

HIGHPOINTE HOMEOWNERS ASSOCIATION
BOARD OF TRUSTEES

Rules and Regulations 2008-1

Dated March 18, 2008

Last Revised: June 23, 2020

TITLE: Compliance with Governing Documents: Fines, Fine Schedule, and the Right to be Heard/Opportunity for a Hearing

APPLICATION TO EXISTING DOCUMENTS: These Rules and Regulations 2008-1 replace, supersede, and amend all policies, rules, or resolutions with respect to the subject matters addressed herein to the extent such policies, rules or resolutions were adopted by the Board prior to the “Last Revised” date above. However, in the event of an inconsistency or conflict between these Rules and Regulations and the CC&Rs or Bylaws of the Association (as hereafter defined), the CC&Rs or Bylaws shall supersede and apply.

PRIMARY RESPONSIBILITY:

Board of Directors

- a) REFERENCES: Amended & Restated Declaration of Covenants, Conditions, and Restrictions for Highpointe, and any additions or amendments thereto (“CC&Rs”);
- b) Amended and Restated Bylaws of Highpointe Homeowners Association (“Bylaws”)
- c) R.C.W. 64.38.020(11)

PURPOSE:

To further and foster compliance by homeowners with the provisions and requirements of the CC&Rs, the Bylaws, Articles of Incorporation, the Plat of Pioneer Ridge, Rules & Regulations, and such other written instruments by which the Association has the authority to exercise any of the powers provided for therein or under applicable law, including without limitation any requirements imposed by the Architectural Control Committee when granting approvals (collectively, “Governing Documents”).

STANDARDS / PROCEDURE:

I. Violations, Investigations and Fines:

A. Introduction

Washington statute, R.C.W. 64.38.020(11) authorizes and empowers the Board of Directors or a representative designated by the Board of Directors to levy reasonable fines in accordance with a previously established schedule adopted by the Board of Directors and furnished to the Lot Owners for violation(s) of the Governing Documents of the Association.

B. Investigation/Notice of Violation:

1. When a possible violation is reported or otherwise becomes known to the Board of Directors, it will be investigated by the Board or its designated representative(s), and a determination made as to whether a violation has occurred.
2. **Notice of a Violation:** If the Board determines a violation has occurred, written notice of the violation will be delivered to the offending Lot Owner. The notice shall state, to the extent applicable and reasonably ascertainable, the following: (a) the date(s) the alleged violation occurred; (b) the location or site address of the alleged violation; and (c) the fines or penalties that will be imposed if the violation is determined to be valid after the offending Lot Owner has been provided with an "opportunity to be heard."
3. **Notice of Compliance Deadline:** If the violation is a continuing or ongoing violation (as opposed to an intermittent violation), the Notice of Violation shall give a deadline by which the offending Lot Owner shall bring the violation(s) into compliance with the Association's Governing Documents. In each such violation notice for an ongoing or continuing violation of the Governing Documents (i.e. a violation that persists unabated for more than one day), the Board will determine a reasonable time period for compliance based on the nature of the violation, the circumstances of the Lot Owner, the property, the requirements and tasks required to correct the non-compliance, and the history of prior violations with respect to said Lot. Notwithstanding anything to the contrary herein, Lot Owners who have been found in violation of the same Governing Document provision more than once in the prior twelve (12) calendar months may be required, in the Board's sole discretion, to immediately comply with any violation notice issued by the Board for a second such violation in said twelve (12) calendar month period – the owner already having been informed that such conduct, action, inaction,

or omission violates the Governing Documents and having already been provided with the chance to comply.

4. Notice of Right to a Hearing: Upon receipt of a violation notice from the Association, the offending Lot Owner shall be entitled to request a hearing to contest, defend, or otherwise offer information or testimony regarding the circumstances relating to the alleged violation. A request for an opportunity to be heard to contest a violation shall be made pursuant to paragraph I.B.5 below.

5. Request of Hearing. An owner may request a hearing to dispute a violation notice by submitting a written request to the Board within fifteen (15) calendar days of delivery of the violation notice. The request for a hearing must contain the following in order to be considered by the Board:

1. The owner's name, mailing address, current phone number, and a valid e-mail address (for those owners who request communications from the Association be sent via e-mail);

2. The address of the owner's lot within the association community (if different than the owner's mailing address);

3. The name and address of any non-owner occupants of the owner's Lot, except for minors;

4. A statement setting forth the owner's defenses or other objections to the violation notice;

5. A copy of all documentation the owner intends to offer in support said owner's position or in defense of the violation notice;

6. The name of any attorneys, witnesses or other collaborating guests that are expected to attend the due process hearing; and

7. The owner's signature and the date of delivery or mailing to the Board; and

9. Any dates or times that an Owner would not be available for a hearing regarding the violation or other information related to scheduling of the hearing.

The violation be determined valid, if an owner fails to: (a) request a violation notice hearing within the fifteen (15) day period set forth in this paragraph 5; or (b) if an owner fails to materially comply with the requirements contained this paragraph 5, including sub-paragraphs 1-9 above. Hearings with respect to violation notices shall be handled by the Board of Directors.

C. Legal Action and Assessment of Fines.

If the Lot Owner, who has been delivered a notice of a violation, does not comply and correct the violation as required in the Violation Notice or does not request a violation notice hearing within the fifteen (15) day period set forth in paragraph I.B.5 above, the Association may assess fines against the Lot Owner and the Lot according to the Fine Schedule as set forth in Section II, below.

Notwithstanding anything to the contrary herein, fines may continue to be assessed while the legal action is in process until such time that compliance with the Governing Documents is achieved.

