Rules for (1) Enforcing the Governing Documents and (2) Fines

PADRE LAKES TOWNHOMES OWNERS ASSOCIATION
(A Planned Community)

WHEREAS, at a Board meeting of the Padre Lakes Townhomes Owners Association (the "Association") held on October 9, 2020, which meeting was called pursuant to Utah Code § 57-8a-217, the following Rules were adopted.

WHEREAS, pursuant to Utah Code § 57-8a-217(2)(a), reasonable notice that the Board was considering adopting the following Rules, to align with law and local standards and practices, at the meeting of the Board was sent twenty-one (21) days in advance of the meeting;

WHEREAS, at the meeting, the Board provided an open forum giving Owners opportunity to be heard before the Board adopted these Rules. (Utah Code § 57-8a-217(2)(b)).

NOW THEREFORE, the following Rule is hereby adopted:

I. ENFORCEMENT POLICY

1. Owners shall be responsible for the improper actions or damages caused by themselves, their residents, tenants, guests, and other invitees. Furthermore, pursuant to Utah Code § 57-8a-218(2)(b), a tenant shall be jointly and severally liable to the Association with the Owner leasing to such tenant for any violation of the Governing Documents, as defined in the Utah Community Association Act, by the tenant.

2. Under Utah Code § 57-8a-213, the Board may use its reasonable judgment to determine whether to exercise the Association's powers to impose sanctions or pursue legal action for a violation of the Governing Documents, including: (i) whether to compromise a claim made by or against the Board or the Association; and (ii) whether to pursue a claim for an unpaid assessment. The Association may not be required to take enforcement action if the Board determines that it has complied with the provisions of Utah Code § 57-8a-213.

   If the Board decides to forego enforcement, the Association is not prevented from later taking enforcement action. Moreover, this section does not govern whether the Association's action in enforcing a provision of the Governing Documents constitutes a waiver or modification of that provision.

3. This Enforcement Policy does not apply to collection of assessments, actions for injunctive relief, or actions or remedies pursued by the Association for the protection of the health, welfare, and safety of the properties within the Association's jurisdiction.

II. FINE RULE

1. **General Schedule of Fines.** Fines will be assessed for any violation or non-compliance with the Association's Governing Documents as specifically provided for in the General Schedule of Fines as set forth in Exhibit A hereto.

2. **Violation Notices.**

   a. Written Warning. Upon verification of the probability of a violation, the Board, or its agent, shall cause to be sent to the Owner – prior to assessing a fine -- a Written Warning that the violation exists. The Written Warning will include the following:

      (i) A description of the violation;

      (ii) A statement of the rule or provision of the Governing Documents the Owner's conduct violates;

      (iii) If the violation is a continuing violation, a statement of the time that is not less than forty-eight (48) hours after the day on which the Board of Directors gives the Owner the Written Warning by which the Owner shall cure the violation. A "Continuing Violation" is one that continues without interruption for a period of twenty-four (24) consecutive hours or more.

      (iv) For violations that are not a continuing violation, a statement that the Board of Directors may, in accordance with Utah Code § 57-8a-208 and the provisions of this Fining Policy, assess fines against the Owner if the Owner commits the same violation within one year after the day on which the Board of Directors gave the written warning to the Owner. (Violations that are not "continuing violations" are hereafter referred to as "Per Occurrence Violations."

b. Date Notice Deemed Given. Notices and Warnings sent pursuant to this Rule shall be given as provided in the Governing Documents.

c. Failure to Comply/Basis for Initial Fine. Failure to comply with the Written Warning will result in one or more of the following (which shall be cumulative and not exclusive):

(i) For a Continuing Violation, a fine will be issued against the Owner if the violation is not cured within the time period that is stated in the Written Warning described above. The initial fine will be deemed issued, without further warning, by sending a subsequent notice to the Owner that the violation was not cured within the time provided in the warning letter. Fines for continuing violations will run beginning the day following the date the violation was to be cured. Additional fines will be deemed issued without further notice every tenth (10th) day the violation continues.

(ii) For a Per Occurrence Violation, a fine will be issued against the Owner per occurrence if within one year after the day on which the Board of Directors gives the Owner a Written Warning described above, another violation of the same rule or provision identified in the Written Warning. The fine will be deemed issued, without further warning, by sending a subsequent notice to the Owner that the same or similar violation has occurred and the fine is assessed.

3. **Hearing Before Board**. An Owner who is assessed a fine may request an informal hearing before the Board to dispute the initial fine and each additional fine within thirty-six (36) days after the day on which the Owner is sent notice that the initial fine has been assessed. The Owner will be given a reasonable opportunity to present the Owner's position to the Board. An Owner, Board member, or any other person involved in shall be afforded the right to participate by means of electronic participation.

Adopted on this 13 day of Oct, 2020 by a majority or more of the Association's Board.

Ronald J Weed
Board President

Pursuant to Utah Code § 57-8a-217, a copy of these Rules was sent to each Member of the Association within fifteen (15) days after the Board meeting via:

☒ U.S. Mail
☒ Email
☐ Hand Delivery
☐ Other _____

Attest:

Kimberly Graff
Kimberly Graff, Community Association Management

EXHIBIT A - (SCHEDULE OF FINES)

A. **Fines for Continuing Violations**. Except for fines provided for in the Declaration, fines for continuing violations shall be grouped into two categories: (i) continuing violations involving architectural standards, occupancy or rental restrictions and those that, in the sole discretion of the Board, involve safety of persons or property; and (ii) all other continuing violations. The fines for category (i) and category (ii) violations shall be as follows:

1. **Category (i)**
   (A) Initial fine: $500
   (B) Additional fines: $100 for each consecutive 10 days the violation continues
2. **Category (ii)**
   (A) Initial fine: $50
   (B) Additional fine: $100 for each consecutive 10 days the violation continues

B. **Fines for Per Occurrence Violations**. Fines for violations that are not continuing violations shall be as follows:

1. Initial fine: $50
2. First additional fine: $100