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## **RESOLUTION OF THE HERITAGE RANCH OWNERS ASSOCIATION**

### **FINE AND ENFORCEMENT POLICY**

**WHEREAS**, the Heritage Ranch Owners Association is a California Corporation organized and existing under the laws of the State of California; and

**WHEREAS**, the Articles of Incorporation Second Section, Subsection (b)(v) states one of the general purposes of Heritage Ranch Owners Association is to aid, and cooperate with, the members of this corporation and all property owners in said sub-division in the enforcement of such conditions, covenants, and restrictions on and appurtenant to their property; and

**WHEREAS**, the Articles of Incorporation Second Section, Subsection (b)(viii) states one of the general purposes of Heritage Ranch Owners Association is to have and exercise all the rights and powers conferred on nonprofit corporations under the General Nonprofit Corporation Law of California, as such law is now in effect or may at any time be amended; and

**WHEREAS**, Article VI, Section 4 of the Restated Bylaws of Heritage Ranch Owners Association establishes the right to use of Common Areas and Common Facilities subject to the rules, limitations and restrictions set forth in the Bylaws, the Declaration and in the Association's published rules and regulations as promulgated by the Board from time to time; and

**WHEREAS**, Article VI, Section 4 of the Restated Bylaws of Heritage Ranch Owners Association establishes, with the exception of the right of use of any roads, that the Board shall have the right to impose monetary penalties or to temporarily suspend the use and enjoyment of any Common Area and Common Facilities for the failure of a Member to pay any Assessments, fee or fine when due under Declaration, or to comply with any other rule or regulation imposed upon such Member, his or her tenants, or guests, pursuant to the Governing Documents provided the sanctions shall only be imposed after such person has been afforded notice and hearing rights; and

**WHEREAS**, Article VII, Section 1, of the Restated Bylaws of Heritage Ranch Owners Association establishes the authority of the Board of Directors to perform the business and affairs of the Association subject to the provisions of the California Nonprofit Mutual Benefit Corporation Law, and the Davis-Stirling Common Interest Development Act; and

**NOW THEREFORE**, the Board of Directors hereby adopts the following Fine and Enforcement Policy.

#### Preamble

These policies are Operating Rules as defined in the Davis-Stirling Common Interest Development Act and, to the extent they conflict with any previous Operating Rules, supersede and prevail over such previous rules. All Operating Rules, whether characterized as rules, policies, procedures and otherwise are subject to the provisions of the Declaration of Covenants, Conditions and Restrictions currently in effect for Heritage Ranch Owners Association.

### Purpose

All Members are responsible for compliance with the Declaration of Covenants, Conditions and Restrictions, Bylaws, and established operating rules of Heritage Ranch Owners Association, by their guests, tenants, visitors, invitees, themselves, and residents of their lots. In order to facilitate compliance with the Declaration of Covenants, Conditions and Restrictions, any supplementary Declaration of Covenants, Conditions and Restrictions for tracts within HROA, the Articles of Incorporation, the Bylaws, and any and all published Rules and Regulations as may be promulgated by the Board from time to time which may include, but is not limited to, general Operating Rules and Policies, Common Area and Common Facility Usage Rules and Policies, and Architectural Modification Guidelines, Rules and Policies ("Governing Documents"), the following policy and protocols have been created.

### Governing Document Enforcement

This policy shall apply to the enforcement of all Governing Documents of Heritage Ranch Owners Association (HROA).

### Request for Enforcement Action

Members that identify violations may submit a Request for Enforcement Action by and through the General Manager, or other designated representative. Requests should be submitted in writing and must include the address and details of the alleged violation. All requests for enforcement will be inspected and verified by management prior to notices being sent. A Request for Enforcement Action form will be made available for members and residents to use.

### Types of Violations

For the purposes of the enforcement process, HROA defines violations into one of two types:

1. **Uncurable Violations** – For the purposes of this policy, a violation is considered uncurable if the violation has occurred but is not a continuous action or condition capable of being remedied by affirmative action. The non-repetition of a one-time violation or other violation that is not ongoing is not considered an adequate remedy. Examples of uncurable violations include, but are not limited to, the following:
  - shooting fireworks;
  - an act constituting a threat to health or safety;
  - speeding or other traffic/moving violations;
  - a noise violation that is not ongoing;
  - property damage, including the removal or alteration of landscape; and
  - holding an event or activity prohibited by the Governing Documents.
  
2. **Curable Violations** – For the purposes of this policy, a violation is considered curable if the violation is a continuous action or condition that may be resolved by the correction of the condition or termination of action, and does not pose a threat to public health or safety. Examples of curable violations include, but are not limited to, the following:
  - a parking violation;
  - a maintenance violation;
  - constructing improvements or modifications without approved plans and specifications, or outside the scope of approved plans and specifications; and
  - an ongoing noise violation such as a barking dog.

