

Sterling Hills Townhome Association

Covenant Enforcement Policy and Procedure

As Officers of the Board of Directors in a covenant protected community, we recognize the real and perceived value of our community centers around reasonable and consistent property standards. We further recognize a very important part of the consideration prospective property owners make when selecting a community in which to live and invest in, is the condition, quality and curb appeal of the community they are considering.

To standardize the quality and level of maintenance and care afforded a community, the original community developer established declarations of covenants. As a community, we supplement those declarations of covenants with more specific standards of care and behavior with rules and regulations and/or policy guidelines.

In a perfect world, owners would fully and timely comply with all the requirements and responsibilities necessary in our community. We understand, realistically, covenants and other standards of behavior are necessary for those few individuals who choose not to conform to and comply with the documents those individuals originally agreed to abide by.

Enforcement action and monetary penalties are sometimes necessary to garner cooperation and follow through from owners who choose to violate the laws of our community. Inaction regarding violations of our governing documents can lead to conditions that cost all owners far more than the reasonable fines and penalties the Association may consider.

Based upon these very important circumstances, we agree to approve the following enforcement policy for any and all violations of our Declarations of Covenants, rules and regulations and/or policy guidelines that we have not previously addressed in writing.

1. GENERAL

- 1.1 Failure to notify or enforce any of the Declarations of Covenants, Policies, Rules, Regulations and/or Guidelines will not be deemed a waiver of any of the Declarations of Covenants, Policies, Rules, Regulations and/or Guidelines
- 1.2 All of the Declarations of Covenants, Policies, Rules, Regulations and/or Guidelines will be severable, and if one or more are found to be invalid, all others will remain in full force and effect.
- 1.3 Any non-compliance with the Declarations of Covenants, Policies, Rules, Regulations and/or Guidelines by any owner, renter or guest will be the responsibility of the title holder of the property.

2. COMPLAINT

- 2.1 Complaints by owners or residents shall be in writing and submitted to the Board of Directors. The complaining owner or resident shall have observed the alleged violation and shall identify the complaint, the alleged violator, if known and set forth a statement describing the alleged violation, referencing the specific provisions which are alleged to have been violated, date the violation was observed and any other pertinent information. Non-written complaints or complaints failing to include any of the information required by this provision may not be investigated or prosecuted at the discretion of the Association.

- 2.2 Upon receipt of the complaint by the Association, if additional information is needed, the complaint may be returned to the complainant or may be investigated further by the Board of Directors, its designated individual or committee. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.
- 2.3 If a violation is found to exist, a warning letter shall be sent to the violator explaining the nature of the violation. The violator will have 14 days from the date of the letter to come into compliance. When a violation concerns a serious or immediate situation for person or property, the Board of Directors will seek to obtain prompt action by the alleged violator to correct and avoid any recurrence. The Board of Directors will seek to contact the owner or other violator and a hearing scheduled as soon as possible.
- 2.4 If the alleged violator does not come into compliance within 14 days of the first warning letter, this will be considered a second violation for which a fine may be imposed following notice and opportunity for a hearing with the Board of Directors.
- 2.5 A second letter shall be sent to the alleged violator, providing notice and an opportunity for a hearing and explaining if a violation is found to exist, a fine may be imposed pursuant to this Policy. The letter shall further state that the alleged violator is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing within 14 days of the date on the second violation letter. The second letter is sent by certified mail, return receipt requested, at the member's expense. As stated in Sections 4 and 5 of this Resolution, all related costs are charged to the member's homeowner's assessment account.
- 2.6 At the beginning of each hearing, the presiding officer of the Board of Directors shall introduce the case by describing the alleged violation and the procedure to be followed during the hearing. Each party or designated representative, may, but is not required to, make an opening statement, present evidence and testimony, present witnesses, and make a closing statement. The presiding officer may also impose such other rules of conduct as may be appropriate under the given circumstances. Neither the Complainant nor the alleged violator is required to be in attendance at the hearing. The Board shall base its decision solely on the matters set forth in the complaint, results of the investigation and such other credible evidence as may be presented at the hearing. Unless otherwise determined by the Board, all hearings shall be open to attendance by all association members. After all testimony and other evidence has been presented at a hearing, the Board shall, within a reasonable time, not to exceed 30 days, render its written findings and decision, and impose a fine, if applicable. A decision, either a finding for or against the owner, shall be by a majority of the Board members present at the hearing. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the hearing committee's decision absent a showing of denial of due process.
- 2.7 If an alleged violator fails to request a hearing, the owner is deemed to have waived their right to a hearing and the Board may proceed to impose a sanction for the violator's infringement.
- 2.8 The violator may file a written appeal to the Board of Directors of any adverse decision of the hearing committee or individual within 7 days of the decision.

