

RESOLUTION 22_07_09
OF
HIGHLANDS RANCH COMMUNITY ASSOCIATION, INC. REGARDING
POLICIES, PROCEDURES, AND RULES AND REGULATIONS CONCERNING
ENFORCEMENT OF COVENANTS AND RULES, INCLUDING NOTICE AND HEARING
PROCEDURES AND THE SCHEDULE OF FINES

SUBJECT: Incorporation of pre-existing policies and procedures governing enforcement, notice and hearing, and the schedule of fines into Rules adopted by the Board.

PURPOSE: To provide a structure for enforcement of community governing documents in a policy outside of the Amended and Restated Bylaws of Highlands Ranch Community Association as contemplated by C.R.S. § 38-33.3-209.5, and to facilitate agility when amending this enforcement structure to align with statutory changes.

AUTHORITY: The Declaration, Bylaws and Articles of Incorporation of the Association and Colorado law.

EFFECTIVE DATE: August 10, 2022

RESOLUTION: WHEREAS, effective August 10, 2022, House Bill 1137 imposed upon HRCA certain duties and obligations with respect to collection of delinquent assessments, enforcement of violations of community governing documents, and conduct of certain meetings of the Board of Directors and committees of the Board; and

WHEREAS, C.R.S. § 38-33.3-209.5 requires that HRCA adopt policies, procedures, and rules and regulations concerning enforcement of covenants and rules, including notice and hearing procedures and the schedule of fines; and

WHEREAS, HRCA has historically adhered to Article XII of the Amended and Restated Bylaws: Community Enforcement Rights and Procedures- Notice and Hearing- Fines and Penalties as well as a separate fine schedule adopted by the Board to fulfill this statutory obligation; and

WHEREAS, the provisions of House Bill 1137 control over any contrary provisions in the Bylaws; and

WHEREAS, the Delegates have voted to repeal Article XII of the Bylaws to facilitate these enforcement processes in Board-adopted rules to minimize confusion, facilitate a single location for all enforcement policies, procedures, rules, and regulations concerning enforcement of covenants and rules, including notice and hearing procedures and the schedule of

finest, and to ensure agility in the amendment process as statutory obligations evolve.

NOW THEREFORE, BE IT RESOLVED, the Board of Directors of Highlands Ranch Community Association, Inc. adopts the following Rules Concerning Enforcement of Covenants and Rules; Notice and Hearing; and Schedule of Fines:

PRESIDENT'S

CERTIFICATION: The undersigned, being the President of Highlands Ranch Community Association, Inc., a Colorado nonprofit corporation, certifies that the foregoing Resolution was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on July 19, 2022 and in witness thereof, the undersigned has subscribed his/her name.

**Highlands Ranch Community
Association, Inc.,**
a Colorado nonprofit corporation

By: 
Its: President

HIGHLANDS RANCH COMMUNITY ASSOCIATION, INC.

Rules Concerning Community Enforcement Rights and Procedures-Notice and Hearing-Fines and Penalties

1. **Association's enforcement rights--complaint procedure--notices.** The following procedures governing the enforcement of the Community Declarations, Bylaws and/or Rules and Regulations are hereby adopted pursuant to § 5.17 of the Community Declaration. The procedures and relief set forth in this article are cumulative and supplemental to other equitable and legal remedies available to the Community Association. A failure or omission by the Community Association, or any committee or official thereof, to enforce a Declaration, Bylaw, Rule or Regulation shall not constitute a waiver of the right or authority to enforce the same thereafter.

(a) Reporting Violations. Complaints regarding violations of the Community Declaration, Bylaws and/or Rules and Regulations shall be made in writing and delivered to the Community Association Manager or Director of Community Improvement Services (or such employee of the Community Association as may be designated by the Association Manager or Director of Community Improvement Services). Any person may file a complaint. Reported violations must be based upon the personal observation(s) of the complainant.

(b) Form of Complaints. Complaints must be made in writing and set forth the information described in this section. The Community Association may alternatively provide a complaint form to be completed and submitted by the complainant in satisfaction of this requirement. Complaints may be mailed, hand-delivered, e-mailed or faxed. Incomplete complaints may be returned to the complainant for completion or correction and resubmittal. The complaint must include, at a minimum, the following information:

(i) The identity, street address and contact information for the complainant;

(ii) The identity, street address and contact information (if known) for the person or persons alleged to have committed the violation;

(iii) A reasonable description of the violation and its location, an identification of the Community Declaration, Bylaw and/or Rule or Regulation allegedly violated, if known, and the date(s) and/or period of time of the violation;

(iv) Any other information the complainant believes useful in describing or explaining the facts and circumstances regarding to the violation, including photos and/or audio or video recordings.

