

# **HORIZON HEIGHTS CONDOMINIUM OWNERS ASSOCIATION**

**A Utah Non-Profit Corporation**

## **RESOLUTION OF THE BOARD OF DIRECTORS**

### **RESOLUTION NUMBER 3(R) REVISION**

#### **ENFORCEMENT RESOLUTION**

WHEREAS, pursuant to Article 5, Section 5.11 of the Declaration, the Board of Directors may adopt, amend, repeal, enforce, and administer reasonable Rules for the regulation and operation of the Condominium Project. The Rules may address any issues including those addressed in this Declaration and the Bylaws. The Rules may supplement, clarify, and add detail to issues otherwise addressed in this Declaration and the Bylaws so long as they do not contradict the same. The Board of Directors determination as to whether a particular activity being conducted or to be conducted violates or will violate the Rules shall be conclusive.

WHEREAS, pursuant to Article IV of the Bylaws of Horizon Heights Condominiums Owners Association., the Project and the affairs and business of the Association shall be managed by the Board of Directors. The Board of Directors may exercise business judgment and all of the powers of the Association, whether derived from the Declaration, these Bylaws, the Articles, or the Acts except such powers that the Declaration, these Bylaws, the Articles, and the Acts vest solely in the Owners.

WHEREAS, pursuant to Article VIII of the Bylaws of Horizon Heights Condominiums Owners Association, Inc., the Board of Directors shall have the authority to adopt and establish by resolution such Project management and operational Rules as it may deem necessary for the maintenance, operation, management, and control of the Project.

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WHEREAS, the Board now desires and deems it necessary and in the best interest of the Association to adopt a policy to enforce the rules, regulations, restrictions, policies, procedures, and resolutions, and prevent the intentional disregard of such rules, regulations, restrictions, policies, procedures, and resolutions.

WHEREAS, this RESOLUTION 3(R) REVISION, ENFORCEMENT RESOLUTION, replaces RESOLUTION NUMBER 3, ENFORCEMENT RESOLUTION, dated June 01, 2016.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby approves and adopts the following enforcement procedures which includes a Fine Schedule, Appeals Process, and Legal Action, which are designed to prevent intentional disregard of the rules, regulations, restrictions, policies, procedures, and resolutions.

## **FINE SCHEDULE**

Each and every violation is hereby made specifically subject to and punishable by the specific fines provided for in this section and are also subject to a **\$10.00** administrative fee. Unless otherwise specifically noted, the fines and penalties are in the specific amounts as follows:

**First Violation:** The Association shall give a **written warning** to the owner that shall inform the owner that a fine will be imposed if a second similar violation occurs or if a continuing violation is not cured within 72 hours.

**Second Violation:** Upon the second violation of the same type after a warning in any one-year time period, or a continuing uncorrected violation after the initial 72-hour warning period, a fine of **\$25.00** shall be imposed on the owner.

**Third Violation:** Upon the third violation of the same type after a warning in any one-year time period, or an uncorrected violation continuing at least ten days after the assessment of the first violation fine, a fine of **\$50.00** shall be imposed on the owner.

**Fourth Violation:** Upon the fourth violation of the same type after a warning in any one-year time period, or an uncorrected violation continuing at least ten days after the assessment of the second violation fine, a fine of **\$100.00** shall be imposed on the owner.

**Fifth Violation:** Upon the fifth violation of the same type after a warning in any one-year time period, or an uncorrected violation continuing at least ten days after the assessment of the second violation fine, a fine of **\$200.00** shall be imposed on the owner.

**Cumulative fines for a continuing violation will not exceed \$500.00 per month.**

## **APPEAL PROCESS:**

An owner who is assessed a fine may request an informal hearing to protest or dispute the fine within thirty (30) days from the date the fine is assessed. The hearing shall be conducted in accordance with the standards below:

1. If a hearing is requested, no interest or late fees shall accrue related to the fine until after the hearing has been conducted and a final decision has been rendered by the Board.
2. All requests for hearing shall be in writing and shall be mailed or delivered to the Managing Agent.
3. The hearing must occur within thirty (30) days after the owner delivers a written request for a hearing to the Managing Agent.

**Any hearing as a result of such a request shall be governed by the following rules:**

1. The owner must appear at the time and place designated by the Board for the hearing.
2. At the hearing, the owner contesting the fine shall be entitled to fifteen (15) minutes to present evidence to challenge the alleged occurrence of the violation of the rule or such other evidence and information as the owner believes is pertinent or appropriate to the consideration of the Board.

3. The Board may establish and announce at the hearing any other reasonable rules regarding the hearing.
4. The Board may rely on any reasonable information and evidence in determining whether or not a violation has occurred, both initially and after a hearing.
5. Within ten (10) days of the hearing, the Board shall issue and mail to the owner a written decision regarding the dispute.
6. The Board's decision shall be final.
7. Fines not paid by the monthly assessment due date following their issuance shall accrue interest and late fees the same as any other late assessment amount and may be collected as an unpaid assessment as set forth in the Declaration.

**LEGAL ACTION:**

1. The Board may decide to seek a legal remedy to obtain compliance if it is determined that an "intentional disregard" of the Governing Documents exists because the following has occurred.
  - a) The Association has provided notice to the Member regarding the infraction in accordance with this ENFORCEMENT RESOLUTION, or any other Governing Documents; and
  - b) 30 days have elapsed from the day that the fine was assessed during which the Member could have requested an informal hearing to protest or dispute the fine, as per Utah Code Section 57-8a-208; and
  - c) The Member has not timely appealed the fine(s) by initiating a civil action.
2. Once the account is turned over to the attorney for legal action, the Member is still required to stay current on all assessments. Legal action shall include filing a civil action in court to seek available remedies, including a judgment for the fines and/or a court order requiring the Member to correct the violation(s), and requesting the court to award attorney fees.
3. All fines or legal fees levied pursuant to the terms of this Resolution shall be collectible as any other fine authorized by the Declaration, Bylaws, or applicable laws.

**HORIZON HEIGHTS CONDOMINIUM OWNERS ASSOCIATION**

**RESOLUTION ACTION RECORD**

Resolution Type: (**Policy**) No. 3(R) Revision

Pertaining to: Enforcement Resolution - Adoption of the amended Fine Schedule, Appeals Process, and Legal Action put forth by the Board of Directors.

Duly adopted at a meeting of the Board of Directors held: January 15, 2019

Motion by: Neil Boyd    Seconded by: Jack Tracey

**VOTE:**

	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>ABSENT</b>
<u>Neil Boyd (President)</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>Joe Cochran (Vice-President)</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>Jack Tracy (Treasurer)</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>Dornn Harris (Secretary)</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>
<u>Natasha Schiffman (Director)</u>	<u>✓</u>	<u>      </u>	<u>      </u>	<u>      </u>

**ATTEST:**

Secretary Signature: *Dornn Harris*

Date: Jan 15, 2019

Resolution Effective Date: January 15, 2019