

Forster Woods Homeowners Association

Rules & Regulations – Revised September 2018

15. Fines/Schedule/Right to Hearing

Pursuant to Section 7.01 of the Declaration of Covenants, Conditions, and Restrictions (“CC&Rs”) of the Forster Woods Homeowners Association (the “Association”) and R.C.W. 64.38.020(11), the following written rules and regulations are adopted in order to further and foster compliance by homeowners with the provisions and requirements of the CC&Rs, the Bylaws and Rules & Regulations (hereinafter collectively the “governing documents”) of the Association. These rules are intended to provide additional incentive for compliance by owners who violate the requirements and provisions of the governing documents, not supplant or amend them, and in the event of an inconsistency or conflict between these Rules and the other governing documents of the Association, the governing documents provisions will supersede and apply. This Rule and its provisions supersede all prior adopted Rules and Regulations on the topics addressed herein.

I. Violations, Investigation and Fines:

A. Introduction. Washington statute 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.

B. Investigation/Notice of Violation.

1. Investigation: When a possible violation is reported to or otherwise becomes known to the Association, it will be investigated by the Board or its designated representative(s), and a determination made as to whether a violation has actually occurred.

2. Notice of Violation: If a violation is found, written notice of the violation will be sent or delivered to the offending homeowner giving him/her a deadline date for compliance. The deadline given in such notice letters will be a reasonable time period within which to correct the violation and fully comply. In each case or matter, the Board will consider the nature of the violation, the circumstances of the owner and the property, and what it will take to correct the non-compliance to determine a reasonable time-period deadline to give the owner

to comply. If such Notice warns that fines will be imposed if compliance does not occur by a certain date, the Notice will also inform the owner of the right to request a hearing concerning the imposition of fines, pursuant to the provisions below in section IV.

- C. Rule - Legal Action.** If the owner sent a notice of a violation does not timely comply and correct the violation, the Association may assess or levy fines against him/her and the lot according to the Fine Schedule as set forth in Section II below. Additional fines may continue to be assessed while the legal action is in process, if the homeowner 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 issue or recovery of fines and/or the enforcement of the governing documents.

Notwithstanding anything to the contrary herein, in the Board's discretion, legal action may be taken against the violating homeowner at any time after a compliance deadline is given to owner, and nothing in these Rules 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.

- D. Further Compliance Action by the Association/Remedies are Cumulative.** Notwithstanding anything to the contrary in these Rules, the Association shall in all cases of a violation have the right to exercise all remedies available to it.

II. Schedule of Fines

- A.** If an owner violates any provision(s) of the governing documents and does not comply after reasonable notice and within the deadline given by the Association, fines may be imposed and accrue at the rate of **TEN DOLLARS (\$10.00) per day** until complete compliance occurs or is accomplished. Such fines may be assessed by the Association against any homeowner and his/her lot, starting immediately after the notice deadline period expires without the complete and total correction of the violation(s) by owner within that period.

If the violation involves an intermittent offense or conduct, for example the failure to quiet and control a barking or overly aggressive dog or periodic episodes of noise conduct which is disturbing other members from time to time, or other nuisance conduct, or disruptive

actions or conduct of any kind which interfere with another owner or owners right and ability to reasonably quietly enjoy their properties, the Association may levy fines on a per incident basis as follows:

1st Offense = Warning to the owner and occupant

2nd offense = **\$100**

3rd offense = **\$250**

4th offense and each subsequent offense = **\$500.00** per offense,
for incidents or conduct occurring within a twelve-month period of time.

III. Collection of Fines

The Association will bill the violating homeowner the applicable fines at such time and for such periods as the Association considers reasonable.

All fines imposed by the Association upon an owner or owners which remain unpaid for thirty (30) days after being invoiced to owner shall automatically constitute a lien on the Lot and all its improvements, and may be handled and foreclosed upon in the same fashion as if it were a lien for unpaid assessments under the Association's governing documents and the laws of the State of Washington. The Association may file a formal lien with the county in order to further protect its interests regarding the unpaid fine(s). The amount of the lien shall include interest, attorneys' fees, and all costs and expenses, incurred by the Association in the imposition and collection of such unpaid fine(s).

