



WINDSOR HIGHLANDS

METRO DISTRICT

## **FINE POLICY and SCHEDULE**

### **Section 1. INTENT**

- A. In accordance with the Declaration of Covenants, the Board of Directors (the "Board") has adopted Rules to promote the health, safety and welfare of the Members and the maintenance and aesthetic appearance of the community for the preservation of property values and the assets of the District.
- B. While many violations are resolved through a Courtesy/Warning Notice (see below), there are instances when further action is required. Fines are intended to bring properties into conformance with the Declaration of Covenants, Architectural Guidelines, and other rules and regulations set forth by the District (collectively, the "Govern Documents") in a timely manner while providing due notice and appeal rights to property owners, as described in Exhibit "A" – Violation and Fine Appeal Process attached hereto and incorporated herein by reference.
- C. In order to gain compliance, the Board intends to impose and collect monetary penalties as authorized by Article IV, 6.i and Article XII, 1.a in the Declaration of Covenants and reserves the right to enforce the community's restrictions in any other legal manor.

### **Section 2. NOTICE OF VIOLATION**

- A. Notice Required: Upon a unit/lot owner's first violation of any provision of the Governing Documents, the District shall provide a written Courtesy/Warning Notice to the unit/lot owner to allow the unit/lot owner the right to cure said violation as stated in the Notice.
- B. Courtesy/Warning Notice: A Courtesy/Warning Notice of the first violation shall be mailed to the unit/lot owner and contain, at a minimum, the following information:
  - 1. The alleged violation of the Governing Documents;
  - 2. The date of the violation or the date the violation was observed;
  - 3. The first and last name of the person who observed the violation or the name of the management person confirming the violation;
  - 4. A statement that the violation must be cured within ten (10) days of the date of the Notice, and failure by the unit/lot owner to cure the violation within ten (10) days shall result in a fine in accordance with the Fine Policy and Schedule of Fines in effect at the time of the violation; and
  - 5. The unit/lot owner's right to appeal the violation.
- C. Right of Appeal: A unit/lot owner who receives a Courtesy/Warning Notice regarding a violation may appeal the violation by sending a written notice via certified mail to the District's address (as listed on the notice of contact form recorded with the county recorder) within ten (10) days of the date of the Courtesy/Warning Notice. The process for appealing the violation is set forth in Exhibit "A".

### **Section 3. NOTICE AND IMPOSITION OF FINES**

- A. Notice of Imposition of Fines: If the unit/lot owner fails to cure the violation within ten (10) days of the date of the Courtesy/Warning Notice, the District shall send the unit/lot owner a Notice of Imposition of Fine via mail, which Notice shall state that the unit/lot owner has been assessed a fine for the violation in accordance with the Schedule of Fines attached hereto, as amended from time to time, and that failure by unit/lot owner to cure the violation within the period stated in the Notice of Imposition of Fine shall result in additional fines to the unit/lot owner.
- B. Further Failure to Comply: Additional Notices of fines citing unit/lot owner's failure to cure the violation shall be mailed to the unit/lot owner at the frequency and fine rate stated in the Schedule of Fines attached hereto, as amended from time to time. Each Notice shall indicate the current fine, pass due fines and late fees, if any, the date that the violation must be cured to avoid additional fines, and unit/lot owner's right to appeal.

### **Section 4. CONTINUING VIOLATIONS**

- A. In the case of repeat and persistent violations, this system of fines may ultimately lead to prosecution of non-responsive violators. Fines will not take the place of legal action but will be used as an additional remedy. Fines shall not exceed the level, if any, established by state law.
- B. In addition, the Board shall have the right to remedy the violation and seek reimbursement from the unit/lot owner for collection costs and reasonable attorney fees and costs incurred as a result of such failure to comply with the governing Documents without the necessity of legal proceedings.
- C. The Board may take legal action against the unit/lot owner at any time after a fourth Notice of Imposition of Fines has been sent to the unit/lot owner, when accrued fines equal or exceed \$250.00, or of the Board determines, in its sole discretion, that immediate legal action is necessary to preserve the health, safety, and welfare of its Members. Pursuant to State law, in any legal action pursued hereunder, the court shall award reasonable attorney fees, costs, and costs of collection to the prevailing party.
- D. To ensure that the Board is aware of continuing violations, the Management Company shall list the violating unit/lot owner on the Executive Session agenda when a fourth Notice of Imposition of Fine has been sent to the unit/lot owner, when accrued fines equal or exceed \$250.00, or when the Management Company believes immediate action by the Board is necessary to preserve the health, safety, and welfare of its Members. At such time, the Board shall deliberate as to whether the Board should take other appropriate action against the unit/lot owner as provided herein.