## Notice of Violation Process

HROA will provide notice of alleged violations to Members, and tenant(s) if not owner occupied. The notification process will be as follows:

1. *Friendly Reminder/Courtesy Notice:* A formal letter will be sent by the Board of Directors (or the HROA Management Team as the Board may direct) via regular U.S. mail and/or email, based upon the notice preference of the Member, to the alleged violator. The letter will include the following information:
  - A description of the actions or inactions which are alleged to be violation(s) and instructions on becoming compliant;
  - A photograph of the alleged violation or statement of evidence, if available;
  - A specific reference to the provision(s) of the Governing Documents potentially violated;
  - A request that the alleged violator cure the violation, or communicate with the Management Team, in writing, with questions or information regarding circumstances delaying compliance.

The alleged violator will be given a reasonable period of time to cure the violation based upon the nature of the violation. For example: parking violations may be provided twenty-four (24) hours or less to cure, overgrown weeds or landscape may be given ten (10) days to cure, and major maintenance or repair work to a home or property may be given thirty (30) days to cure. Failure to cure the violation will result in a Second Notice.

Please note, incurable violations may skip this step and proceed directly to Hearing Notice.

2. *Hearing Notice:* A formal letter will be sent by the Board of Directors (or the HROA Management Team as the Board may direct) via regular U.S. mail, and by email if Member preferred communication method, to the alleged violator. The letter will include the following information:
  - The nature of the alleged violation for which a member may be disciplined, or the nature of the damage to the common area and/or facilities for which a monetary charge may be imposed;
  - A photograph of the violation or statement of evidence, if available;
  - A specific reference to the provision(s) of the Governing Documents violated;
  - Date, time and location of the hearing;
  - A statement that the Member has a right to attend and address the Board at the hearing/meeting, or submit a written response.

The alleged violator will be given notice of the hearing no less than ten (10) days prior to the hearing. The alleged violator will have this time to cure the violation. A copy of the letter may be sent to the property address, but must be sent to the alleged violator's address of record if the two (2) addresses are different.

3. *Notice of Decision:* A formal letter will be sent by the Board of Directors (or the HROA Management Team as the Board may direct) via regular U.S. mail and Certified U.S. mail, and by email if Member preferred communication method, to the alleged violator. The letter will include the following information:
  - Date of the hearing;
  - The specific provisions of the Governing Documents the owner violated;
  - Whether or not the Member was present at the hearing;
  - A summary of the events leading to the hearing;

- The evidence that the Member was in violation and the evidence, if any, presented by the owner in defense;
- The findings by the Board (e.g., the Member's dog created a nuisance with its incessant barking; the Member modified the unit without architectural approval; the Member's tenant was speeding on the association's private streets, etc.); and
- The discipline imposed by the Board (a warning, a fine, suspension of privileges, etc.).

The alleged violator will be given notice of the hearing decision no more than fifteen (15) days after the Board's decision. A copy of the letter may be sent to the property address, but must be sent to the alleged violator's address of record if the two (2) addresses are different. All fines must be paid within thirty (30) days of the date of mailing of the Notice of Decision.

4. *Additional Enforcement Actions:* If violation continues for any period of time after the Notice of Decision, at the discretion of the Board of Directors, the violation may be brought to the Board of Directors for further action, including Internal Dispute Resolution (IDR), Alternative Dispute Resolution (ADR), court order for forced compliance, or any other legal action as may be deemed appropriate.

All legal fees and costs incurred in connection with efforts to correct a violation will be assessed to the Unit Owner in accordance with HROA Governing Documents and the Davis Stirling Act. These assessed costs are NOT fines imposed by the Association.

#### Evidence of Violation

Before HROA can impose penalties against a Member for violation of the Governing Documents, due process requires it must:

1. Have evidence of a violation; and
2. Hold a hearing at which the accused can view and dispute the evidence.

Evidence can be eye-witness testimony, documentary, photos, videos, etc.

The accused do not have a right to conduct depositions for disciplinary hearings. However, HROA does permit the sharing of relevant materials immediately prior to the hearing. If the accused has evidence to exchange at the hearing, the accused should bring two (2) copies of any documents and pictures intended to be used at the hearing so that one set can be given to the Board of Directors.

Access to other owners' files, including violation records, will NOT be permitted due to privacy considerations for the other owners.

#### Hearing

Disciplinary hearings will be informal with the object being to address violations promptly, fairly, and inexpensively. The following guidelines will be followed:

1. *Executive Session:* Hearing will be held in executive session.
2. *Appearance at Hearing:* Members are invited to appear at the hearing. Members also have the right to submit their defense in writing rather than make an appearance before the board.

