

ROCK HILL HOMES ASSOCIATION, INC.

Notice, Hearing and Enforcement Policy

Adopted March 1, 2021

The following policy has been adopted by the Rock Hill Homes Association (“Association”), at a regular meeting of the Board of Directors.

NOW, THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following Policy for the enforcement of the Association’s governing documents:

1. Power. The Board of Directors shall have the power and duty to hear and make decisions regarding violations and written complaints filed with the Board and impose fines or other sanctions, pursuant to this Policy. 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 Declaration of Restrictions, Homes Association Declaration (“Declaration”), the Association’s Articles of Incorporation, Bylaws, and rules and regulations promulgated thereunder (hereafter collectively the “Association’s Documents”), and to create a safe and harmonious living environment.

These enforcement provisions may be in addition to other specific provisions outlined in the Association’s Documents, and the Association is not required to follow these enforcement provisions before seeking such other remedies. The Association may choose a legal remedy or seek assistance from other enforcement authorities, such as police, fire, or animal control, as it deems appropriate.

2. Complaint. A proceeding to determine if the Association’s Documents have been violated and any enforcement measures and remedies that may apply shall be initiated by the filing of a complaint with or by the Association’s Board either in writing, by electronic mail or through the Association’s website. The complaint shall state as many specifics as are available as to time, date, location and persons involved including the name of the complainant.

3. Notice of Violation; Demand for Abatement. Upon receipt of a complaint, the Association shall determine if the property allegedly in violation is owned by a homeowner of the Association (“Respondent”) and whether the allegations in the complaint are sufficient to constitute a violation of the Association’s Documents and that action by the association is warranted.

Association Action. If the Association determines that the allegations in the complaint are sufficient to constitute a violation of the

Association's Documents and that action is warranted, the Association shall take the following action:

The Association will send a notice ("Demand for Abatement") to Respondent, by electronic mail or first-class mail addressed to the appropriate address on file in the records of the Association at the time of such mailing. The notice shall advise the Respondent of the following: (1) the alleged violation; (2) the action required to abate the violation; (3) a time period, not less than ten days, during which the violation may be abated without further sanction, if such violation is a continuing one, or a statement that any additional similar violation may result in the imposition of a sanction after notice and hearing, if the violation is not continuing.

4. Notice of Hearing. At any time within twelve months of date of the Demand for Abatement, if the violation continues past the period allowed in the Demand for Abatement without penalty or if the same violation subsequently occurs, the Board or its agent shall mail the Respondent a written notice of a hearing ("Notice of Hearing") to be held by the Board. The Notice of Hearing shall contain: (a) the nature of the alleged violation; (b) the time and place of the hearing, which time shall not be less than ten days from the date of the Notice of Hearing; (c) an invitation to attend the hearing and produce any statement, evidence, and witness on his or her behalf; and the proposed sanction to be imposed; and (d) shall contain the following statement: **The Board may determine that the Respondent's failure to respond or appear at the hearing constitutes a no-contest plea to the complaint, and enforce the provisions of the Association's Documents.**

5. Hearing. The hearing shall be held pursuant to the Notice of Hearing affording the alleged violator a reasonable opportunity to be heard. Prior to the effectiveness of any sanction hereunder, proof of notice and invitation to be heard shall be placed in the minutes of the hearing. Such proof shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the hearing. If the Respondent does not appear but a written response is filed, the Board shall render its decision based on the information contained in the complaint and the written response, considering all of the relevant facts and circumstances. If neither an appearance nor a written response is made, the Board need not conduct a hearing or make any further findings except that it may determine that the Respondent's failure to appear or respond constitutes a no-contest plea to the complaint, and impose the sanctions provided for herein or enforce the provisions of the Association's Documents, or both. The Board may: (a) exercise its discretion as to the specific manner in which a hearing shall be conducted; (b) question witnesses and review evidence; and (c) act as it may deem appropriate or desirable to permit the Board to reach a just decision.