IV. Request for Hearing/Opportunity to be Heard

A. Introduction. Any homeowner found by the Board to be in violation of governing documents provisions or requirements may request a hearing to offer a defense to, or to explain extenuating circumstances regarding, the imposition of fines.

B. Deadline for Homeowner Requesting a Hearing/Waiver of Hearing Right if Untimely Request:

The last letter or communication by the Association to owner with final deadline for compliance and a notice that fines will commence shall also specify the following information:

1. he/she has the right to request a hearing solely for the purpose of disputing the validity or basis of being fined;
2. a reasonable deadline by which homeowner must notify the Board in writing that he/she requests a hearing;
3. if homeowner does not timely give written notice to the Board that he/she is requesting a hearing, homeowner waives the right to a hearing.

The deadline for requesting a hearing and the waiver of the right to hearing for failure to timely meet the deadline is intended to bring a definitive closure to the hearing request period, so that a homeowner cannot unreasonably obstruct or delay implementation or collection of the imposed fines by requesting a hearing after collection or enforcement efforts begin.

C. Request of Hearing. The homeowner must complete a written Request for Hearing which shall be mailed or delivered to the Association. The appeal request must contain the following:

1. Homeowner's name and address;
2. Homeowner's reasons, basis and defense for the hearing;
3. A copy of all supporting documentation;
4. The name of any attending witnesses or other collaborating guests;
5. The homeowner's signature and date of the Request for Hearing.

D. Hearing Procedures:

1. The homeowner will be sent confirmation by the Association of its receipt of the Request for Hearing.
2. The Board will appoint and assemble a minimum of three (3) (or more at the Board's discretion) current members of the Association and/or the Association's Board of Directors, or appoint and name a representative designated by the Board to act as a Review Board (the "Review Board") within seven (7) calendar days following receipt of a written Request for Hearing complying with the information requirements set forth above.
3. No later than ten (10) calendar days following the formation of the Review Board, the Review Board shall mail or deliver notice to the appellant owner of a hearing date, which notice will provide the date, time, and location of the hearing, which is to be determined by the Review Board.
4. The Review Board will permit the appealing homeowner up to thirty minutes 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, and the Review Board will review the circumstances of the Request for Hearing as presented.
6. Within seven (7) calendar days of the hearing, the Review Board will mail or deliver written notice to the homeowner of the Review Board's decision.
7. If the Review Board finds in favor of the homeowner, it will advise the homeowner as to whether the violation and/or the fines originally imposed are reduced, modified, or waived. Any adjustment(s) shall reflect on the homeowner's account the following month.
8. If the Review Board 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 fines imposed will continue as owed to the Association until paid in full regardless of whether the violation has since been removed or corrected. In any event, if the Review Board finds against the homeowner, the fines will continue to accrue until full and adequate compliance occurs by homeowner.

V. Stop Work Order

In addition to posing a fine, if appropriate based upon the nature of the violation, the Association may issue a Stop Work Order to any person or entity engaged in unauthorized activity or actions that violate the governing documents. An unauthorized activity is an activity which requires prior written approval of the Board or the Architectural Control Committee (ACC), and which has not received prior written approval. A Stop Work Order shall:

- a. Identify the address of the property involved;
- b. Describe the unauthorized activity;
- c. Identify the specific prior approval requirement being violated;
- d. State that the unauthorized activity shall immediately cease, and describe any additional sanctions to be imposed;
- e. State that the delivery of the Stop Work Order serves as a determination that a violation has occurred;
- f. State that this determination is final unless it is appealed to the Board, in writing, within 10 days of the date that the Stop Work Order was issued;
- g. State that the failure to immediately comply with the terms of the Stop Work Order will cause a **\$350.00 fine** to be imposed, and that for each week thereafter in which non-compliance with the Stop Work Order takes place, a separate fine of **\$350.00 fine** will be imposed.

VI. 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.

DATED AND ENACTED September 6, 2018.