

**KINGS ROW HOMEOWNERS ASSOCIATION, INC.  
POLICY AND PROCEDURE**

**ENFORCEMENT OF COVENANTS AND RULES**

Effective February 13, 2023

This policy and procedure has been adopted by the Executive Board ("Board") of the KINGS ROW HOMEOWNERS ASSOCIATION, INC. (the "Association") for enforcement of covenants and rules ("Enforcement Policy") pursuant to C.R.S. §§ 38-33.3-209.5(1)(b)(IV) and 209.5(2). This Enforcement Policy repeals and replaces in its entirety the Association's "Enforcement of the Declaration, Bylaws, Rules and Regulations and Schedule of Fines" Policy and Procedures and shall remain in effect until such time as they may be duly changed, modified, or amended by the Board.

1. Reporting Alleged Violations; Complaint Procedure. Any Owner or resident in the community, a Board Member (Director), Association employee, or the Association Manager, may submit a written complaint to report an alleged violation of the Governing Documents (i.e. Declaration, Bylaws, Rules, Regulations, Policies, Design Review Guidelines). All written complaints shall be submitted to the Association Manager or the Board. Each written complaint shall:

- (i) identify the individual making the complaint (the "Complainant");
- (ii) identify the alleged violator ("Violator"), if known;
- (iii) describe the alleged violation, including the location or property on which the alleged violation occurred;
- (iv) identify the specific provisions alleged to have been violated, if known;
- (v) state when the violation was observed; and
- (vi) include any other relevant information.

Except as provided herein, non-written complaints or anonymous complaints will not be accepted; however, Complainants identity may remain confidential at the request of the Complainant, unless needed to provide testimony at a hearing. Complaints failing to include any information required by this provision may be returned to the Complainant for revision or clarification, or may not be investigated, at the Association Manager's discretion. The Board of Directors or Association Manager may institute a complaint on their own accord, whether in writing or not.

2. Investigation. Upon receipt of a complaint, the alleged violation may be investigated by the Association Manager (or his/her designee) and/or the Board. The Association Manager and/or Board shall determine: (i) whether the alleged violation occurred based on the complaint and any additional information obtained through the investigation; (ii) whether the alleged violation threatens public safety or health; (iii) whether the alleged violation has been or may be resolved informally; and (iv) whether enforcement action is warranted.

3. Enforcement Procedure; Notice of Violation. If the Association Manager and/or Board determines that the alleged violation actually occurred and that enforcement action is warranted, it shall direct the Association Manager to send a Notice of Violation of any provision of the Governing Documents to the applicable Violator and follow the applicable enforcement procedure, as follows:

A. *Violations that **DO NOT** Threaten Public Safety or Health:*

- Notice of Violation. The Notice of Violation shall be issued to a Violator in accordance with Section 14 below and shall:

- (i) describe the violation;

- (ii) state the amount of fine to be imposed pursuant to this Policy and/or Schedule of Fines;

- (iii) state the Violator may request a hearing with the Board, as an impartial decision maker, to challenge or contest the alleged violation and fine, and that such request must be made within 30 days from the date of the Notice of Violation;

- (iv) state how to cure such violation and that the violation must be cured within 30 days or fines will be imposed (upon inspection by the Association determining the violation is uncured), including continuing fines for continuing violations until cured; and

- (v) state that if a hearing is not requested or violation not cured within 30 days, the fine set forth on the Notice of Violation shall be deemed validly imposed and accepted.

- When Fines May be Imposed. If the Violator has not cured the violation (upon inspection) within such 30-day cure period (or otherwise requested a hearing), the Association may impose fines until the violation is cured, in accordance with this Policy. The Association shall inspect the unit within 7 days after receiving written notice from the Violator that the violations has been cured pursuant to Section 4 below or the expiration of the 30-day cure period to determine if the violation has been cured, whichever occurs first. Prior to taking legal action for the violation (other than imposing fines), the Association shall provide two consecutive 30-day periods in which to cure a violation.

B. *Violations that Threaten Public Safety or Health:*

- Notice of Violation. The Notice of Violation shall be issued to a Violator accordance with Section 14 below and shall:

- (i) describe the violation, including it threatens public safety or health;

(ii) state the amount of fine to be imposed pursuant to this Policy and/or Schedule of Fines;

(iii) state the Violator may request a hearing with the Board, as an impartial decision maker, to challenge or contest the alleged violation and fine, and that such request must be made within 72 hours from the date and time of the Notice of Violation or fines;

(iv) state how to cure such violation and that the violation must be cured within 72 hours or fines will be imposed, including continuing fines for continuing violations until cured; and

(v) state that if a hearing is not requested or violation not cured within 72 hours, the fine set forth on the Notice of Violation shall be deemed validly imposed and accepted.

- When Fines May be Imposed: If the Violator has not cured the violation (upon inspection) within such 72-hour period (or otherwise requested a hearing), the Association may impose fines until the violation is cured in accordance with this Policy and may take legal action against the Violator.

#### 4. Curing Violations; Notice of Cure.<sup>1</sup>

- A. A Violator may cure a violation and provide the Association Manager notice of such cure. If the notice of cure includes visual evidence that the violation has been cured which is confirmed by inspection by the Association Manager, then the violation is deemed cured on the date of the notice of cure. If the notice of cure does not include visual evidence that the violation has been cured, the Association Manager shall inspect the violation as soon as practicable to determine if the violation has been cured.
- B. Once the Violator cures a violation, the Association shall notify the Violator in writing that: (a) the Violator will not be further fined with respect to the continuing violation; and (b) the amount of any outstanding fine balance owed.

#### 5. Violations that Threaten Public Safety or Health. The Association Manager and/or Board may determine on a case-by-case basis whether a violation of the Governing Documents threatens public safety or health. In addition, the Board finds that violations of the following provisions of the Governing Documents constitute violations threaten the public safety or health: parking regulations, those that impact utilities, construction regulations,

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<sup>1</sup> Note: Some violations are simply incapable of being cured – the action itself rather than condition is the violation (e.g. damage to Common Elements; speeding). In such case, a fine may be imposed after the expiration of the applicable opportunity to cure. If a notice of cure is provided, the Association Manager may make a finding the violation cannot be cured.

acts that threaten or cause damage to Common Elements, and acts involving hazardous materials.

6. Request for Hearing. If a Violator desires a hearing to challenge or contest any alleged violation and possible fine, the Violator must request such hearing, in writing, within the time set forth in the Notice of Violation. The request for hearing shall describe the grounds and basis for challenging the alleged violation. If a hearing is not requested within the applicable period, then the Notice of Violation shall constitute an accepted Violation and the fines set forth on the Notice of Violation shall be deemed validly imposed, assessed, accepted, and immediately due and payable.
7. Hearing.
  - A. If requested by the Violator, the Board shall inform the Violator of the scheduled time, place and date of the hearing, provided that the Board Chair may grant continuances for good cause shown (and no unnecessary delay). The Violator must be in attendance at the hearing. The hearing shall be held in executive session. If the Violator fails to appear at the hearing or otherwise respond, the Board may proceed with or without a hearing to make a determination regarding the allegations in the complaint and Notice of Violation based on the relevant facts and circumstances.
  - B. At the beginning of each hearing, the Board Chair shall explain the rules, procedures and guidelines by which the hearing shall be conducted and shall introduce the case before the Board by reading the Notice of Violation. Each party may make opening statements, may present evidence and testimony, may present witnesses, and may make closing statements. The decision of the Board at each hearing shall be based on the matters set forth in the complaint, Notice of Violation, Request for Hearing, and such evidence as may be presented at the hearing.
8. Decision. Whether or not a hearing is held, the Board shall render its written findings and decision, and impose a reasonable fine, if applicable. A decision, either a finding for or against the Violator, shall be by a majority of the members of the Board present at the hearing. For continuing violations involving real property, the Board may also issue and present for recording with the County Clerk and Recorder a Notice of Finding of Violation. Upon satisfactory compliance with the Association's Governing Documents, the Notice of Finding of Violation may be released by the Association issuing and recording a Release of Notice of Finding of Violation. A Violator wishing to dispute the Board's Decision must follow the Association's Alternative Dispute Resolution Policy and Procedure.
9. Fines.
  - A. The Association is authorized to impose fines pursuant to C.R.S. § 38-33.3-302(1)(k)(I). Unless otherwise provided in the Schedule of Fines, any violation of the Governing Documents will subject the Violator/Owner to a reasonable fine assessment imposed by the Board on behalf of Association. The Board may determine and adopt

a Schedule of Fines; otherwise fines shall be determined by the Board for each finding of a violation based on the type, severity, repetition, and circumstances of each violation up to \$5,000. Total fines for a violation that **does not** threaten public safety or health shall not exceed \$500.