6. Decision. If the Respondent appears at the hearing or provides a written response, after all testimony and other evidence has been presented to the Board at a hearing, the Board shall render its decision(s), taking into consideration all of the relevant facts and circumstances. The decision of the Board shall be final. Except as provided herein, the Board's decision shall have an effective date no sooner than five (5) days after the hearing. If the Board does not inform the Respondent of its decision at the time of the hearing, or if no hearing is held, the Board will provide a written decision to the Respondent's address of record via first class mail within five (5) days after the hearing. The minutes of the hearing shall contain a written statement of the results of the hearing and sanction, if any, imposed.

7. Enforcement, Attorney's Fees, and Fines/Sanctions. The provisions of this Policy shall not limit, or be a condition precedent to, the Association's right to enforce the Association's Documents by any means available to the Association, including, but not limited to, commencement of a lawsuit to force compliance or seeking injunctive relief or damages. The Association shall be entitled to reimbursement of all reasonable attorney's fees and costs incurred by the Association in connection with any enforcement action, including any proceeding under this Policy. Without limiting the Association's remedies under the Association's Documents, the Association may assess fines and suspend membership privileges in accordance with this Policy. If the violation involves damage to Association property, the violator shall pay the costs of repair or replacement. The Board may revoke or suspend the violator's privileges for a period of time equal to the duration of the violation. The procedures set forth in this Policy shall not be necessary in order to impose any sanction or penalty for nonpayment of a delinquent assessment.

(a) Fines may be levied for violations of the Association's Documents as follows:

<u>Number of violations in a 12 month period</u>	<u>Fine Amount</u>
First violation:	Warning
Second violation:	\$25/No Pool
Third violation:	\$50/No Pool

Repeated Violations. A homeowner who accumulates more than 3 violations within a 12 month period will be deemed to have been a habitual offender. The Board shall determine, in the reasonable exercise of its discretion, whether continuing violations, repeated violations, habitual offenses, or violations with an indefinite commencement or termination date, are deemed Repeated Violations. ("Repeated Violations"). Without limiting the Board's ability to fine or suspend membership privileges in accordance with this Policy, Repeated

Violations shall all be subject to a fine of \$100 per month until the violation is corrected, and suspension of membership privileges as determined by the Board. Further, in the event of a determination by the Board of a willful, wanton or flagrant disregard for the provisions of the Association's Documents, or based on the severity of the violation, the Board may impose such additional fines as are deemed reasonable by the Board without regard to the schedule set forth above.

(b) Obligation to pay fines. The record Owner of real estate subject to the Declaration shall have the primary obligation to pay fines imposed for their actions and actions of their tenants, family members, and guests. Fines imposed pursuant to this Policy shall become a Default Assessment imposed against the record Owner's real estate and enforceable as provided in the Declaration.

8. Violations or Offenses that Constitute a Present Danger. If, in its sole discretion, the Board deems that any violation is or may be an immediate or substantial threat to the health, safety or welfare of the community or an individual, the Board may impose any appropriate sanction as necessary to abate the threat to health, safety or welfare of the community or individual without prior compliance with Sections 1 through 7 above.

9. Business Judgment Rule. The decision of the Board to pursue enforcement action in any particular case shall be left to the Board's discretion, subject to the duty to exercise its business judgment, and shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing, the Board may determine that, under the circumstances of a particular case: (i) the Association's position is not strong enough to justify taking any or further action; (ii) the covenant, restriction or rule being enforced is, or is likely to be construed as, inconsistent with applicable law; (iii) although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources; or (iv) that it is not in the Association's best interests, based on hardship, expense or other reasonable criteria, to pursue enforcement action.

10. Miscellaneous.

(a) Failure by the Board to enforce any covenant, restriction or rule, or any other provision of any of the Association's Documents shall in no event be deemed a waiver of the right to do so thereafter or preclude the Association from enforcing any other covenant, restriction or provision of the Association's Documents.

(b) 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.

(c) Action taken by the Association in accordance with this policy, or a decision to not take action, shall not affect an Owner's right to bring his own enforcement action under the provisions of the Declaration.

Rock Hill Homes Association, Inc.

By: *Alan Kastler*, President

This Notice, Hearing and Enforcement Policy was adopted by the Board of Directors on the 1st day of March, 2021, effective the 1st day of April, 2021, and is attested to by the Secretary of the Rock Hill Homes Association, Inc.

Kyle Undland
Secretary