

The Hills of Neskowin Owner's Association

FINES RESOLUTION

The following Fines Resolution was adopted on the date affixed below by a majority vote of the Board of Directors ("Board") of the Hills of Neskowin Homeowners Association (the "Association") at a properly noticed and called meeting of the Board.

RECITALS

A. WHEREAS, the Board has authority pursuant to ORS 94.630(1), Article 7.5 of the Conditions Covenants and Restrictions of the Association ("CCRs") and Article VII & XI of the Bylaws of the Association (the "Bylaws") to adopt and amend reasonable rules and regulations on behalf of the Association;

B. WHEREAS, ORS 94.630(1)(n) and CCRs Articles 8.1 & 8.2 empower the Board, after giving written notice and an opportunity to be heard, to levy reasonable fines for violations of the governing documents of the Association, including the CCRs, Bylaws, and Rules and Regulations of the Association (collectively, the "Governing Documents"), provided that any fine levied by the Association is based on a resolution adopted by the Board that is delivered or mailed to the mailing address of each unit;

C. WHEREAS, the Association expects residents to abide by its established rules and policies outlined in the Governing Documents. Owners disturbed by a neighbor's actions or believing that a neighbor is in violation of a rule are encouraged to express their concern with the neighbor before reporting to the Association whenever possible. Most disturbances are generally unintentional and immediate resolution by responsible neighbors, if possible, is desirable and expected;

D. WHEREAS, while the Association attempts to provide owners and residents an opportunity to comply with the Governing Documents, there are times when the Association, acting through the Board, must enforce these documents through the imposition of fines to encourage compliance; and

E. WHEREAS, because violations vary widely in their severity and nature, the Board finds that establishing a single fine for all violations would not be appropriate or equitable, and that it would be fairest to leave determination of the amount of any fine to the sound discretion of the Board, within the limits established by the schedule of fines and fine policy.

NOW, THEREFORE, IT IS RESOLVED:

1. **Violation Reports; Board Action Without Report.** Violations of the Governing Documents may be reported to the Board by owners, residents, or members of the Board. The Board shall promulgate and make available a Violation Report Form to be used for the reporting of violations, although the Board retains discretion to act on a violation discovered or brought to its attention in any manner.

2. **Informal Dispute Resolution.** To the extent reasonably practicable, before issuing a Notice of Violation, the Board or the Design Review Committee ("DRC") shall

designate a representative to make at least one attempt to contact the owner or owner's representative whose property or conduct is suspected to be in violation (the "responsible owner") by telephone, email, or otherwise to discuss the alleged violation and a possible remedy or resolution. The Board or DRC shall make reasonable efforts to keep records of informal dispute resolution efforts under this section.

3. **Notice of Violation.** If the informal dispute resolution attempt is not reasonably practicable or does not result in a resolution of the violation, the Board shall issue a written Notice of Violation to the responsible owner pursuant to the applicable notice provisions of the Governing Documents.

- a. The Notice of Violation shall include the following:
 - i. A description of the violation and at least one possible way in which the violation may be remedied or cured;
 - ii. A date by which the violation must be remedied or cured;
 - iii. A description of any proposed enforcement action by the Board if the violation is not remedied by the date given, including, but not limited to, a description of any proposed fine(s) to be levied pursuant to the Fines Resolution;
 - iv. A statement that the owner has a right to a hearing if a written request is delivered to the Board within ten (10) days of the date of the Notice of Violation;

4. **Hearing on Violation; Waiver of Right to Hearing.**

a. The Board shall provide a hearing at an open Board meeting, if requested in writing by the responsible owner within ten (10) days of the date of the Notice of Violation.

b. Upon receipt of a timely request for hearing, the Board shall schedule the hearing at its discretion at an upcoming regularly scheduled or special Board meeting and shall issue to the owner a Notice of Hearing, which shall include the following:

- i. A description of the violation and at least one possible way in which the violation may be remedied or cured;
- ii. The proposed enforcement action and/or fine(s) the Board may seek to take or assess;
- iii. The date, time, and location of the hearing, including, if applicable, information sufficient to allow the owner to attend and participate in any remote or telephonic hearing; and

iv. The amount of time to be allowed for the owner to present argument and evidence.

