

# SILVER CREEK

c/o JCHiggins & Associates

PO Box 731029

# SILVER CREEK

Puyallup, WA 98373

## ENFORCEMENT PROCEDURES

### A. GENERAL

1. Authority. The Board of Directors ("Board") is authorized and empowered to investigate, hear, and determine all complaints concerning violations of the governing documents or of any decision of the Board made as provided in the governing documents. The Board is further authorized and empowered to impose fines as may be allowed in amounts not to exceed the maximum rates established on any person whom it finds to have violated the governing documents.
2. Informal Dispute Resolution Preferred. It is the intent of the Association that an informal process be encouraged prior to the initiation of a formal complaint against an owner, tenant, or other occupant of a lot. To that end, any owner, tenant, occupant or employee or agent of the Association has the authority to request that an owner, tenant or occupant of any lot cease or correct any act or perform any omission which appears to be in violation of the governing documents or of any decision of the Board made as provided in the governing documents. The informal request should be made, either verbally or in writing, prior to initiation of the formal complaint process. However, nothing in this paragraph should be construed as a requirement or condition to making a complaint.
3. Complaint. If the dispute or violation is not resolved informally then a written complaint may be filed by an owner, resident, Board member, or an agent or employee of the Association. The complaint shall contain a statement of the problem necessitating the complaint setting out in simple and concise language the acts or omissions with which the alleged violator (referred to as the "respondent") is charged. The complaint should identify the specific provisions of the governing documents or decision of the Board which the respondent is alleged to have violated. The complaint shall state as many of the specifics as are available regarding time, date, location, nature of violation, persons involved, etc. The complaint may also state the efforts which were made to resolve the matter informally. The NOTICE OF WARNING, INFRACTION, AND/OR FINE form, attached hereto, or similar form ("Notice of Violation") may serve as the complaint.
4. The Board or authorized agent, within ten (10) working days of receipt of a complaint, will investigate its validity and take appropriate action, which may include but not be limited to serving the Notice of Infraction on the respondent (at the respondent's address of record, if an owner), and at the lot address if a non-owner occupant, assessing a fine, scheduling a hearing and/or proceeding with legal action. The Board reserves the right to reject/refuse to take action on any Notice of Infraction that in its sole discretion it determines to be frivolous, intended for the purpose of harassment, is vague and/or lacking necessary details or is not in the best interest of the Association.

### B. APPEAL

1. Any member or resident has the right to appeal fines imposed by the Association provided that they request a hearing within fifteen (15) days after service of the Notice of Infraction. In such case, imposition of any fine imposed will be suspended pending determination of

the appeal by the Board. Requests to appeal a fine must be submitted to the Association in writing, by first class mail or email, to the Association's management company at the physical address and/or email address listed on the Association's website.

2. At the committee's discretion, hearings may be conducted telephonically, by video conference, orally and/or in writing. Unless notified by the Association in writing prior to the date of the hearing, appeals will be conducted orally as follows: requests received at least fourteen days (14) days before the next regularly scheduled Appeal Committee meeting will be held at that meeting. Requests received less than fourteen (14) days in advance of the next regularly scheduled Appeal Committee meeting will be held at the next Appeal Committee meeting. Notice confirming the date and time of the hearing will be provided at least five (5) days prior to the hearing.
3. Default. Respondent may reschedule a hearing once as a matter of right by notifying the Association in writing at least forty-eight (48) hours prior to the hearing of their inability to attend. Upon receipt of an initial request to reschedule a hearing, the hearing will be continued to immediately follow the next regularly scheduled Appeals meeting or as otherwise determined by the committee. The failure of one party to appear at a hearing, where that party prior to the hearing has failed to show good cause why the hearing should be rescheduled, does not preclude the Association from proceeding with the hearing, receiving evidence from and hearing arguments by the other party and making a decision in the matter. Upon failure of the complainant to appear, the Board may, in its discretion, drop the matter.