(c) Investigation. All complaints shall be reviewed for completeness and to determine whether further information or investigation is necessary. The complainant shall be notified and afforded the opportunity to correct any complaint found to be deficient. Once a complaint is deemed complete, the complainant shall be informed within a reasonable period of time of the action, if any, to be taken thereon by the Community Association.

(d) Warning letter/correction notice. If upon review of a complaint and such investigation as deemed necessary, and in the absence of an immediate or imminent

threat to the public safety or health, a violation is determined to have been committed or exist, a warning letter/correction notice may be provided to the violator and, if different, the Owner of the Privately Owned Site upon which the violation occurred or is occurring. The letter/notice of correction may be provided by hand-delivery, mail, email, fax, commercial delivery service or posting at a conspicuous location on the Privately Owned Site subject to the violation. Delivery of the warning letter/notice shall be deemed complete upon actual receipt, non-returned or non-rejected electronic transmission, posting or, if mailed, by 5:00 p.m. on the second business day after the deposit of the same in the Regular U.S. Mail, postage prepaid, addressed to the location at which the violation has occurred, or is occurring, and/or to the last address for the Owner on file in the records of the Community Association, whichever first occurs. The warning letter/notice shall at a minimum contain the following information:

- (i) The date(s) and reasonable description of the violation along with a citation to the declaration, bylaw, rule or regulation violated;
- (ii) The potential penalty or penalties for the violation or a recurrence or continuation of the same;
- (iii) A deadline date by which it must be corrected;
- (iv) The name and contact Information for the Community Association staff person who may be contacted concerning questions about the violation or violation/complaint procedures.

The Community Association may send as many warning letters/correction notices as it deems to be appropriate in light of the nature of the violation, both before and after any other notices or correspondence provided for herein.

(e) Notice of Violation--threats to public safety or health. Where a violation poses an imminent threat to public safety or health, the violator shall be issued a Notice of Violation. Health and safety violations are those violations that have the potential to affect a person's mental or physical condition and circumstances likely to cause danger, risk, or injury to people, pets, or property. These violations may include, but are not limited to: noise violations; fire hazards; hoarding; infestations of insects, mice, rats, or other vermin; short-term rental violations (where applicable); parking violations; structural, electrical, or plumbing alterations; harassment; and violations of local, state, or federal law intended to protect public health and safety. The notice shall contain the following information:

- (i) The date(s) and reasonable description of the violation along with a citation to the declaration, bylaw, rule or regulation violated;
- (ii) The date(s) of the warning letter/correction notice previously provided concerning the violation, if any;
- (iii) The penalty or penalties for the violation or the recurrence or continuation of the same, and the action necessary to cure the violation;
- (iv) The date upon which any fine and/or other penalty may be imposed and/or the date action to abate or correct the violation is to be completed;

(v) That the violator may request a hearing within fifteen days of the date of the Notice of Violation to contest the violation, the fine or penalty, and/or the nature of or deadline for any action necessary to abate or correct the violation;

(vi) That the failure to cure the violation within seventy-two (72) hours from the date of the notice of violation shall result in the imposition of a fine or fines in the amount specified by the fine schedule, which fine may be imposed every other day until the violation is cured;

(vii) The name and contact information for the Community Association staff person who may be contacted concerning questions about the violation, hearing, or cure procedures.

(f) Notice of Violation –continuing and recurring violations.

(i) A violation that continues unabated from day to day shall be deemed a “continuing violation” and shall be subject to a single Notice of Violation, e.g., a failure to install, maintain or replace landscaping or the installation or alteration of an Improvement absent prior architectural approval. Any continuing violation that is not cured within thirty days after the Notice of Violation shall be subject to the Hearing procedure set forth below and may be subject to fines or other penalties, including the suspension of membership privileges.

(ii) A violation that is repeated or repeatable over a period of time but is not continuous from day-to-day, and which oftentimes forms a series or pattern of violations, shall be deemed a “recurring violation” and shall be subject to a Notice of Violation, e.g., a failure to comply with parking or trash can regulations. Recurring violations that repeat more than twice in any sixty-day period shall be subject to the Hearing procedure set forth below and may be subject to penalties, including the suspension of membership privileges.

