

Fine & Due Process Policy

Effective Date: May 15, 2021

Pursuant to the Twin Lakes Declaration of Covenants, Conditions and Restrictions ("CC&Rs") and R.C.W. 64.38.020(11), the following Fine & Due Process Policy is adopted in order to further and foster compliance by homeowners with the provisions and requirements of the CC&Rs, Articles of Incorporation, Bylaws, Policies and Rules & Regulations (hereinafter collectively the "governing documents") of the Association.

R.C.W. 64.38.020(11), provides that an association can levy reasonable fines in accordance with a previously established schedule adopted by the Board of Directors and furnished to the Owners, for violations of the governing documents of the Association. The procedure for providing notice of a violation and imposing fines for such violations is set forth below and supersedes any other such procedure previously adopted by the Board. In the event of an inconsistency or conflict between this Policy and the CC&Rs, the CC&Rs will supersede and apply.

I. Violations, Investigation and Fines:

- A. **Complaints.** If an Owner is personally disturbed by a violation (such as a noise violation), the Association encourages the Owner to make personal contact with the responsible party to make him/her aware of the disturbance and ask him/her to discontinue the offensive behavior before reporting the violation to the Association for enforcement action. If this personal contact is unsuccessful in resolving the issue, Owners may submit a written complaint to the Association describing the nature of the violation. The complaint should be sufficiently detailed that the Association can then perform its own investigation into the violation and determine whether a violation has occurred that requires additional action by the Association. In the case of emergencies and in other situations where it may be appropriate, the Owner should also consider contacting local law enforcement and/or code enforcement, as those agencies may be better equipped to respond to such complaints.
- B. **Investigation.** When a possible violation is reported to or otherwise becomes known to the Association, it will be reasonably investigated by the Board or its designated representative(s), and a determination will be made as to whether a violation has occurred. The determination of the Board regarding whether a violation has occurred shall be conclusive. If the Board determines that a violation has not occurred, all enforcement action and involvement of the Association will cease.

If the Association does not feel enforcement action is appropriate, Owners may still pursue their own claims against the offending party. For neighbor-

to-neighbor disputes, the Association encourages Owners to consider alternative dispute resolution through the Dispute Resolution Center of King County, the Washington State Chapter of Community Associations Institute (WSCAI), or a similar organization that provides mediation and arbitration services.

- C. First Notice of Violation.** If the Board or its agent determines that a violation has occurred, written notice of the violation will be sent to the offending homeowner. The violation notice shall include the following:
- a. The nature/description of the violation.
 - b. The action required to correct the violation; and
 - c. A deadline for compliance. The deadline given in the violation letter will be a reasonable time period within which to correct the violation.

In most cases and where appropriate as determined by the Board of Directors, the first notification to an Owner of their compliance issue will be by means of a "Courtesy Notice" or "Warning Letter" and no fine will be imposed.

- D. Second and Subsequent Notice of Violation and Fine.** If the violation is not corrected by the deadline provided in the first notice, or if the same governing document provision is subsequently violated within 90 days of its resolution, a Second (or Subsequent) Notice of Violation may be sent to the Owner. The Second (or Subsequent) Notice of Violation shall include the following:
- a. The nature/description of the violation.
 - b. The action required to correct the violation; and
 - c. A deadline for compliance. The deadline given in the violation letter will be a reasonable time period within which to correct the violation.
 - d. The proposed fine to be imposed and an opportunity for the Owner to request a hearing regarding the violation and proposed fine pursuant to the provisions below.

- E. Performance of Corrective Maintenance by Association.** The Association shall also have the right to exercise the self-help provisions in Article VIII of the CC&Rs. Prior to performing corrective maintenance, the Association must give an Owner notice of the violations and the corrective actions to be taken by the Owner and request a response within ten (10) days. If the violations are not corrected within ten (10) days, the Association may go upon the property (or hire an agent/contractor to do so) and perform such services as are necessary to bring the property into compliance. The Owner shall be liable for any expense so incurred by the Association. Additional fines and legal expenses may also continue to accrue and be assessed against the violating owner while the violation is being corrected pursuant to this section.

F. **Legal Action.** In addition to the imposition of fines, legal action may be taken against the violating owner at any time after a compliance deadline is given to owner. Additional fines may continue to be assessed while the legal action is in process if the owner continues to violate the requirements of the governing documents. All attorneys' fees and costs shall be awarded to the prevailing party and recoverable from the losing party in any action, lawsuit or other proceeding involving the enforcement of the governing documents. Nothing in this Policy is intended to waive or otherwise modify the Association's legal right(s) to take other enforcement measures in order to secure or achieve compliance.

II. **Schedule of Fines.** No fine shall be assessed until the Owner who has committed a violation has been given due written notice and opportunity for a hearing. Once the required steps have been taken, monetary fines for violations of the governing documents of the Association may be imposed as follows:

1. **Esthetics Violations.** Throughout the year, the Association and/or its agent will perform esthetics inspections to confirm all owners' compliance with the governing document requirements regarding property maintenance and other exterior appearance issues. Any deficiencies observed will be recorded and a First Notice of Violation (as described above) will be sent to the Owner. Compliance will be requested within four (4) weeks of the date of the letter, and the Owner will be asked to notify the Association when the deficiency has been corrected to expedite the follow-up assessment to confirm compliance. **In all instances, it is the obligation of the Owner to advise the Association in writing that the violation has been corrected.**

If four (4) weeks have passed and no compliance response has been received, a Second Notice of Violation (as described above) will be sent to the Owner and a \$10/day fine (up to a maximum of \$50 per week) will be assessed to the Owner and the Lot. Once again, the Owner will be asked to notify the Association when the deficiency has been corrected to expedite the follow-up assessment to confirm compliance.

