

**HIDDEN WOOD WEST CONDO ASSOCIATION
RULES AND RECOMMENDATIONS
SECTION 9
FINES & DUE PROCESS PROCEDURES
REVISED 2018**

I. FINES

1. Any owner or occupant may write a letter to the Board of Directors, giving a full, detailed account of the problem, including who, what, when, and where.
2. Residents must notify the Board of Directors of any rule violations. The Board will notify the offender in writing.
3. Any owner or occupant has the right to a hearing before the Board of Directors at any reasonable time during the enforcement process pursuant to the Rules Enforcement Procedures in Article III herein.
4. The owner penalized shall have the option to appeal in writing to the Board of Directors for reconsideration at a meeting in person.
5. If the original problem persists, the owner or occupant may file additional complaints in writing with the Board of Directors. The Board of Directors reserves the right to reject any complaint if:
 - a. It is of a frivolous nature.
 - b. Its intent appears to be harassment.
 - c. It is vague and lacking in necessary concrete details.

II. FINE STRUCTURE

1. Owners and occupants in violation of the provisions of the Declaration or amendments thereto, the Bylaws, or Rules and Regulations adopted by the Board of Directors shall be subject to the following procedures to enforce compliance:
2. Except as provided above, any infraction of the rules and regulations shall carry a monetary penalty per offense (after one warning) to be processed as follows:
 - a. First violation: \$50
 - b. Second violation: \$100
 - c. Third violation: \$200
 - d. Fourth violation: \$500
3. Penalties may be multiple and cumulative for multiple offenses. All fines will be added to Condominium Association dues and payable the first month following the violation.
4. Any fine imposed shall be paid within 5 days of notice of the imposition of same, and if not so paid will be added to all other sums due, or which may become due, and will be subjected to collection procedures provided for collection in such cases.
5. Unpaid dues, or fines, will be posed as a lien against the property.
6. All violations should be corrected within ten (10) working days, in order to avoid a second fine.
7. If the fine is not paid, it will be collected as delinquent assessments and a late charge shall be added for each month the assessment remains unpaid.
8. All expenses incurred by the Association or the Board of Directors, including all legal and collection costs, will be specifically assessed to the unit whose owner or occupant is in violation.

III. RULES ENFORCEMENT PROCEDURES; HEARING BOARD

1. Board of Directors to Serve as Hearing Board.

- a. Composition. The Hearing Board shall be comprised of the members of the Board of Directors of the Association. In addition, two (2) alternates shall be selected from among the members of by the Board each year to serve on the Hearing Board in the event of the temporary absence or disqualification of a member of the Hearing Board.
- b. Temporary Hearing Board. By a majority vote of the entire Board, the Board may decide to have a complaint pursuant to this Article heard by a Temporary Hearing Board. The Temporary Hearing Board may be composed of three homeowners designated by the Board. The Temporary Hearing Board may be comprised of no more than one member of the Board of Directors, and one or both of the alternate members of the Hearing Board. In the alternative, in the discretion of the Board, the Temporary Hearing Board may be comprised of an outside arbitrator designated in accordance with the real estate arbitration rules of the American Arbitration Association. For all purposes, the powers and the duties of a Temporary Hearing Board shall be identical to those of the Hearing Board in connection with any matter referred to it by the Board.
- c. Temporary Absence of Members. If any member is or expects to be temporarily unable to carry out the responsibilities of his or her office for a period of thirty (30) days or longer, that member shall notify the Chairman who may request an alternate to serve in his or her stead during the period of the absence. The Chairman shall also appoint an alternate to participate in the proceedings of the Hearing Board in the stead of a member when a member disqualifies himself or herself on a particular matter. To the extent practicable, the Chairman shall vary between the alternates in assigning them to participation in the place of a member.
- d. Authority. The Hearing Board is authorized and empowered to investigate, hear and determine all complaints concerning violations by any Unit Owner or occupant, or by the Association, of the Governing Documents or of any decision of the Board made as provided in the Governing Documents. The Hearing Board is further authorized and empowered to impose a fine as provided in Section 12.4 of the Declaration and Rules Articles I and II in an amount not to exceed the maximum rate established by resolution of the Board on any person whom it finds to have violated the Governing Documents, and to require the non-prevailing party to reimburse the Association for its costs, including reasonable attorney's fees, in connection with the matter.
- e. Officers. The President of the Association shall serve as Chairman of the Hearing Board and the Secretary of the Association shall serve as Secretary of the Hearing Board. In the event that either the President or Secretary is replaced by an alternate as provided in the Rules, Article IV, Paragraph 1.c, or a Temporary Hearing Board is designated as provided in the Rules, Article IV, Paragraph 1.b, the members of the Hearing Board shall elect a Chairman Pro Tem and/or Secretary Pro Tern as the case may be.