(iii) Contents. Notices of Violation that are not related to health and safety shall contain:

(1) The date(s) and reasonable description of the violation along with a citation to the declaration, bylaw, rule or regulation violated;

(2) The date(s) of the warning letter/correction notice previously provided concerning the violation, if any;

(3) The penalty or penalties for the violation or the recurrence or continuation of the same, and the action necessary to cure the violation;

(4) The date upon which any fine and/or other penalty may be imposed and/or the date action to abate or correct the violation is to be completed;

(5) That the violator may request a hearing within thirty days of the date of the Notice of Violation to contest the violation, the fine or penalty, and/or the nature of or deadline for any action necessary to abate or correct the violation;

(6) That the failure to request a hearing or cure the violation within thirty (30) days from the date of the notice of violation shall be deemed a waiver of any and all hearing rights, and shall result in the imposition of a fine or fines in the amount specified by the fine schedule;

(7) The name and contact information for the Community Association staff person who may be contacted concerning questions about the violation, hearing, or cure procedures.

(g) Notices—Procedural Requirements.

(i) Transmission and Translation. All notices must be in English and in any language the Owner has indicated a preference for pursuant to C.R.S. § 38-33.3-209.5(1.7)(a)(1). All Notices of Violation shall be sent by certified mail, return receipt requested, and may also be sent by any other means permitted under Colorado law. The timeframe for cure for a health and safety violation shall be calculated based on the date and time of personal delivery, e-mail delivery not rejected, or posting on the property, or the date of mailing if no other method is used. The Owner may send a written request by United States Mail to the Community Association that correspondence be provided to a designated contact in addition to the Owner. The Owner is responsible for all costs incurred by the Association in providing notices and translations as provided herein.

(ii) Confirmation of Cure. Once the violator cures a violation, the Community Association shall notify the violator that the violator will not be further fined with respect to that specific violation and of any outstanding fine balance that the violator owes to the Association.

2 Hearing procedure--notices--penalties.

(a) Hearing Panel.

(i) The Board of Directors shall appoint not less than four Members in good standing of the Community Association to serve as a panel to hear and determine appeals from Notices of Violation or noncompliance described in Section 1 of this Rule and/or § 10.18 of the Community Declaration. A majority of panel members shall constitute a quorum to conduct business. One of the Members so appointed shall be designated by the Board as the panel chairperson. The chairperson shall preside over the hearing and rule on procedural matters, but may only vote to break a tie vote. Alternatively and in lieu of a hearing panel, the Board may employ the services of a qualified professional to serve as a hearing officer at any hearing. The professional need not be a Member of the Community Association and, if appointed, shall perform the functions of the Chairperson and conduct the hearing as set forth in this section.

(ii) No Member may serve on a panel that has a direct personal or financial interest in the subject matter or outcome of a hearing. Additionally, Members shall not serve on a hearing panel if they or a family member own or reside on property adjacent to the property subject to the hearing, or who is or could be a witness to the violation at issue. A Member shall not be deemed to have a direct personal or financial interest

in the subject matter or outcome of a hearing if he or she will not receive any greater benefit or detriment than will the general membership of the Association.

(iii) Upon request to and approval by the Board of Directors, a hearing panel may obtain the services of legal counsel and/or an expert to provide technical advice in conducting a hearing or "rendering a decision. Personnel from the Community Association's Department of Community Improvement Services shall serve as staff to the hearing panel or hearing officer and maintain the records of each hearing.

(b) Hearing—notice—decision.

(i) Notice of a hearing shall be provided not less than ten (10) days prior thereto by the Department of Community Improvement to the Owner or other person subject to the violation/noncompliance at issue, as well as to other interested persons when known. Notice may be given orally by telephone or in person, and/or in writing by hand-delivery, mail, email, fax, or commercial delivery service. Delivery of notice shall be deemed complete upon actual receipt, non-returned or non-rejected electronic transmission, posting or, if mailed, by 5:00 p.m. on the second business day after the deposit of the same in the Regular U.S. Mail, postage prepaid, addressed to the location at which the violation/noncompliance has occurred or is occurring and/or to the last address for the Owner on file in the records of the Community Association, whichever occurs first.

(ii) Hearings shall be conducted in an informal but fair and impartial manner and may be audio-recorded. The fundamental issues at the hearing shall be whether the subject violation and/or noncompliance occurred and whether the Member and/or other person charged with the violation and/or noncompliance should be held responsible for it. The burden of persuasion on these issues shall rest with the proponent of the violation or noncompliance. The Department may thereafter present information in rebuttal. The original complainant shall have the right to appear at the hearing. Parties may be represented by legal counsel and hearings shall be open to all Members of Community Association unless the Chairperson determines within his or her reasonable discretion that safety or decorum cannot be maintained, or that the privacy interests of the party requesting the hearing will be unfairly or unnecessarily compromised, impaired or embarrassed.

