

Highpointe Homeowners Association  
Board of Trustees

**Rule and Regulation 2008-1**

Dated: March 18, 2008  
Last revised: March 18, 2008

(Notice: This Policy supersedes all previous Association Board actions related to this subject.)

**TITLE: COMPLIANCE WITH GOVERNING DOCUMENTS: Fine  
Schedule/Right to Hearing**

**PRIMARY RESPONSIBILITY:** Board of Directors  
**REFERENCES:**

- a) Amended & Restated Declaration Of Covenants  
Conditions And Restrictions For Highpointe
- b) Amended And Restated Bylaws Of Highpointe Homeowners  
Association
- c) R.C.W.64.38.020(11)

**PURPOSE:**

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) and any requirements imposed by the Architectural Control Committee when granting approvals.

**STANDARDS / PROCEDURE:**

**I. Violations, Investigation and Fines:**

**A. Introduction**

The 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 determine a reasonable time period for compliance based on the nature of the violation, the circumstances of the owner and the property, and the requirements to correct the non-compliance. If such Notice warns that fines will be imposed if compliance does not occur by a certain date and whether such violation is considered a major or a minor violation, 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 comply and correct the violation in a timely manner, the Association may assess 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 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. Rule - Further Compliance Action**

Notwithstanding anything to the contrary in these Rules, the Association shall in all cases of a violation have the right to exercise self help to correct the violation. Additional fines and legal expenses will continue to accrue and be assessed against the violating owner while the violation is being corrected by self help.

## II. Schedule of Fines

Fines may be immediately assessed by the Association against any homeowner and/or his/her lot after the notice of compliance deadline expires without the complete and total correction of the violation by owner within that period of time. Such fines may be imposed according to the following schedule:

### Minor Violation:

- At the expiration of the deadline for compliance  
Fine \$25
- Thirty days after the expiration of the deadline for compliance  
Fine an additional \$25
- Sixty days after the expiration of the deadline for compliance  
Fine an additional \$100 a month

### Major Violation:

- Accrue at the rate of \$50.00 per day until compliance occurs

Any violations of Amended & Restated Declaration of Covenants, Conditions And Restrictions For Highpointe sections 7.1, 7.2, 8.8, and 8.9; any violation of Rule and Regulation 2008-2; or any action taken which has been previously disapproved by the Architectural Control Committee shall be deemed a "Major Violation." Any other violation of the governing documents may, in the Board's discretion, be designated as either a "Major Violation" or "Minor Violation."

## 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. If, after the fines accrue they remain unpaid and outstanding for more than 30 days from date of the first such billing, interest shall commence and apply to the unpaid fines at the rate of one percent (1%) per month on the unpaid balance.

All fines imposed by the Association upon an owner or owners which remain unpaid for 90 days 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, and all costs and expenses, including attorneys' fees, 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. Request for Hearing.** The homeowner must complete a written Request for Hearing which shall be mailed or delivered to the Board President and one copy to the Board Secretary. 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 attorneys, witnesses or other collaborating guests
5. The homeowner signature and date of the Request for Hearing

**C. Hearing Procedure.**

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 determine the date, time, and location of the hearing and shall mail or deliver a notice to the appellant homeowner containing the date, time, and location of the hearing.
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.

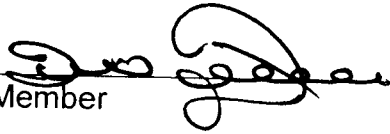
8. If the Review Board determines that the owner's explanation or defense presented at the hearing was inadequate or otherwise failed to justify a reduction, modification, or waiver of the violation and/or fines, the owner will be so notified, in which case the fines imposed will continue as owed to 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. Rule Enforceability**

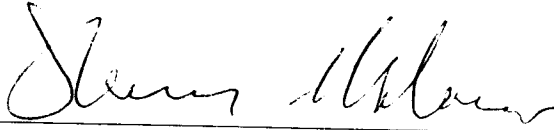
If any portion of this rule is determined to be legally unenforceable, it shall not negate the enforceability of the remaining portions of the rule.

ADOPTED this 27 day of March, 2008.

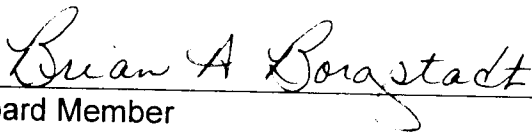
Board Member



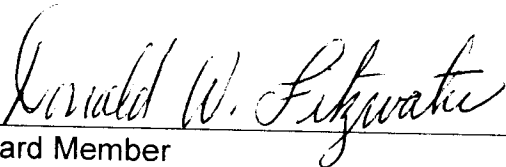
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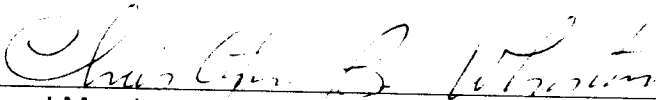
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