

SUMMERFIELD Homeowners Association, Inc. (“Association”)

ENFORCEMENT & FINE POLICY (“Policy”)

Adopted/Updated on 09/29/2022

Basis for Policy:

A uniform and systematic procedure for the enforcement of covenants, restrictions, rules and policies (collectively “Covenants”) in a timely manner, including the imposition of fines and further legal action when necessary, is in the best interests of all owners of the Association.

Applicable Definitions:

1. “Governing Documents” include Declaration of Covenants, Conditions and Restrictions for Summerfield Subdivision, recorded on May 26, 1994 as Instrument No. 94049570, at the Ada County Recorder’s Office, including any amendments thereto (“Declaration”), the Bylaws of Summerfield Homeowners Association, Inc. (“Bylaws”), the Articles of Incorporation, and community rules and policies.
2. “Attorney” refers to the law firm of Smith Knowles, P.C., unless subsequent legal counsel is later retained.

Authority:

As provided by the Governing Documents, the Board of Directors (“Board”) for the Association may adopt rules policies and otherwise engage in enforcement of the Covenants. In particular, such provisions include, but are not limited to:

1. Declaration Section 3.5.2.6 and Bylaws Section 11 empower the Board to create, promulgate, repeal, and amend the Association rules and regulations governing the owners and affairs of the community.
2. Declaration Section 8.1 authorizes the Board to enforce the Governing Documents on behalf of the Association.
3. Idaho Code § 55-115(2) and Declaration Section 1.4 allow for the imposition of fines for violation of Covenants.
4. This Policy shall be controlling and supersedes any prior rule for enforcement.

Enforcement Process:

A. Initiation of Process

1. A written complaint of any violation of the Covenants shall be submitted to the Board (or its agent). The Board (or its agent) may also initiate a complaint process.
2. Written complaints should include the name of the complainant, the Covenant being violated, time of violation, place, and photographs or video whenever possible. The Board or agent may adopt an applicable form and/or procedure for the submission of written complaints.

3. The Board (or its agent) will first review any report of violation to establish that it appears reliable and contains details sufficient to proceed further.
4. If, after review of a complaint, the Board determines that a violation of the Covenants likely occurred, and the Board determines that it is in the best interests of the Association and owners to address the violation, the Board shall proceed as set forth herein.

B. Notice of Violation

1. The Association shall provide written notice of the violation, in a manner as allowed by the Governing Documents and Idaho law (which may include such methods as: electronic, mailing, personal service or posting on the door).
2. The written notice shall:
 - Describe the violation.
 - Request actions to resolve the violation.
 - Set a reasonable deadline for compliance.
 - Provide a contact for questions.
 - Warn that repeated failure to resolve pending violations can lead to a fine or other legal action, and that the Association will seek to recover all costs and attorney's fees.

C. Repeat Violations

1. An owner or occupant who repeats or fails to correct the same or similar violation shall be provided a second and third written notice by electronic means, or mailed notice to the owner at the owner's last known mailing address, as shown in the records of the Association. If a fourth notice is necessary due to non-compliance, the homeowner shall be provided a fourth/final notice by certified mail (return receipt requested) to the owner at the owner's last known mailing address as shown in the records of the Association. This notice shall:
 - Inform the owner that the violation is one for which a fine and/or legal action may be taken.
 - Describe the violation.
 - Describe the requested remedy.
 - Describe the applicable fine amount, if any.
 - If proceeding with a fine:
 - i. Provide notice of the date and time of the Board's next meeting that is **at least thirty (30) days** from the date of service of the notice where imposition of the fine will be decided.
 - ii. Provide notice that the Owner may be heard at such meeting.
 - iii. Provide notice that the Board will vote to approve the fine(s) or pass the violation on for further legal action at the meeting, unless the violation is fully resolved, or partially resolved, in good faith prior to the meeting.
 - iv. Provide notice that if the owner fails to contact the Board or agent in writing, the owner will be deemed to not dispute the violation notice and waive any further rights to negotiate, or mediate, the claim.
 - ii. Following consideration of any information provided at the hearing, decide by majority vote on whether to impose a fine.
 - iii. Notify the owner if a fine was imposed and in what amount.

- iv. The Board deems it necessary and desirable to adopt a *Schedule of Fines*, as amended, to be used by the Board in imposing fines, which is attached as **Exhibit A** and hereby adopted by the Board.
2. Request assistance from the Attorney if the Board has decided to take further or alternative legal action, as allowed by the Governing Documents and Idaho law.

D. Other Legal Action, Including Emergency Actions

1. Notwithstanding the above, the Board may determine that the circumstances warrant additional or alternative legal action such as:
 - Pursuing a Limited, Individual or Special Assessment when applicable.
 - Seeking injunctive or declaratory relief.
 - In an emergency or time sensitive situation, taking immediate legal action, as the Board finds reasonably necessary, to stop violation of the Governing Documents or applicable state or federal law.
2. In proceeding with Legal Action the Board may consider relevant factors, including, but not limited to:
 - The violation is serious in nature such that it is worth addressing even if fines or legal fees would not be recovered from the owner.
 - The violation threatens human health or property or is of an irreparable nature or difficult to restore.

E. Additional Corrective Action by the Board.

1. In accordance with Declaration Section 8.1, pursue injunctive relief, money judgement, a declaratory ruling, a restraining order, attorney's fees and costs, and such other and further relief as may be sought from the appropriate court of jurisdiction, or any agency or municipality having jurisdiction.

F. Attorney Fees.

1. Regardless of whether a lawsuit is ultimately filed, the Association shall endeavor to recover the legal fees and costs incurred by the Association.

G. Settlement.

1. Nothing herein shall prevent the Board from reaching a resolution or compromise with an offending party. The Board may utilize its discretion and should consider the best interest of the Association in weighing such factors as: uniform enforcement, costs of enforcement, seriousness of the violation, unique circumstances involved, timing and other relevant factors involved in the enforcement action or related conduct.

BE IT FURTHER RESOLVED that a copy of this Policy and Fine Schedule, shall be sent to each owner at the address shown in the records of the Association.

BE IT FURTHER RESOLVED that this resolution supersedes, and nullifies, past resolutions, or decisions, outlining the process of enforcement of governing documents, homeowner compliance, and related fines.

IT IS FURTHER CERTIFIED that the Board of Directors adopted this Policy by unanimous consent and directed the President of the Association to execute the same.

The Board of Directors of
Summerfield Homeowners Association, Inc.

Date: 09/29/2022

Tara Spencer

By: _____, Association President

**Exhibit A
FINE SCHEULE**

Unless otherwise specified in the Governing Documents, the Association shall follow the following schedule, which amounts are subject to change through modification of this Fine Schedule:

An initial fine up to, but not to exceed, \$250.00, the amount being in the sole discretion of the Board, and additional daily fines to accrue until the violation is remedied or the maximum fine is reached.

Fines	Amount/Per	Annual Maximum
Landscaping	\$25/day	\$1,000
Exterior Maintenance	\$25/day	\$1,000
Nuisances	\$25/day	\$1,000
Vehicles & Equipment	\$25/day	\$1,000
Signs	\$25/day	\$ 500
Improvements/ACC/Construction	\$25/day	\$2,000
Rental Violations	\$25/day	\$1,000
Maintenance of Animals	\$25/day	\$1,000
Trash	\$25/day	\$1,000
Other Violations	\$25/day	\$1,000

If a second or subsequent like-violation is committed within one (1) year from the first notice, the fine amount above will double (or the maximum amount allowed by law) for each like-violation.