2. Pre-hearing Procedure.

- a. Informal Dispute Resolution Procedure. It is the intent that an informal process be followed prior to the initiation of a formal hearing process

against an Owner or other occupant of a Unit. To that end, any member, employee or agent of the Association has the authority to request that a member or occupant of any Unit 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 must be made, either verbally or in writing, prior to initiation of the formal hearing process.

- b. Written Complaint. If the dispute or violation is not resolved informally as provided for under Section 2.a, the formal hearing process may be initiated by filing a written complaint with the Secretary of the Hearing Board. The complaint may be filed by any Unit Owner or occupant, including a member of the Board, or may be filed by an employee or agent of the Association (referred to in the Rules as the “complainant”). The complaint shall be signed by the complainant and shall contain a written statement of the charges setting forth in ordinary language the acts or omissions with which the alleged violator (referred to in the Rules as the “respondent”) is charged. In order to allow the respondent to prepare a defense, the complaint shall identify the specific provisions of the Governing Documents or decision of the Board which the respondent is alleged to have violated. The written complaint shall state as many of the specifics as are available regarding time, date, location, nature of violation, persons involved, etc., so that the complaint may be investigated by the Hearing Board. The complaint shall also set forth the efforts, which were made to resolve the matter informally as provided in the Rules, Article III, Paragraph 2.a. Upon receipt of the written complaint, the Secretary shall assign a number to the complaint and shall note on the first page of the complaint that number and the time and date of receipt.
- c. Service of Complaint and Notice. Within five (5) days of receipt of the complaint, the Secretary shall cause it, together with a notice in the form specified in the Rules, Article III, Paragraph 2.d and a copy of the Rules provisions pertaining to Rules Enforcement Procedures, to be served upon the respondent, at the respondent's Registered Address if an Owner, or at the Unit address if a non-Owner occupant. Service of the complaint and notice shall be by leaving same with the respondent personally, by leaving same with a person of suitable age and discretion at the respondent's residence or by first class mail. In the event that service is by personal service, the Secretary or other person accomplishing same shall file an affidavit with the Secretary stating the person served and the time and place at which service was had. In the event that service is by mail, the Secretary shall Prepare an affidavit stating that the time and place at which the complaint and notice was deposited in the United States mail with first class postage prepaid and further stating the person and place to which same was addressed. Service by mail shall be deemed to have been made three (3) days after mailing. No order adversely affecting the rights of the respondent shall be made in any case unless the respondent shall have been served as provided for in the Rules. Service upon the Association shall be made by service upon the Secretary or President of the Association.
- d. Notice of Respondent's Rights and Hearing. The Secretary shall, at least fifteen (15) days prior to the hearing, serve upon the respondent and complainant in the manner provided for in the Rules, Article III, Paragraph 2.c a Notice of Respondent's Rights and Hearing, which shall be in

substantially the form contained in Appendix A but may contain additional information.

- e. Rescheduled Hearing. If the complainant or respondent can show good cause why they cannot attend the hearing, they must notify the Secretary of the Hearing Board at least 48 hours prior to the originally scheduled hearing except in cases of unexpected emergency. The Hearing Board may in its discretion reschedule the hearing for good cause shown.
- f. Objections to Complaint. Any objection to the complaint on the grounds that the Hearing Board has no jurisdiction over the acts or omissions alleged in the complaint or that the complaint is so indefinite or uncertain that the respondent cannot identify the violating behavior or prepare his defense must be presented to the Hearing Board in writing within seven (7) days of the date on which the complaint is served on the respondent. The respondent shall also serve a copy of the objections on the complainant within that time period. If the Hearing Board determines, either as a result of an objection or on its own initiative, that the complaint is insufficient, the complaint will be returned to the complainant with a letter stating the reason for the rejection.
- g. Amended Complaint. Not later than seven (7) days prior to the date set for the hearing, the complainant may file an amended or supplemental complaint with the Secretary, who shall cause a copy of the amended or supplemental complaint to be served upon the respondent in the manner required in the Rules, Article III, Paragraph 2.c not later than 72 hours prior to the time set for hearing.
- h. Default. Failure of one party to appear at a scheduled hearing, where that party prior to the hearing has failed to show good cause why the hearing should be rescheduled, does not preclude the Hearing Board from proceeding with the hearing, receiving evidence from and hearing arguments by the other party, and rendering a decision in the matter. Upon failure of the complainant to appear, the Hearing Board may, in its discretion, terminate the matter.
- i. Discovery. Either party is entitled to:
 - 1. Obtain by written request the names and addresses of the witnesses to the extent known to the other party within 72 hours of the request to the other party, and
 - 2. Inspect and make a copy of any statements, writings or investigative reports relative to the subject matter of the hearing. No witnesses will be allowed to testify except those who have been disclosed to both parties where a request has been made as provided in the Rules, Article III, Paragraph 2.i.1 unless the opposing party waives objection to the witness during the hearing.
 - 3. Nothing in this Paragraph shall authorize the inspection or copying of any writings or other thing which is privileged from disclosure by law or protected as attorneys work product. Any party claiming his request of discovery has not been complied with shall submit a written statement of the facts and circumstances to the Hearing Board. The Hearing Board shall make a determination and issue a written order setting forth the materials or parts of the materials to which the petitioner is entitled and the sanctions to be imposed for noncompliance with the order.
- j. Impartiality. It shall be the duty of each member of the Hearing Board to make a determination as to whether he or she is able to function in a