### **Section 5. RECURRENCE OF VIOLATION**

Any recurrence of the same violation within six (6) months of the original violation, as noted in the Courtesy/Warning Violation, shall make the unit/lot owner subject to the imposition of a fine. Such fine shall be levied at the current rate of a 2<sup>nd</sup> violation in accordance with the "Schedule of Violations and

Fines” then in effect. Such violations shall be considered a continuing violation and no Courtesy/Warning Notice shall be provided to the unit/lot owner.

**Section 6. FAILURE TO PAY**

- A. Fines shall be due and payable within thirty (30) days of notice. Fines not paid within thirty (30) days shall be charged a late fee.
- B. All rights and remedies of the District are cumulative and not exclusive and the District shall have all rights and remedies to levy and collect fines which may be available to it under the Governing Documents and applicable law.
- C. Until paid by the unit/lot owner, all fines, fees, and charges assessed against the unit/lot owner pursuant to the Fine Policy and Schedule, as amended from time to time, including but not limited to, the cost of collecting fines, fees, and charges such as collection agents and attorney fees, shall constitute a lien on and against the property in accordance with the Declaration of Covenants and Tile 38, Article 33.3 of the Colorado revised Statutes.
- D. Fee Schedule:
  - 1. Late Fee Charge: A late fee of \$15.00 will be assessed on every account that is not paid in full within thirty (30) days reference above. The late fee charge may be amended from time to time by resolution of the Board.
  - 2. Bad Check Charge: For each check that for any reason is returned to the District unpaid, the unit/lot owner shall owe the District a “bad check” charge of \$35.00. The bad check charge may be amended from time to time by resolution of the Board.
  - 3. Collection of Fees: The unit/lot owner shall be responsible for all collection costs incurred by the District as part of the collection process, including, but not limited to, attorney fees, collection agent fees, and court cost.

**Section 7. APPEAL PROCESS**

Violation and fines may be appealed to the Board in accordance with the procedures set forth in Exhibit “A”, which procedures may be amended from time to time by a majority vote of the Board.

**Section 8. SCHEDULE OF FINES**

Fines may be levied as shown below. The Board may amend the Schedule of Fines from time to time as it deems necessary by a majority vote of the Board.

SCHEDULE OF FINES ON NEXT PAGE (page 4)

SCHEDULE OF FINES

Violation	Amount of Fine				Assess	CC & R
	1st	2nd	3rd	Thereafter		
Architectural Committee Review and Approval Required	Warning	\$25	\$50	\$50	Bi-weekly	Article XI.1.2 & Architectural Guidelines
Architectural Review Improvement not Conforming to Request/Approval	Warning	\$25	\$100	\$200	Bi-weekly	Article XI.5.2 & Architectural Guidelines
Declaration of Covenants, Other Not Listed	Warning	\$25	\$50	\$50	Bi-weekly	Section 7.1
Drainage & Irrigation	Warning	\$25	\$50	\$50	Bi-weekly	Article X
Home Occupations	Warning	\$25	\$50	\$50	Bi-weekly	Article XII Sec 7
Household Pets	Warning	\$25	\$50	\$50	Bi-weekly	Article XII Sec 14
Leases	Warning	\$25	\$50	\$50	Bi-weekly	Article XII Sec 9
Motor Vehicle Repairs	Warning	\$25	\$50	\$50	Bi-weekly	Article XII Sec 2
Disturbing the Peace	Warning	\$25	\$50	\$50	Bi-weekly	Article XII Sec 20
Nuisances	Warning	\$25	\$50	\$50	Bi-weekly	Article XII Sec 17
Outside Storgae	Warning	\$25	\$50	\$50	Bi-weekly	Article XII Sec 16
Parking, Restiricted Vehicle	Warning	\$25	\$100	\$200	Bi-weekly	Article XII Sec 19
Landscaping	Warning	\$25	\$50	\$50	Bi-weekly	Arch Guide. Sec 1.x
Pet Runs	Warning	\$25	\$50	\$50	Bi-weekly	Arch Guide. Sec 1.m
Radio & TV Antennas	Warning	\$25	\$50	\$50	Bi-weekly	Article XII Sec 5
F...oles	Warning	\$25	\$50	\$50	Bi-weekly	Arch Guide. Sec 1.r
Sesonal Decorations	Warning	\$25	\$50	\$50	Bi-weekly	Arch Guide. Sec 1.ii
Signage	Warning	\$25	\$50	\$50	Bi-weekly	Article XII Sec 4
Storage of Inoperative Vehicles	Warning	\$25	\$100	\$200	Bi-weekly	Arch Guide. Sec 1.vv
Accessory Structures	Warning	\$25	\$50	\$50	Bi-weekly	Arch Guide. Sec 1.a
Trash	Warning	\$25	\$50	\$50	Bi-weekly	Arch Guide. Sec 1.rr
Utility Installation	Warning	\$25	\$50	\$50	Bi-weekly	Arch Guide. Sec 1.uu
Wells	Warning	\$25	\$50	\$50	Bi-weekly	Article XII Sec 12

