

Homestead Owners Association, Inc.

Enforcement Policy Update As adopted by the Board of Directors Effective October 1, 2023

Background

The Board of Directors (“Board”) of Homestead Owners Association Inc., (“Association”) desires to update its rules and to adopt a clear policy and procedure for enforcing rules, covenants and restrictions in accordance with Idaho law. Covenant enforcement is an essential part of managing the Association. The restrictions that have been set for the Homestead Subdivision are designed to preserve the property's value, desirability and attractiveness, and to ensure a well-integrated, high-quality development. The below procedures are designed to provide an outline of the process to swiftly deal with each violation, while giving the Owner ample time to comply or respond.

Legal Authority

The Association’s authority derives from the *Master Declaration of Covenants, Conditions, Restrictions and Easements for Homestead Subdivision*, recorded as Instrument 2017-012681 on February 10, 2017, as it may be and has been amended from time to time (the “Declaration”). The Association is also empowered and governed by the Bylaws of Homestead Owners Association, Inc. (the “Bylaws”). In particular, such provisions include, but are not limited to:

- 1) Declaration Sections 6.05(e) and 6.06(g) empower the Board to create, promulgate, repeal, and amend the Association rules and regulations governing the owners and affairs of the community.
- 2) Declaration Section 6.06(i) and Articles IX and X authorize the Board to enforce the Governing Documents on behalf of the Association.
- 3) Declaration Section 5.01(b) allows for the imposition of fines for violation of Declaration.

Idaho Statutes, and particularly Idaho Code Section 55-115, govern the Association’s right to take legal action, impose violation fines, and impose and collect assessments for costs and legal fees incurred, so long as the following process is adhered to. This law was made effective in July 2016. This new rule change is in the best interest of the Association to comply with that change in the law and ensure proper enforcement of the Declaration.

Procedure

This rule change shall be effective October 1, 2023. A copy of this notice of rule change shall be kept in the Association records, available for inspection. Further, the Board shall arrange to have this procedure distributed to each Owner, member and resident.

Inspections

The Property Management Company performs regular inspection on behalf of the Board and violations are noted.

Neighbor Concerns

Neighbor concerns are taken in writing or by phone. When a complaint is received, a neighbor complaint letter will be sent, representing the Owner's first notice of the violation. Anytime a higher governing agency can address the concerns, the Owner may be referred to this agency. For example: a dog barking complaint may be referred to animal control, or a noise disturbance may be referred to the police.

Emergency Actions

In the event a violation is deemed by the Board to require immediate action, the Board reserves the right to expedite the procedures herein, within the bounds of the law and reasonableness. The Board will take all steps to ensure that fair and proper procedure is followed, but recognizes that certain violations will require emergency action on the part of the Board.

Procedure for Enforcement

When a violation is noted, either through neighbor complaints or inspections, the Board will determine if the violation is actionable. If the violation is determined to be actionable:

- 1) A notice will be sent to the Owner and will note the violation, reference which provisions of the Declaration are being violated, advise violating Owner that they may be responsible for the imposition of violation fines or enforcement costs if they do not resolve the violation and will request correction of the violation ("First Notice").
- 2) If the violation has not been corrected within ten (10) days of receipt of the First Notice and the Owner has not contacted the property management company and the Board determines that further action is necessary, a second notice will be sent to the Owner. This notice will notate the violation, reference which provisions of the Declaration are being violated, advise violating Owner that they may be responsible for the imposition of violation fines or enforcement costs if they do not resolve the violation and will request correction of the violation ("Second Notice").
- 3) If the violation has not been corrected within five (5) days of receipt of the Second Notice and the Owner has not contacted the property management company and the Board determines that further action is necessary, a Third notice and final will be sent to the Owner by certified mail or personal service ("Third Notice") requesting compliance. The Third Notice will notify the Owner of the time, date, and place of the next Board meeting that is scheduled not earlier than thirty (30) days from the date of the Third Notice and request the violating Owner to appear and discuss the violation.

