied fine or

comply with any other duly levied sanction, then the Association may retain counsel to enforce the Governing Document, pay the fine, or otherwise enforce a sanction, and the costs and expenses of same, including reasonable attorneys' fees, shall be both the personal obligation of the property owner and a lien on the property as set forth herein.

Adopted by the Unanimous Written Consent of the Board of Directors of the Homeowners Association, Inc., dated the \_\_\_ day of [MONTH], [YEAR].

By: \_\_\_\_\_  
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BLLF  
BILLINGS LAW FIRM, PLLC

**EXHIBIT A**

**SCHEDULE OF FINES**

Unless a different amount is stated in a Notice of Violation, the fine for any violation of the Governing Documents shall be \$25.00 per day or \$25.00 per violation for ephemeral violations, as applicable.