c. The Board, in its sole discretion, may consider whether to postpone or reschedule the hearing based on an owner's written request, and any such request is deemed denied by the Board unless the Board notifies the owner in writing of the postponement or rescheduling.

d. If multiple violations by the same owner occur or are at issue after the Notice of Hearing is issued and before the date of the hearing, those additional violations may also be heard at the scheduled hearing, provided the owner is given notice of the subsequent alleged violations and proposed enforcement actions or fines at least twenty-four (24) hours before the date of the hearing.

e. If an owner does not deliver a written request for a hearing to the Board within ten (10) days of the date of the Notice of Violation, the right to a hearing shall be waived and the Board may proceed with any enforcement action allowed under the Governing Documents and this Fines Resolution, including, but not limited to, the imposition of fine(s) for the violation pursuant to the Schedule of Fines at Exhibit 1.

5. Hearing Procedure.

a. At a hearing on a violation, the Board shall permit the responsible owner to present such evidence as the Board, in its discretion, determines is reasonable and appropriate in the circumstances. Other owners or individuals do not have any right to be heard except as expressly allowed by the Board in its sole discretion.

b. If an owner wishes to be represented by legal counsel at the hearing, the owner must notify the Board in writing of the same at least five (5) days before the hearing so that the Board may have legal counsel for the Association attend the hearing.

c. The Board retains discretion to impose such time limits and procedural rules as may be appropriate for any hearing based on the particular circumstances of the nature of the violation or otherwise.

d. At the conclusion of the hearing, or afterwards, the Board shall render its decision or take the matter under advisement, as it deems appropriate. The decision ultimately rendered by the Board is final, binding, and conclusive.

e. The Board shall issue written Notice of Decision to the owner within fourteen (14) days of the date of the Board's decision. The Notice of Decision shall include the nature of the enforcement actions that have been and/or will be taken and/or the amount of the fine(s) assessed and, for ongoing violation(s), whether any fine(s) are recurring and continuing to accrue.

f. If the Board has found a violation to be ongoing and assessed recurring fine(s), the owner is not entitled to an additional hearing except as expressly allowed by the Board in its sole discretion.

6. **Fines Schedule.** The Board shall have discretion to levy fines for violations of the CCRs, the Bylaws, and/or the Rules and Regulations, as amended or restated, in the amounts set forth on the Schedule of Fines, attached and incorporated herein as Exhibit 1.

7. **Fines Collectible as Assessments.** All fines levied under this Fines Resolution will be deemed assessments that are due and payable by the owner against whom the fines are assessed, and unless timely paid, will become a part of any lien that may be recorded against the lot owned or occupied by the offending owner or occupant.

8. **Owner Responsible for Violation.** The noncomplying owner will be responsible for any fines resulting from violations caused by any occupant, tenant, guest, or service provider of that owner’s property.

9. **Emergency Response.** In the event of an immediate threat to health or safety or immediate threat to a lot, structure, or common area, the Association may rectify the situation immediately, without notice, and charge the owner for all costs incurred, including applicable fines. At the Board’s sole discretion, the Board will determine if a violation constitutes an emergency or immediate threat.

10. **Legal Assistance.** If any attorney is hired to enforce the Governing Documents, the noncomplying owner will be responsible for all attorney’s fees and costs incurred.

11. **No Limitations.** Nothing in this Fines Resolution waives or abrogates the Board’s right to take any other action to enforce the Governing Documents as permitted in the Governing Documents or under law.

This Fines Resolution was adopted by a majority vote of the Board of Directors at a duly called open meeting of the Board, with a quorum of directors in attendance, on June 13, 2024, and it is effective the day it is distributed electronically or mailed to the owners. This Fines Resolution replaces and supersedes any previously established fine resolution or fine policy of the Association.

The Hills of Neskowin Owners Association

Signed by: D-R- 7/31/2024
By: 7537CD4A6F2C4D9...
President

Signed by: Lowell Brown, Secretary 8/2/2024
By: 108A9342F96549A...
Secretary