**Exhibit "A"**

**VIOLATION and FINE APPEAL PROCESS**

**Section 1. – NOTICE**

Any unit/lot owner who receives a notice of violation or imposition of fine may appeal such violation of fine to the Board of Directors of the District (the "Board") by providing the District, via certified mail, a written request for a hearing. Such request must be submitted to the District within ten (10) days of the date of the notice of violation or fine. Fines set forth in any notice from the District will continue to accrue during the appeal process so that the appeal process is not used to delay effective enforcement of the District's governing Documents, as defined in above referenced FINE POLICY and SCHEDULE.

If a timely request for a hearing is submitted by the unit/lot owner, the District shall set a date and time for the hearing and notify the unit/lot owner in writing of the date and time of the hearing.

**Section 2. – APPEAL PROCESS**

1. The hearing shall be held before the Board in executive session.
2. The Board President shall summarize the appeal request before the Board and introduce all parties.
3. The unit/lot owner shall be afforded ten (10) minutes to state his or her case and to present to the Board any evidence that is applicable to the unit/lot owner's appeal.
4. Each Board Member shall have an opportunity to question the unit/lot owner regarding the appeal.
5. Upon completion of the question and answer period, the Board President will state that the appeal has been heard and the Board will make their decision in closed session. In reaching a decision, the Board may take into account the unit/lot owner's statements and evidence presented, the unit/lot owner's willingness to work towards compliance, and any other factors that may be presented as determined by the Board.
6. The Board may continue the hearing if it determined that additional information is required from the unit/lot owner before making an informed decision. The Board shall notify the unit/lot owner in writing of the date and time of the continued hearing and the additional information that the unit/lot owner must present on the continued hearing date.
7. The minutes of the meeting shall contain a written statement of the results of the hearing and the fine, if any, imposed. The unit/lot owner shall be given written notice of the results of the hearing within ten (10) days from the date of the hearing.

**Section 3. – DENIED APPEALS**

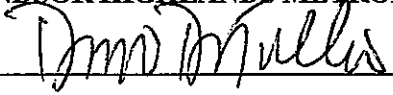
1. All decisions of the Board are final and may not be further appealed through the District.
2. If the Board denies the unit/lot owner's appeal, the unit/lot owner must bring the violation into compliance and pay all outstanding fines and charges accrued to date within the time period specified in the written notice received from the Board regarding the Board's decision. Failure to cure the violation within the designated time period stated therein shall constitute a continuing violation and subject the unit/lot owner to subsequent fines at the rate and frequency noted in the Schedule of Fines, which additional fines shall not be subject to the appeal process.

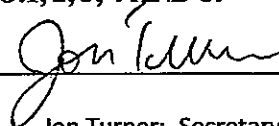
3. The Board may, in its sole discretion, take legal action against the unit/lot owner at any time after a unit/lot owner's appeal has been denied and the unit/lot owner had accrued fines equal to or greater than \$250.00 or the Board determines that immediate legal action is necessary to preserve the health, safety, and welfare of its Members.

**THIS FINE POLICY AND SCHEDULE WERE INITIALLY ADOPTED BY THE GOVERNING**

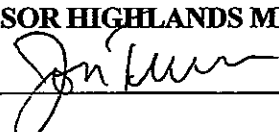
**BOARD on the 8<sup>TH</sup> day of December, 2011.** As provided in the Declaration and as provided in this document, these Guidelines are subject to amendment by the Governing Board.

**WINDSOR HIGHLANDS METROPOLITAN DISTRICT NO.1, 2, 3, 4 AND 5:**

By:   
Dino DiTullio: President/Chairman

ATTEST: by:   
Jon Turner: Secretary/Treasurer:

**WINDSOR HIGHLANDS METROPOLITAN DISTRICT NO. 6:**

By:   
Jon Turner: President/Chairman

ATTEST: by:   
Dino DiTullio: Secretary/Treasurer: