

WINDJAMMER HOMEOWNERS ASSOCIATION ENFORCEMENT POLICY AND PROCEDURES

1 April 2021

Authority: CRS 38-33.3-3.302, Powers of Unit Owners' Association, Paragraph (1) (k)
CRS 38-33.3-209.5, Responsible Governance Policies, Paragraph (1) (b) (IV), (2),
(3)
Declaration, Section 604, Maintenance
Declaration, Section 707, Enforcement

Purpose: This Policy outlines the Enforcement actions that the Windjammer Homeowners Association ("**Association**") will take against Owners, occupants (including Tenants), or authorized representatives if violations of Covenants, Policies, Bylaws, other current or future Association rules (denoted as "**covenants**" in this document) are discovered. For the purpose of this Policy, **Owners** refers to both resident and non-resident owners of any property subject to the Association's Covenants and Policies. Potential remedies for violations include (but are not limited to) fines and the issuing of Covenant Violation Liens against the property. Notice of violations, fines, liens, and other penalties are issued by the Association's Board of Directors ("**Board**").

Policies:

- a. Any Owner, occupant, or authorized representative who violates the Bylaws, Covenants, Policies, or any future rules or procedures of the Association (other than a failure to pay regular assessments) may subject the Owner to a fine. The amount of the fine will be in accordance with the schedule of fines listed in this document (Procedure paragraph c). These fines are designed to motivate the Owner to bring a violation into compliance. Each incident or each day of a continuing violation may be considered a separate violation for which a fine may be imposed. Fines will be imposed only after an Owner has received 1) written Notice from the Association and 2) an opportunity to be heard before a team of three board members (described in Procedures paragraph c). Fines may accrue from the date of the First Notice of Violation until the violation is brought into compliance. However, these fines will not be imposed until after the opportunity for a hearing.
- b. The Board may assess the actual cost of maintenance or repair to the Association Maintenance Areas caused through the willful or negligent acts or omissions of any Owner, Tenant, or family, guests, or invitees of the Owner or Tenant. The Owner assumes ultimate responsibility for the payment of these assessed costs.
- c. Payment of an assessed fine or cost does not relieve an Owner from the responsibility of correcting the violation.

- d. Owners shall be responsible for violations committed by their guests, contractors, family members, agents, or Tenants. The Association may initiate the Enforcement Procedure (outlined below) against the Owner, the Owner's representative, or any individual causing a violation.
- e. In lieu of or in addition to a fine, the Board may publish and record a Notice of Covenant Violation Lien. The lien will remain in effect until the property in violation is brought into compliance. Costs for recording and removal of the lien will be assessed against the Owner.
- f. The imposition of a fine or the recording of a lien does not preclude additional methods of enforcement, including suspension of voting rights or legal action according to the governing Bylaws and Covenants of the Association.
- g. If two violations are observed at a property, but the violations pertain to different covenants, each is treated separately (for example, there will be separate notices and separate fines).

Procedures:

Standard procedures shall apply concerning violations of the governing documents. In cases where 1) health or safety are an issue, 2) an Owner consistently neglects covenant compliance, or 3) other circumstances where the Board determines that immediate action is necessary **Immediate Action Procedures** shall apply.

Standard Procedures

- a. **Complaints.** Any Owner or resident, including Board members, may submit a complaint to the Board. Also, the Board may receive complaints from independent covenant monitors concerning a possible violation. All complaints must be provided in writing.
 - 1. **Complainant Identity and Confidentiality.** Unless the complainant asserts a fear of retaliation, all complaints shall include information identifying the complainant. The identity of the complainant shall remain confidential with the Association unless legal counsel advises that disclosure is necessary to the alleged violator. If a complainant asserts a fear of retaliation, the Board may decide whether it wishes to investigate the complaint with a Board member's independent observations and/or the independent covenant monitor then, if necessary, proceed with enforcement.
- b. **Notice of Violation.** When the Board validates a complaint, a written notice will be provided to the Owner. The schedule of notices are as follows:
 - 1. **Courtesy Letter/Postcard** A courtesy letter or postcard is sent to alert the Owner that the Owner's property has a violation. The letter or postcard will ask the Owner to bring the violation into compliance within ten (10) days of the postmark on the courtesy letter/postcard. If the violation cannot be brought into

compliance within ten (10) days, the Owner shall contact the Board via mail or email to propose a reasonable deadline to bring the violation into compliance.