## C. HEARING PROCEDURE

1. Conduct of Hearing. The hearing shall be heard by the Appeals Committee which shall consist of at least three homeowner members in good standing who shall preside over the conduct of the hearing and shall make any necessary evidentiary rulings. The Board may designate additional non board member owners to serve on the appeals committee. The respondent shall appear in person or by a duly authorized representative. The hearing shall be informal. At the beginning of the hearing the Chair, Vice chair or other designated member of the appeals committee shall explain the rules and procedures by which the hearing is to be conducted, including but not limited to, setting time limits as it deems appropriate.
2. Order of Proceedings. Unless otherwise determined by the Appeals Committee, the order of proceedings shall be as follows:
  - (a) Each party to the proceeding will be entitled to make an opening statement.
  - (b) Each party will be entitled to produce evidence, witnesses, and written testimony.
  - (c) Each party will be entitled to make a closing statement.
  - (d) Any member of the Board and/or Appeals committee may question any party or witness. Board and/or Appeals Committee members may, on their own motion, call additional witnesses or secure evidence.
3. Rules of Evidence. Any relevant evidence which is not privileged is admissible regardless of whether the evidence is hearsay or otherwise inadmissible in a court of law.
4. Assurance of Voluntary Compliance. The Board in its discretion, in lieu of or in addition to the hearing, may accept a written assurance of voluntary compliance from any respondent. Giving an assurance does not constitute an admission that a violation has taken place. The assurance may include a stipulation for payment by respondent to the

complainant and/or the Association. From time to time, a person who has made an assurance of voluntary compliance shall provide all information the Board reasonably requests to determine whether the respondent is in compliance with the assurance. The Board is not precluded from further action by its acceptance of an assurance of voluntary compliance in the event that the respondent violates the terms of that assurance.

5. Decision and Order. As soon as possible after the close of the hearing, the Appeals committee shall meet in executive session to deliberate and make a recommendation to the Board of directors regarding the appeal. The recommendation of the Appeals committee shall be in writing and may include a recommendation that further investigation and/or evidence is required. If a violation is found, the recommendation shall state the particular violation(s) found. The Appeals Committee recommendation shall be provided to the Board within fourteen (14) days of the hearing.

The Board shall review the Appeals committee's recommendation and issue a final order. Upon a decision by the Board that a violation has occurred, the Board may order that the respondent shall do or refrain from doing any act necessary to cause the respondent to comply with the provisions of the governing documents and/or any decision of the Board. The Board may provide in its order for the imposition of a reasonable fine not to exceed the maximum amounts set herein. The Board may also provide for continuing fines in the event that the respondent does not comply with the order of the Board, including the payment of the fines, within the allotted time. Any fine or charge so imposed by the Board shall be the personal obligation of the person against whom it is imposed, shall constitute a lien upon the lot owned or occupied by that person, and may be collected in the manner provided in the Declaration in same manner as for assessments.

6. The decision of the Board shall be served on each party to the matter within forty-five (45) days of receipt of the recommendation from the Appeals committee. A copy of the decision and order shall be included in the books of the Association.
7. Judicial Enforcement. Failure to comply with a decision of the Board following notice of a violation and an opportunity for a hearing, shall be grounds for an action by the Association to recover sums due for damages, which shall include any fines levied by the Board and any costs incurred by the Association in connection with the proceedings before the Appeals committee and/or Board, or for injunctive relief, or both, maintainable by the Association. In any action brought as provided in this Section, the prevailing party shall be entitled to recover as part of its judgment a reasonable sum for attorney fees incurred in connection with the action, in addition to its expenses and taxable costs.

## **D. FINE SCHEDULE**

The Board will enforce the following fine schedule for violations of the Association's governing documents, including but not limited to the Declarations, Bylaws, Rules and Regulations and any decision of the Board:

- a) 1<sup>st</sup> violation: A warning will be issued with a friendly reminder about complying with the governing documents, and notice that fines may be assessed for future violations.
- b) 2<sup>nd</sup> violation of the same provision. A fine of up to **\$125.00**, plus the cost of mailing.


- c) 3<sup>rd</sup> violation of the same provision. A fine of up to **\$250.00**, plus the cost of mailing.
- d) 4<sup>th</sup> or more violations of the same provision. A fine of up to **\$500.00**, plus the cost of mailing.
- e) Continuing Violations. If a violation continues fourteen (14) days after the initial notice, it shall be considered as a separate offense and will be subject to an additional fine in the amounts stated above, not to exceed total additional fines of **\$500.00 per month**, until the violation is corrected.

## **E. LATE FEES & INTEREST ON DELINQUENT ASSESSMENTS**

- 1. Late Payment Fees – A late fee in the amount of \$15.00 per month will be assessed on the 16<sup>th</sup> day of the month for any account that has been delinquent for thirty (30) days or more.
- 2. Interest - Interest shall be assessed on delinquent accounts at the rate of twelve percent (12%) per annum.

This enforcement policy has been ratified by SC HOA board on July 16<sup>th</sup> 2020 and will come into effect on September 1<sup>st</sup> 2020

  
President

  
Secretary