3) If the violation remains uncured as of the date of the Board meeting indicated in the Third Notice, or the Owner did not appear in front of the Board to deliberate the violation, the Board will vote whether or not further enforcement action is appropriate, including imposing violation fines, turning the violation over to legal counsel, or employing some other enforcement remedy. Legal action will be taken if deemed appropriate based on the violation, Owner situation, and out of pocket expense to the Association. All enforcement and legal costs incurred will be billed to the Owner, if the Board decides to move forward with such actions at the meeting. Any violation fines, if imposed, will be added to the Owner's assessment account, in accordance with the Declaration.

4) The Board, or its Property Management Company, shall keep copies of all notices sent to violating Owners, including proof of certified mailing or affidavit of personal service for Third Notices. Minutes shall be taken from the Board meetings wherein violations are discussed and enforcement actions voted upon. The minutes shall reflect whether proper notices were sent, whether the violating Owner appeared at the meeting, and the Board's final decision regarding the violation.

5) If a violating Owner receives more than two First Notices during any quarter, or four during any single calendar year, for the same or substantially the same violation, the Board may vote to treat the case as one of repeated offenses and proceed with enforcement actions against the property without holding another Board meeting.

FINE SCHEDULE

A. All fines imposed by the Association and noted in this fine schedule are imposed per event or occurrence.

B. The Board reserves the right to update this schedule of fines from time to time by a simple majority vote of the Board. The Association's Property Management Company will have a copy of the most current version of this fine schedule and will provide a copy upon request.

C. Fines imposed on a monthly/weekly basis shall be imposed in the first instance for the entire period of fining, regardless of the time frame in which the violation is resolved. Fines shall not be pro-rated. For instance, if a fine is imposed on a monthly basis, and the violation is resolved after two weeks, the entire month's fine shall still be imposed and shall be payable by the violating Owner.

D. The fines imposed by the Board on behalf of the Association, shall be as follows:

1. Unapproved construction, unapproved painting (except repainting the same color or natural/neutral colors), improvement or modification of any building exterior or improvements without approval or against terms of approval, or unapproved use of Lot, per Section 5.03 and 5.04 of the Declaration.

- **Fine:** \$100 per week, until resolved.

2. Unsightly articles, unmaintained landscaping (weeds, lawns, dead trees, etc.), per Section 5.13 of the Declaration.

- **Fine:** \$50 per week, until resolved.

3. Nuisances, per Section 5.04 of Declaration.
- **Fine:** \$25 per occurrence; may be capped at the discretion of the Board.
4. Abuse of or damage to Common Area property, pursuant to Section 7.02 of the Declaration.
- **Fine:** \$100 per event, plus the cost of any repairs or notable increased maintenance.
5. Improper storage of trash cans, per Section 5.13(e) of the Declaration.
- **Fine:** \$5 per day until trash cans are properly stored.
6. Improper parking of vehicles, trailers, boats or other equipment, per Sections 5.15 and 5.19 of the Declaration.
- **Fine:** \$25 per event/day, not to exceed \$350 per week.
7. Improper Signage, per Section 5.22 of the Declaration.
- **Fine:** \$50 per week, until sign is removed.
8. Other violations.
- **Fine:** To be determined in the discretion of the Board, beginning at \$10 per occurrence, increasing as necessary to curb the violation.

E. As stated in the Declaration, any unpaid fines, attorney's fees, or enforcement costs incurred in accordance with this policy shall be added to an Owner's assessment balance, and will result in a lien being place on the Owner's property, and any other collections procedures being taken, as determined by the Board.

ADOPTED ON THE 6th day of September, 2023, BY THE BOARD.

I hereby certify that this procedure was adopted by the vote of the Board at a properly-called meeting of the Board of Directors of Homestead Owners Association, Inc.

Michael Huttaker
Name Michael Huttaker
Title President