- B. In the event of a continuing violation, a fine may be levied for each 48 hour period the violation continues until cured and a separate notice and hearing procedure is not required for each period in which the fine for the continuing violation is imposed. Notwithstanding, each 48 hour period in which a violation remains uncured constitutes a new violation and the Association may elect to provide a new notice of violation for each “new violation,” in its discretion.
  - C. The Board, in its sole discretion, may amend, suspend, or waive all or any portion of any fines, and on reasonable terms and conditions, if appropriate under the circumstances.
  - D. Upon imposition of any fine which is on unpaid, the Association shall provide the Violator a monthly statement of account the itemizes all assessments, fines, fees, and charges that the Owner owes to the Association. Such notice shall be sent by first-class mail and by email (if available) to the Owner and any Designated Contact for the Owner.
10. Board to Conduct Hearing. Unless determined to have a “a direct personal or financial interest in the outcome,” the Board members shall act as the “impartial decision maker” and shall hear and decide cases set for hearing pursuant to this Policy. The Board may appoint an officer or other Owner to act as the Board Chair at any of the hearings.
  11. Conflicts. Board members shall comply with the Association’s Conflict of Interest Policy and Procedure. Any Board member who is incapable of objective and disinterested consideration on any hearing before the Association shall disclose such to the Board Chair prior to the hearing on the case, if possible, or, if advance notice is not possible, then such disclosure shall be made at the hearing, and the Board member shall be disqualified from all proceedings with regard to the hearing. If disqualification of any Board member(s) results in an even number of remaining Board members eligible to hear a case, the Presiding Officer may appoint a Board member (Director) or Owner, in good standing, to serve as a temporary voting member of the hearing board.
  12. Failure to Appear. If the Violator fails to appear at any of these proceedings, the action of the Board will stand.
  13. Service of Notices. Service of all notices required or permitted to be given hereunder shall be made as follows:

*If to Violator:* By email, personal delivery, posting on the Owner’s property, or by U.S. Mail, certified mail, return receipt requested, addressed to the last registered

address of the Violator as contained in the Association's records or as permitted by C.R.S. § 38-33.3-209.5(1.7)(a).

**\*Except, however,** notices of violation for violations that do not threaten public safety or health shall be sent by certified mail, return receipt requested.

*If to the Association:* By email to Association Manager, personal delivery, or by U.S. Mail, certified mail, return receipt requested, addressed to the Association.

Email service of notice is preferred. Any notice personally delivered shall be deemed received on the date of delivery, and any notice mailed shall be deemed received on the third (3<sup>rd</sup>) day following the date of mailing.

Notices shall be provided in a language other than English if requested by the Owner pursuant to C.R.S. § 38-33.3-209.5(1.7)(a).

Notices for collection of fines shall be made in accordance with C.R.S. §§ 38-33.3-209.5(1.7)(a) and (6).

The Owner shall be solely responsible for providing the Association with the information for any Designated Contact or to request that Notices be provided in a language other than English.

14. Collection of Fines; Lien; Foreclosure. Fines imposed shall constitute and be collected in the same manner as assessments pursuant to the Association's Collection Policy and Procedure, which may include recording a lien. Fines alone may not provide the basis for instituting a foreclosure action.
15. Suspension of Rights. Upon a failure to cure by the required time, the Violator's voting privileges shall be suspended and other Association amenities until such time as the violation is cured and any fine paid.
16. Informal Enforcement. Nothing herein shall preclude the Board or Board from seeking voluntary compliance via informal communication.
17. Remedies Not Exclusive; Deviations. Notwithstanding any provision of this Policy, the Association may use any legal means available at any time to enforce the terms of the Governing Documents. The Board/Board may deviate from the procedures set forth in this Policy if, in its sole discretion, such deviation is reasonable under the circumstances and in compliance with Colorado law. Fines may be modified by a majority vote of the Board/Board.
18. Violations or Offenses that Constitute a Present Danger. Nothing in this Policy shall limit the Association's right to immediately act to preserve and protect the Common Elements, the Units, the Owners, occupants or guests pursuant to the Governing Documents or

applicable law. If, in its sole discretion, the Board deems that any alleged violation is or may be an immediate or substantial threat of damage to community property or to the health, safety or welfare of the community or an individual, the Board may take the appropriate action necessary to abate the threat and protect property and persons.

19. Responsibility for Actions of Tenant or Guest. Owners shall at all times be responsible for the actions of their tenants and guests. In the event that an Owner's tenant or guest violates the Governing Documents and a fine is imposed, the fine may be assessed against that Owner.
  
20. Miscellaneous.
  - A. The Board may determine enforcement action on a case-by-case basis, and take other actions as it may deem necessary and appropriate to assure compliance with the Association's Governing Documents, and to create a safe and harmonious living environment.
  
  - B. Failure by the Association to enforce any provision of this Policy shall in no event be deemed to be a waiver of the right to do so thereafter.
  
  - C. The provisions of this Policy shall be independent and severable. The invalidity of any one or more of the provisions hereof by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which other provisions shall remain in full force and effect.
  
  - D. The provisions of this Policy shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the common interest community and non-profit corporations.

**CERTIFICATION:**

The undersigned, as President of the Kings Row Homeowners Association, Inc., a Colorado non-profit corporation, certifies that the foregoing policy and procedure was adopted by the Executive Board of the Association, at a duly called and held meeting of the Board on February 13, 2023.

KINGS ROW HOMEOWNERS ASSOCIATION, INC.  
a Colorado non-profit corporation

By: Julie Mikus Hazard  
President