3. ENFORCEMENT

- 3.1 The Board of Directors may contact law enforcement authorities, any regulatory or licensing authorities or other third parties regarding the alleged violation, but any action or decision by those parties shall not bar the Board of Directors from proceeding with covenant enforcement action.

- 3.2 It shall be the general policy of the Association to issue fines only after giving the owner every opportunity to correct the violation and providing due process for a hearing prior to issuing the fine. The Board may impose a fine in addition to taking any other legal action it deems necessary to enforce the Declarations of Covenants, Policies, Rules, Regulations and/or Guidelines of the Association. Notwithstanding this procedure, the Board may take legal action to enforce the Declarations of Covenants, Policies, Rules, Regulations and/or Guidelines at any time.

4. FINES AND SANCTIONS

- 4.1 Any fine shall be a personal obligation of the owner of the property at Sterling Hills and may be recorded against the property creating a lien against the property, which may be foreclosed. The Board may notify any lender or credit agency of such obligation and lien.
- 4.2 For all violations, other than immediate towing of violation vehicles and RV vehicles (as defined by Lincoln Municipal Code), the fine for a first violation of a Covenant, Policy, Rule, Regulation and/or Guideline will be no more than \$50.00. The fine for a second offense of the same nature will be no more than \$100.00 above the amount of the previous fine. Subsequent fines for similar offenses will increase by no more than \$100.00 above the amount of the previous fine per subsequent offense, unless in its sole discretion, a greater amount is deemed appropriate by the Board of Directors. The fine for violation vehicles and RV vehicles (as defined by Lincoln Municipal Code) will be no less than \$10.00 a day. Fines assessed against the owner of the property will become assessments collectable against the property pursuant to the Declarations and Nebraska Law and will be collected in the customary manner and pursuant to the business practices of the Association.
- 4.3 In all instances, the imposition of an amount less than the maximum possible fine will not preclude the Board from imposing the maximum fine allowable under this section for subsequent offenses.

5. RECOVERY OF EXPENSES AND ATTORNEY FEES

- 5.1 In any court action or other proceedings to enforce or defend the Declarations of Covenants, Policies, Rules, Regulations and/or Guidelines or otherwise to address a violation by an alleged violator, the Board shall be entitled to assess and recover its expenses, including that of reimbursement for expenses as well as attorney fees and costs against the title holder of the property, the alleged violator and/or other party in addition to all other rights and remedies.

6. DEVIATIONS

- 6.1 The Board of Directors may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.

7. AMENDMENT

- 7.1 This policy may be modified by the majority approval of the Sterling Hills Townhome Association Board of Directors. Said approval would require a meeting of the Board of Directors, open to all members of the Association to discuss the modifications.

The undersigned, being the President of Sterling Hills Townhome Association, a Nebraska nonprofit corporation, certifies that the foregoing resolution was approved and adopted by the Board of Directors of the Association at a duly called and held meeting of the Board of Directors of the Association on January 16, 2017, and in witness thereof, the undersigned has subscribed their name.

Sterling Hills Townhome Association, A Nebraska nonprofit corporation, by:


Abraham D. Neth
President

Date: 16 Jan 2017

ATTEST: Paula Davis
Sec./Treas.

Date: Jan. 16, 2017

Sterling Hills Townhome Association

COVENANT AND POLICY VIOLATION COMPLAINT FORM

Please fill out the entire form and mail to: Sterling Hills Townhome Association
5241 X Street
Lincoln, NE 68504

CONTACT INFORMATION FOR ASSOCIATION MEMBER FILING COMPLAINT:

Complaint may be filed by Association members only. Failure to provide contact information will render complaint invalid.

Date complaint filed: _____

Name of member filing complaint: _____

Address of member filing complaint: _____

Phone number of member filing complaint: _____

Signature: _____

COMPLAINT:

As an owner of property within the association listed above, I do swear and confirm that I did witness the following event(s) or occurrence(s) which I consider to be a violation of the Declarations of Covenants, and/or Policy Guidelines of the Association and I have reviewed said Covenants and/or Policy Guidelines to determine the event or occurrence is prohibited.

Address of alleged violation: _____

Photos or other documentation included with this complaint. YES _____ NO _____

Covenant that you believe is being violated and nature of alleged violation:

Please keep a copy of this complaint for your records, as you will not be provided copies by our office. You will not be contacted in response to this complaint unless further communication is required for enforcement. Complaint remains anonymous except in the following conditions: Person request hearing with Board to object to complaint or alleged violator pursues legal action against the Association.