(iii) The Chairperson shall open the hearing by identifying the participating parties, the nature and location of the violation/noncompliance at issue, and the order of presentation. Opening statements may then be presented or waived by each party. A representative of the Community Association's Department of Improvement Services shall then proceed with a presentation of the circumstances regarding the alleged violation/noncompliance, including a recitation of the dates and method of delivery of any and all warning letters/correction notices and notices of violation/noncompliance, copies of which shall be entered into the record of the hearing. Upon the conclusion of the Department's presentation, the party subject to the violation/noncompliance shall be provided a reasonable opportunity to present such information and argument as they may deem necessary and appropriate.

(iv) Each party may present exhibits and the testimony of witnesses. Testimony need not be given under oath. All witnesses shall be subject examination by both sides, as well as by the panel when deemed necessary or appropriate by the Chairperson.

The Chairperson shall ensure that no witness or other person is subjected to harassment, insult or embarrassment, and the Chairperson may suspend or terminate the hearing, or exclude a person from it, in response to a failure of a party or other person after warning to maintain proper decorum. The Chairperson may also set reasonable time limits on the presentation of information or argument by the participating parties, and may grant a continuance of the hearing upon a demonstration of good cause.

(v) Closing statements may be made by the parties at their option after which the panel or hearing officer shall take the matter under advisement for determination or, alternatively, issue its decision. In either event, a written decision setting forth in plain terms the findings and conclusions of the panel or hearing officer shall be provided to the parties not more than fifteen (15) days after the close of the hearing unless exceptional circumstances require a longer period. Deliberations of the hearing panel may be conducted in executive session to the extent allowed by law.

(vi) The failure of an Owner or other person that requested a hearing to appear at the same shall constitute an admission to the violation/noncompliance or other matter at issue and the panel or hearing officer may impose such penalty or other remedy as it may deem reasonable and just upon the information presented to it.

(vii) Failure to strictly adhere to each and every provision to procedure set forth in this Section 2 shall not invalidate any action taken or decision entered thereunder. Substantial compliance shall be all that is required in the absence of fundamental unfairness or undue prejudice.

(c) Penalties. The following penalties or sanctions may be imposed upon a finding or admission that a violation/noncompliance has occurred:

(i) Levying and collection of a monetary fine and/or costs in such amount(s) as set forth in the fine and fee schedule established and published from time to time by the Board of Directors and in effect at the time of the violation.

(ii) Exclusion of the violator and/or Related Users from any or all Community Association Properties during and up to sixty (60) days following any violation; provided that, if the Community Association determines a suspension of a longer length is appropriate in light of the violation, such suspension is permitted after providing opportunity for a hearing.

(iii) Suspension of the voting rights of the violator and/or Related Users as otherwise granted under the Community Declaration or Bylaws during and up to sixty (60) days following any violation.

(iv) Authorization for entry by the Community Association and/or its agents onto the Privately Owned Site upon which a violation/noncompliance has been found to abate or correct the violation.

(v) Levying and collection of a Reimbursement Assessment.

(vi) Entry of an order directing the correction of a violation or noncompliance within a set period of time not to exceed forty-five (45) days from the date of the hearing decision.

(vii) Referral to legal counsel for action, provided that such referral shall not occur until at least seventy-two hours have passed from the transmission of a Notice of Violation related to public safety or health, and further provided that the violator will have been permitted at least sixty days' opportunity to cure any other violation from the date of the Notice of Violation before such referral.

(d) Schedule of Fines.

(i) Fines for Health & Safety Violations. If the violator fails to cure a health and safety violation within 72 hours of receiving the Notice of Violation, the Association may fine the violator as frequently as every other day for uncured violations according to the following fine schedule:

Fines for Discrete Violations	Fine Amount
First Violation	\$500.00
Second Violation	\$750.00
Third & Subsequent Violations	\$1,000.00

(ii) Fines for continuing violations. If the violator fails to cure a continuing violation within thirty days of the Notice of Violation, and the Community Association confirms that the violation remains in place after said cure period, the Community Association may levy a fine in the amount of \$500.00 for the continuing violation.

Highlands Ranch Community Association, Inc.

By: _____
President



These Rules Concerning Community Enforcement Rights and Procedures-Notice and Hearing-Fines and Penalties were adopted by the Board of Directors on the 19th day of July, 2022, effective the 10th day of August, 2022 and are attested to by the Secretary of Highlands Ranch Community Association, Inc.

By: _____
Secretary