3. *Evidence*: The person subject to discipline has the opportunity to examine and refute evidence produced at the hearing.
4. *Witnesses*: Witnesses can appear at the hearing but are not always necessary. If witnesses do appear, there is no right to cross-examine the witness. The accused can direct questions to the Board of Directors.
5. *Lawyers*: Members do not have a right to a lawyer to represent them in disciplinary hearings. If the accused is accompanied by an attorney, the hearing will be recessed until the attorney is no longer present at the hearing.

#### Reconsideration

Members will be given the opportunity to request the Board of Directors reconsider their decision. The request for reconsideration must be submitted within 6 months of the date of the Notice of Decision and must include new evidence that was not considered during the original disciplinary hearing. Reconsideration of a decision is at the sole discretion of the Board of Directors.

#### Health, Safety and Welfare Violations

If it is determined a violation poses an imminent threat which would cause a substantial adverse effect on the health, safety or welfare of the Members and occupants of the Association, the Association, or the common property of the Association, then the Board of Directors, at its sole discretion, may undertake any and all actions necessary to compel compliance including enforcement by restraining order, declaratory relief and/or injunctive relief. All costs and fees incurred by the Association will be charged back to the violating Member in accordance with the Governing Documents and the law.

#### Assessment Delinquencies

The following process will be used for the suspension of rights of a unit owner, tenant, or guest, to use the common elements of the Association due to assessment delinquency of Owner Account.

1. *Late Notices & Collection Processing*: A formal letter or statement will be sent by the Board of Directors (or its managing agent as the Board may direct) via regular U.S. mail to the alleged violator stating account is delinquent. The Association's Delinquent Assessment Collection Policy will be followed and any enforcement action will not affect the process.
2. *Notice of Intent to Suspend Rights*: Should two (2) quarterly assessments not be paid, the Association will send a formal letter stating rights to usage of the Common Areas and Common Facilities, including the member entry lane at the community gates and guest access to the community, will be suspended upon approval by the Board of Directors at their next meeting. This suspension will NOT prevent access to the Member's lot and/or unit, and limited common elements of the unit. Access will be granted through the visitor lane. Notice of Intent to Suspend Rights will be sent no less than ten (10) days prior to the hearing before the Board of Directors.
  - Date, time and location of the hearing before the Board of Directors;
  - A statement that the Member has a right to attend and address the Board at the hearing/meeting, or submit a written response;
  - Notice of rights to be suspended as noted above.
3. *Board Approval of Suspension of Rights*: At the next Board of Directors meeting, all delinquent units will be presented to the Board for approval of suspension of rights.

4. *Notice of Suspension of Rights*: If the Board of Directors approves the suspension of rights for delinquent owners, a formal letter will be sent to the unit owner.

The notice will include:

- Date of Board Meeting when suspension was approved;
- Effective date of suspension of rights;
- Duration of suspension to continue until account is brought current;
- Notice of rights to be suspended, as noted in item 2 above.

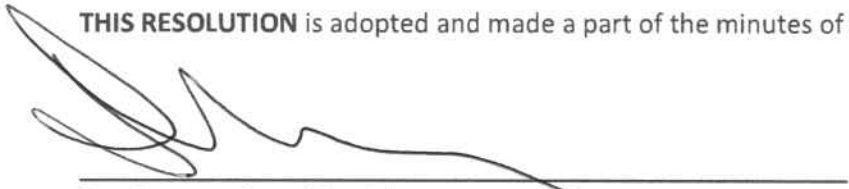
Schedule of Fines and Sanctions

The Schedule of Fines and Sanctions includes penalties based upon the severity of the violation. Violations relating to the health, safety and welfare of the community and common property, to include actual or potential damages, may be subject to a higher penalty.

1st Violation.....	warning or fine of \$25 to \$250
2nd Violation (same offense).....	fine of \$50 to \$300
3rd Violation (same offense).....	fine of \$100 to \$400
Additional Violations (same offense).....	fine of \$150 to \$500
Health, Safety and Welfare Violation.....	fine of \$250 to \$1,500
Architectural Modification Violations.....	warning or fine of \$25 to \$1,000
New Home Construction Process Violations.....	forfeit of deposit from \$1,000 to \$3,000
Continuing Violation.....	daily fines until cured of \$25 to \$500
Suspension.....	common area privileges may also be suspended
Assessment.....	may be levied to reimburse HROA expenses

All fines must be paid within thirty (30) days of the date of mailing of the Board’s Notice of Decision.

**THIS RESOLUTION** is adopted and made a part of the minutes of the Board Meeting held on May 25, 2023.




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Dan Burgess, Board President