

## **HERITAGE OF HAWK RIDGE COMMUNITY ASSOCIATION**

### **VIOLATION, FINE AND ENFORCEMENT POLICY**

The guiding principles of the Heritage of Hawk Ridge Community Association (HHRCA) are to foster a pleasing and wholesome residential environment and strive to maintain and enhance property values within the community.

The Association is empowered to enforce the Declaration of Covenants, Conditions, and Restrictions, Bylaws, and the Rules and Regulations promulgated by the Association pursuant to the Declaration, as adopted and amended from time to time (collectively, the "Documents"), including the obligation of Owners to comply with terms and provisions of the Declaration. The Board hereby adopts this Violation, Fine and Enforcement Policy to establish equitable policies and procedures for the levy and enforcement of fines within the Association. These policies do not replace the "Documents" which remain the ultimate governing laws of our Association. It is the intent of the Association that any monetary fines imposed against an Owner pursuant to the Declaration, Bylaws or Rules and Regulations of the Association shall constitute a lien against the Lot of such Owner to the same extent as if such fines were an assessment against such Lot, as stated in the Declaration of Covenants, Conditions and Restrictions, Article V.1.

Terms used in this policy, but not defined, shall have the meaning subscribed to such term in the Documents.

1. Policy - The Association uses fines to discourage violations of the Documents, and to encourage compliance when a violation occurs – not to punish violators or generate revenue for the Association. Although a fine may be an effective and efficient remedy for certain types of violations or violators, it is only one of several methods available to the Association for enforcing the Documents. The Association's use of fines does not interfere with its exercise of other rights and remedies for the same violation.
2. Owner's Liability – An Owner is liable for fines levied by the Association for violations of the Documents by the Owner and the relatives, guests, employees, and agents of the Owner. Regardless of who commits the violation, the Association may direct all communications regarding the violation to the Owner.
3. Amount – The Association may set fine amounts on a case by case basis, provided the fine is reasonable in light of the nature, frequency, and effects of the violation. The Association may establish a schedule of fines for certain types of violations. The amount and cumulative total of a fine must be reasonable in comparison to the violation, and should be uniform for similar violations of the same provision of the Documents. If the Association allows fines to accumulate, the Association may establish a maximum amount for a particular fine, at which point the total fine will be capped.
4. Violation Notice – Because of the unique nature of HHR and its residents, many who travel or live part of the year outside of HHR, notification efforts will consider more than just USPS mail, including email and/or telephonic means such as text messaging. Before levying a fine, the Association will give the Owner a written

violation notice and an opportunity to be heard. This requirement may not be waived. The Association's written violation notice will contain the following items:

- (1) the date the violation notice is prepared or mailed;
- (2) a description of the violation;
- (3) a reference to the rule or provision;
- (4) a description of the action required to cure the violation;
- (5) the time frame in which the violation is required to be cured;
- (6) the amount of the fine;
- (7) a statement explaining that not later than thirty (30) days after the date of the violation notice, the Owner may request a hearing before the Board to contest the violation; and
- (8) the date the fine attaches or begins accruing, subject to the following:

(a) New Violation – If the Owner has not been given notice and a reasonable opportunity to cure the same or similar violation within the preceding six (6) months, the notice will state a specific time frame by which the violation must be cured to avoid the fine. The notice must state that any future violation of the same rule may result in the levy of a fine.

(b) Repeat Violation – In the case of a repeat of the same or similar violation of which the Owner was previously notified and the violation was cured within the preceding six (6) months, the notice will state that, because the Owner was given notice and a reasonable opportunity to cure the same or similar violation but the violation has occurred again, the fine attaches from the date of the expiration of the cure period in the violation notice.

(c) Continuous Violation – If an Owner has been notified of either a new violation or a repeat violation in the manner and for the fine amounts as set forth in the Schedule of Fines below and the Owner has never cured the violation in response to either the notices or the fines, in its sole discretion, the Board may determine that such a circumstance is a continuous violation which warrants a levy of a fine based upon a daily, monthly, or quarterly amount as determined by the Board. The fine shall begin accruing upon the expiration of the cure period in the violation notice informing the Owner of the Board's decision, the amount of the fine and the Owner's failure and/or refusal to cure the violation.

5. Violation Hearing – To request a hearing before the Board, the Owner must submit a written request to the Association within thirty (30) days after the date of the violation notice. Within fifteen (15) days after the Owner's request for a hearing the Association will give the owner at least fifteen (15) days advance notice of the date, time, and place of the hearing. The hearing will be scheduled to provide a reasonable opportunity for both the Board and the Owner to attend. Pending the hearing, the Association may continue to exercise its other rights and remedies for the violation as if the declared violation were valid. The Owner's request for a hearing suspends only the levy of a fine. The hearing will be held in a closed or executive session of the Board. At the hearing, the Board will consider the facts and circumstances surrounding the violation. The Owner may attend

the hearing in person, or may be represented by another person or written communication. If an Owner desires to make a digital recording of the hearing, the Owner's request for hearing shall include a statement noticing the Owner's intent. No audio or video recording of the hearing may be made unless otherwise approved by the Board. The minutes of the hearing must contain a statement of the results of the hearing and the fine, if any, that is levied. A copy of the violation notice and request for hearing should be placed in the minutes of the hearing. If the Owner appears at the meeting, the notice requirements will be deemed satisfied. Unless otherwise agreed by the Board, each hearing shall be conducted in accordance with the agenda attached hereto as Exhibit A.