2. Notice of Violation If the violation continues beyond ten (10) days from mailing of the courtesy letter/postcard, a Notice of Violation is sent in writing to the Owner by mail. For a rental property, notice may be sent to both the Owner and the Tenant. The Notice **requires** the Owner to provide a reasonable date by which the violation will be corrected, to the Board/Association. Failure to correct the violation, failure to respond to the Notice of Violation, or failure to provide requested information within fifteen (15) days of the date of the Notice of Violation will result Notice of Fine Hearing.

3. Notice of Fine Hearing. This notice will be sent to the Owner by mail at least fifteen (15) days prior to the hearing. Notice will inform the Owner that they are requested to appear at a hearing to be convened by the Board to show cause why the Owner should not be fined for the violation. The Notice will specify a date, time, and venue for the hearing, but will allow the Owner to request a different date, time or venue. The Board will make reasonable efforts to accommodate the Owner's request. In lieu of attending, the Owner may submit a written statement to the Board no later than five (5) days prior to the scheduled hearing. Alternatively, the board and owner can meet via electronic means (e.g. Zoom), if both parties agree.

c. Fine Hearing. The Board members for Fine Hearing consist of the President or VP, Covenants and Community Greeter (Three board members). The Secretary/Treasurer will provide necessary information to the Board members prior to the meeting consisting of a review of policies, costing issues and the need to document results in writing. Fines may only be formally imposed after a hearing has been held. During the hearing, the Owner shall be offered the opportunity to advise the Board of when and how the violation will be corrected and will have the opportunity to explain why a fine should not be imposed. The complainant is not required to attend. Failure of the Owner to attend the meeting or to provide a written statement to the Board on his/her behalf will constitute a waiver of the opportunity for a hearing, and fines (including recurring fines) may be imposed for any continued violation. In addition, the Board may impose additional restrictions on the Owner as provided in the Bylaws and Covenants. The Board may also elect to publish and record a Covenant Violation Lien instead of or in addition to any assessed fine.

1. Schedule of Fines. A fine of \$25 will be imposed on an Owner when approved by the Board at a Fine Hearing. If the Owner does not bring the violation into compliance, an additional \$25 per week will be assessed.

2. Notice of Fines. Owner will be sent a Notice of Fine within five (5) days of the hearing. This notice will advise the Owner of the determination of the Board. An unrecorded copy of any lien imposed will be forwarded with this notice.

- d. **Additional Violations Following Fine Hearing.** If the violation continues to exist after the Notice of Fine has been delivered, the Association may refer the matter to an attorney.
- e. **Collection of Fine.** Fines, lien recordings, and lien removal fees will become due and payable with the next quarterly dues payment after the Fine Hearing. Delinquent fines and fees will be processed according to the Association's Collection Policy and Procedure.
- f. **Removal of Lien.** A recording Notice of Covenant Violation Lien will be removed at Owner expense upon determination of the Board and/or the Approving Authority that the covenant violation has been brought into compliance.

Immediate Action Procedure

For violations requiring immediate action due to safety, health, continued Owner neglect, or other circumstances as determined by the Board, the following procedure shall apply:

Special Notice of Violation A Special Notice of Violation is sent in writing to the Owner by mail. This notice may be used for Common Area Use violations or repeated trash/recycle bin violations. This notice may also be used in the case of an ongoing or repetitive violation to require the Owner to correct the violation by a reasonable date as stipulated by the Board. In the case of continued Owner neglect, this notice may include a Notice of Fine Hearing. The Owner may be subject to all subsequent Enforcement Procedures (see Standard Procedures paragraph c).

Windjammer Homeowners Association, a Colorado Non-profit Corporation

By: _____

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