If four (4) weeks pass after the date of the Second Notice of Violation and no compliance response has been received, a Third Notice of Violation will be sent to the Owner and a \$20/day fine (up to a maximum of \$100 per week) will be assessed to the Owner and the Lot. Once again, the Owner will be asked to notify the Association when deficiency has been corrected to expedite the follow-up assessment to confirm compliance.

If four (4) weeks pass after the date of the Third Notice of Violation and no compliance response has been received, a Fourth Notice of Violation will be sent to the Owner and a \$30/day fine (up to a maximum of \$150 per week) will be assessed to the Owner and the Lot. Once again, the Owner will be asked to

notify the Association when deficiency has been corrected to expedite the follow-up assessment to confirm compliance.

2. **Other Continuing Violations.** If an owner violates any provision(s) of the governing documents and does not comply within the deadline given by the Association, fines may be imposed and accrue at the rate of \$10.00 per day until compliance occurs. Such fines may be assessed by the Association against any owner and his/her lot, starting immediately after the notice deadline period expires and continuing until full compliance is achieved. If the Association has provided the required notice and opportunity to be heard to an Owner regarding a continuing violation prior to the imposition of fines, the Association is not required to continue sending repeated violation notices to an Owner until the property is brought into compliance. An Owner's failure to respond to the initial fine notice and opportunity to be heard shall be construed as a waiver of the Owner's right to a hearing on the matter and fines may commence without further notice to Owner. **In all instances, it is the obligation of the Owner to advise the Association in writing that the violation has ceased.**

3. **Intermittent Violations.** If a violation involves an intermittent offense or conduct, the Association may levy increasing fines according to the following schedule:

First Violation	Warning
Second Violation	\$25.00
Third and Subsequent Violations	\$75.00

If an Owner is cited for an intermittent violation more than once within a ninety (90) day period, it is considered a subsequent violation and the fine/enforcement procedure may resume at the next appropriate level.

4. **Health/Safety Violations.** If a violation involves conduct which threatens the health and/or safety of other members of the community, the Association may levy fines in the amount of \$50.00/day.

III. **Opportunity to be Heard – Written Appeal/Request for Hearing**

A. **Introduction.** Per RCW 64.38.020(11), any owner subject to the imposition of fines is entitled to an opportunity to be heard by the Board of Directors or a representative designated by the Board of Directors. To be heard by the Board, the Owner may submit a written appeal and/or request a hearing regarding the circumstances leading to the violation and imposition of fines.

All written appeals and/or requests for a hearing must be in writing and received by the Twin Lakes HOA office no later than ten (10) calendar days following the date the notice of violation is mailed or delivered to the homeowner. **Failure to submit a written appeal and/or request a hearing**

within this time frame shall be deemed as the homeowner's waiver to appeal the violation and/or fine.

- B. Written Appeal.** The owner may complete a written appeal regarding the violation and the imposition of fines. If there is sufficient evidence provided in the written appeal and if the owner has not specifically requested a hearing, the Board of Directors may act upon the written appeal without convening a hearing according to the procedures below. A written response shall be sent to the Owner regarding the Board of Directors' decision regarding the written appeal.
- C. Request for Hearing.** Instead of or in addition to a written appeal, the owner may request a hearing in front of the Board of Directors. The owner must complete a written request for hearing which shall be mailed or delivered to the Association.
- D. Hearing Procedure.**
1. The owner will be sent confirmation by the Association of its receipt of the request for hearing.
 2. After receipt of the owner's hearing request, the Board will appoint a Review Board (the "Review Board").
 3. The Association or its managing agent shall provide written notice to the owner of the date, time, and location of the hearing.
 4. At the hearing, the Review Board will permit the appealing homeowner to explain the circumstances of the matter and provide grounds as to why the fine should be waived, reduced, or cancelled.
 5. At the conclusion of the presentation, the hearing will adjourn. At the next regularly scheduled meeting of the Board of Directors, the Review Board will present the circumstances and evidence presented at the hearing and the Board of Directors will vote on the matter.
 6. Within seven (7) calendar days of the Board meeting, the Association or its managing agent will mail or deliver written notice to the homeowner of the Board of Directors' decision.
 7. If the Board of Directors finds in favor of the homeowner, it will advise the homeowner as to whether the violation and/or the fines originally to be imposed are reduced, modified, or waived.
 8. If the Board of Directors determines that the owner's explanation or defense presented at the hearing was inadequate or otherwise failed to justify a reduction, modification, or waiver of the violation and/or fines, the owner will be so notified, in which case the fine will be imposed as provided in the violation letter. If the Board of Directors finds against the homeowner, the fines will continue to accrue until full compliance occurs by homeowner.

IV. Collection of Fines. Any fine not paid within thirty (30) days is delinquent and subject to late fees and/or interest consistent with the governing documents and

applicable Washington law. Collection of any fines and penalties may be enforced against any Owner in the manner consistent with the governing documents and applicable Washington law.

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.

This Fine & Due Process Policy was adopted by the Board of Directors for Twin Lakes Homeowner's Association, Inc. on April 22, 2021 and shall become effective as of May 15, 2021 after proper publication to the owners.

Dated: 22 APR 2021

Signed: 

By: PRESIDENT

Its: CALLY HUSTON