

Rules & Regulations

Fines Schedule/Right to Hearing

Winsper Community Organization, a homeowners' association

Pursuant to the Declaration of Covenants, Conditions, and Restrictions ("CC&Rs") of the Winsper Community Organization (the "Association") and R.C.W. 64.38.020(11), the following written rules and regulations are adopted in order 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. These rules are intended to provide additional incentive for compliance by owners who violate the requirements and provisions of the governing documents, not supplant or amend them, and in the event of an inconsistency or conflict between these Rules and the governing documents of the Association, the governing documents provisions will supercede and apply.

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 consider the nature of the violation, the circumstances of the owner and the property, and what it will take to correct the non-compliance

in order to determine a reasonable time period deadline to give the owner to comply. If such Notice warns that fines will be imposed if compliance does not occur by a certain date, 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 timely comply and correct the violation, the Association may assess or levy 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.

II. Schedule of Fines

- A.** If an owner violates any provision(s) of the governing documents and does not comply after reasonable notice and within the deadline given by the Association, fines may be imposed and accrue at the rate of \$10.00 per day until compliance occurs. Such fines may be assessed by the Association against any homeowner and his/her lot, starting immediately after the notice deadline period expires without the complete and total correction of the violation(s) by owner within that period.
- B.** If a violation involves an intermittent offense or conduct, for example the failure to quiet and/or control a barking dog, the Association may levy a fine of \$100.00 per incident after reasonable initial warning to the owner.

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

finer accrue they remain unpaid and outstanding for more than 90 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 said thirty (30) 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 of Hearing.** The homeowner must complete a written Request for Hearing which shall be mailed, or delivered to the Association. 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's 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) current members, at least one of which must be a current Board member of the Association 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 mail or deliver notice to the appellant owner of a hearing date, which notice will provide the date, time, and location of the hearing, which is to be determined by the Review Board.

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, email, 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.

DATED AND ENACTED MARCH 3RD, 2009.