6. Levy of Fine – Within thirty (30) days after levying the fine, the Association must give the Owner written notice of the levied fine. In addition to the initial levy notice, the Association will give the Owner periodic written notices of an accruing fine or the application of an Owner's payments to reduce the fine. The periodic notices may be in the form of monthly statements or delinquency notices.

7. Collection of Fines – The Association is not entitled to collect a fine from an Owner to whom it has not given written notice and an opportunity to be heard. The Association may not foreclose its assessment lien on a debt consisting solely of fines. The Association may not charge interest or late fees for unpaid fines.

8. Amendment of Policy – This policy may be revoked or amended from time to time by the Board. The notice may be published and distributed in an Association newsletter or other community-wide publication.

### **SCHEDULE OF FINES**

The Board has adopted the following schedule of fines. The number of notices set forth below does not mean that the Board is required to provide each notice prior to exercising additional remedies as set forth in the Documents. Fines commence upon the expiration of the Cure period provided in the Second Notice. The Board may elect to pursue such additional remedies at any time in accordance with the applicable law.

The Board of Directors has the authority to use their discretion to shorten the timeline given to correct gross violations which require immediate attention. The Board may also exercise this authority to make exceptions or grant extensions of a reasonable amount of time for correction due to extenuating circumstances.

## **GENERAL FINES**

<b>New Violation:</b>	<b>Fine Amount:</b>
1 <sup>st</sup> Notice	Courtesy Letter*
2 <sup>nd</sup> Notice	Warning*
3 <sup>rd</sup> Notice	\$50.00
4 <sup>th</sup> Notice	\$100.00
Each Subsequent Notice	\$125.00
<b>Repeat Violation:</b>	
1 <sup>st</sup> Notice	\$50.00
2 <sup>nd</sup> Notice	\$75.00
3 <sup>rd</sup> Notice	\$100.00
4 <sup>th</sup> Notice	\$125.00
Each Subsequent Notice	\$150.00
<b>Continuous Violation:</b>	
Final Notice	Amount TBD by the Board

\* If the violation is a lot maintenance violation, the Courtesy Letter will not be sent and the Notice will start with a Warning letter that will provide 14 days to correct the violation, and if not corrected, the HHRCA will have the authority to have a contractor enter the property and perform the maintenance or repair at the homeowner's expense.

Types of infractions to be considered as worthy of Warnings and Fines:

- Overgrown landscaping
- Trash, junk, or debris in the yard (trash containers are to be kept inside garage or basement)
- Improperly parked or inoperable vehicles (no parking in yards or common ground)
- Off-season holiday decorations (see Rules & Regulations for details)
- Mold/Mildew/Discoloration on siding
- Any changes to the outside of the home or to the landscaping around the home (including but not limited to plants that (potentially) infringe on neighbor's property) that have not been approved by the ARC

**EXHIBIT A**  
**HEARING BEFORE THE BOARD**

- I. Introduction: The President of the Board or his designee will preside at the hearing. The hearing officer will provide introductory remarks and administer the agenda.
- Hearing Officer: The Board has convened for the purpose of hearing an appeal by \_\_\_\_\_ from the penalties imposed by the Association for violation of the Documents. The hearing is being conducted as an opportunity for the appealing party to discuss, verify facts, and resolve the matter at issue. The Board would like to resolve the dispute at this hearing however, the Board may elect to take the appeal under advisement and conclude the hearing. If the matter is taken under advisement, a final decision will be communicated in writing within fifteen (15) days.
- II. Presentation of Facts:
- Hearing Officer: This portion of the hearing is to permit a representative of the Association the opportunity to describe the violation and to present photographs or other material relevant to the violation, fines or penalties. After the Association's representative has finished the presentation, the Owner or its representative will be given the opportunity to present photographs or other material relevant to the violation, fines or penalties. The Board may ask questions during either party's presentation. It is requested that questions by the appealing party be held until completion of the presentation by the Association's representative.
- (Presentations)
- III. Discussion:
- Hearing Officer: This portion of the hearing is to permit the Board and the Owner to discuss factual disputes relevant to the violation. Discussion regarding any fine or penalty is also appropriate. Discussion should be productive and designed to seek, if possible, an acceptable resolution of the dispute. The Hearing Officer retains the right to conclude this portion of the hearing at any time.
- IV. Resolution:
- Hearing Officer: This portion of the hearing is to permit discussion between the Board and the appealing party regarding the final terms of the settlement if a resolution was agreed upon during the discussion phase of the hearing.

If no settlement was agreed upon, the Hearing Officer may: (1) request that the Board enter into executive session to discuss the matter; (2) request that the Board take the matter under advisement and adjourn the hearing; or (3) adjourn the hearing.