The Association shall be entitled to recover any costs and reasonable attorneys' fees incurred with respect to the imposition or collection of fines for violations of the Association's Governing Documents, whether or not such action results in a lawsuit being commenced or prosecuted to judgment.

Notwithstanding anything to the contrary herein, the Board may, in its discretion, take legal action against the violating Lot Owner if said Lot Owner has not completely remedied the violation within the compliance deadline stated in the Notice of Violation. Nothing in these Rules and Regulations shall be interpreted to waive, restrict or otherwise limit the Association's legal right(s) to take enforcement measures or other remedial action in order to secure or achieve compliance with the Governing Documents, including without limitation, in emergency situations requiring the Board to take immediate action.

II. Schedule of Fines:

Fines may be immediately assessed by the Association against any Lot Owner and against said Owner's Lot after the notice of compliance deadline expires without the complete and total correction of the violation by the Owner with that period of time. Fines will be imposed according to the following fine schedules:

Minor Violation: A minor violation is any violation of the Governing Documents other than a "Major Violation."

- If minor violation exists at the expiration of the deadline for compliance
 - Fine: \$25.00*
- If the minor violation still exists thirty days after the expiration of the deadline for compliance
 - Fine: An additional \$25.00* on the thirty-day anniversary of the expiration of the deadline for compliance

- If the minor violation still exists sixty days after the expiration of the deadline for compliance.
Fine: An additional \$100.00* on the sixty-day anniversary of the expiration of the deadline for compliance, and on the same date each month thereafter until such compliance is completely achieved.

Major Violation:

- Major Violations shall accrue at the rate of \$50.00* per day until compliance occurs.
 - For purposes of these Rules and Regulations, Major Violations mean and include the following: (a) any violations of the CC&Rs Sections 7.1, 7.2, 8.8, and 8.9; (b) any violation of the Rules and Restrictions 2008-2; or (c) any action taken by a Lot Owner that is contrary to any decision of the Architectural Control Committee, including without limitation, proceeding with construction activities on any Lot which have been previously disapproved by the Architectural Control Committee. Any violation fines assessed according to these Rules and Regulations are in addition to any late fees, interest, or other charges, including without limitation, the application fees charged by the Association for handling and processing of “after-the-fact applications” pursuant to Rule 2013-1.

***Repeated Violations:** An additional fine of \$50.00 per day for major violations and an additional fine of \$50 for minor violations (for the initial violation and each subsequent monthly period) may be assessed by the Board against any Owner, who has been previously been found to be in violation of any provision of the Governing Documents, after notice and opportunity to be heard, more than twice in the prior twelve months. This paragraph shall apply regardless of whether the prior violations within the twelve month period were for the same provision of the Governing Documents, different provisions of the Governing Documents, or a combination of both, so long as the Board has previously issued a notice of violation and provided an opportunity to be heard to the offending owner. This paragraph shall also apply irrespective of past compliance (i.e. whether the owner corrected the prior violation(s)).

III. Collection of Fines:

The Association will bill the violating Lot Owner the applicable fines at such time and for such periods as the Board considers reasonable. If, after the fines accrue, they remain unpaid and outstanding for more than 30 days from the date of the first such billing, interest shall commence and apply to the unpaid fines at the rate of one percent (1%) per month on the unpaid balance.

All unpaid fines imposed by the Association upon a Lot Owner constitute a lien on the Lot and all its improvements, and may be handled and foreclosed upon in the same fashion as if it were a lien for unpaid assessments under the Association's Governing Documents and the laws of the State of Washington. The Association may file a formal lien with recorder's office for King County, Washington, in order to further protect its interest regarding the unpaid fine(s). The amount of the lien shall include interest and all costs and expenses, including attorneys' fees, incurred by the Association in the imposition and collection of such unpaid fine(s).

IV. Hearing Procedure – Opportunity to Be Heard.

A. Hearing Procedure: No later than ten (10) calendar days following the Association's receipt of an owner's Request for Hearing (i.e. Opportunity to be Heard) from a Lot Owner in response to a Violation Notice, the Board shall mail or deliver notice to the owner of a hearing date, which notice will provide the date, time, and location of the hearing.

- Hearings with respect to violation notices shall be handled by the Board of Directors.
- The Board will permit the appealing Lot Owner up to thirty (30) minutes, including attorneys and witnesses, to explain the circumstances of the matter and provide grounds as to why the fine should be waived, reduced, modified or cancelled.
- At the conclusion of the presentation, the hearing will adjourn, and the Board will review the testimony, information, and documentation offered or presented at the hearing.
- Within seven (7) calendar days of the hearing, the Review Board will deliver written notice to the Lot Owner of the Board's decision.
- If the Board finds in favor of the Lot Owner, it will advise the Lot Owner as to whether the violation and/or the fine(s), as originally imposed is/are waived, reduced, modified, or cancelled. Any adjustment(s) shall reflect on the Lot Owner's account the following month.
- If the Review Board determines that the Lot Owner's explanation or defense presented at the hearing was inadequate or otherwise failed to justify a waiver, reduction, modification or cancellation of the violation and/or fine(s), the Lot Owner will be so notified, in which case the violation and resulting fines will be upheld and must be paid to the

Association, regardless of whether the violation has since been removed or corrected. In any event, if the Board finds against the Lot Owner, the fines will continue to accrue until full and adequate compliance occurs by the Lot Owner.

V. Rule Enforceability

If any portion of this rule is determined to be legally unenforceable, it shall not negate the enforceability of the remaining portions of the rule.

ADOPTED this 14TH day of July , 2020.

Chroff B. Wharton

Board Member

Nancy DeMa

Board Member

D. D. [unclear]

Board Member

Earl [unclear]

Board Member

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Board Member

Board Member

Board Member