disinterested and objective manner in consideration of the matter before the Hearing Board. Any member incapable of objective and impartial consideration of the case shall disclose that to the Hearing Board and shall disqualify and remove himself or herself from participation in the consideration of the proceedings, and have it so recorded in the minutes of the Hearing Board. In that event the Chairman shall designate an alternate to serve in the withdrawing member's stead as provided in the Rules, Article III, Paragraph 1.c.

- k. Challenge. Either party may challenge any member of the Hearing Board for cause where a fair and impartial hearing cannot be afforded, provided that the challenge must be made before the issuance of any order or the taking of any evidence or testimony in the proceeding. In the event of a challenge, the Board shall meet to determine its sufficiency. If a majority of the Board sustains the challenge, the Board shall appoint an alternate to serve in connection with the matter. If the Board is unable to appoint a designated alternate to fill the vacancy, the Board shall appoint another member of the Association to serve on the Hearing Board in the particular case in which the challenge arose. All decisions of the Board shall be final.

3. Hearing Procedure.

- a. Conduct of Hearing. The hearing shall be heard by the members and/or alternates of the Hearing Board. The respondent shall appear in person or by a duly authorized representative if the respondent submits to the Secretary the written authority of the representative to appear on his or her behalf. The Chairman, or in his absence the Chairman Pro Tem, shall preside over the conduct of the hearing and shall make any necessary evidentiary rulings. The hearing shall be informal. At the beginning of the hearing the Chairman shall explain the rules and procedures by which the hearings to be conducted.
- b. Order of Proceedings. The order of proceedings shall be as follows:
1. Each party to the proceeding is entitled to make an opening statement setting forth their version of the case, starting with the complainant.
 2. Each party, starting with the complainant, is entitled to produce evidence, witnesses and testimony, subject to the Rules, Article III, Paragraph 2.i above. The other parties are entitled to cross-examine any witnesses and the opposing party.
 3. Each party, starting with the respondent, is entitled to make a closing statement. The respondent is entitled to make a final statement in rebuttal following the complainant's closing statement.
 4. Any member of the Hearing Board may question any party or witness. The Hearing Board members may, on their own motion, call witnesses or secure tangible evidence. A party may within a reasonable time prior to the hearing date request the Hearing Board to call witnesses or secure tangible evidence. The request shall be granted in the discretion of the Hearing Board.
 5. At the request of the respondent the Hearing Board may decide, in its discretion, to conduct the hearing in executive session.
 6. Each party has the right to representation by counsel at his or her own expense.
 7. Either party or the Hearing Board may cause the hearing to be transcribed at his, her or their own expense.

8. The Hearing Board may expel any person from any hearing for improper, disorderly or contemptuous conduct.
- c. Rules of Evidence. The following rules of evidence shall apply to proceeding before the Hearing Board:
 1. Any relevant evidence which is not privileged is admissible regardless of whether the evidence is hearsay or otherwise inadmissible in a court of law. The Chairman may exclude irrelevant, immaterial or unduly repetitious evidence.
 2. At the request of any party to the proceeding or at the direction of the Chairman, oral evidence shall be taken on an oath or affirmation administered by a Notary Public or other official authorized by the State of Washington to administer oaths.
 - d. Assurance of Voluntary Compliance. The Hearing Board in its discretion, in lieu of or in addition to calling the hearing, may accept an Assurance of Voluntary Compliance from any respondent. Giving an Assurance does not constitute an admission that a violation of any provision of the Governing Documents or of any decision of the Board pursuant to the Governing Documents has taken place. The Assurance may include a stipulation for payment of damages, costs or attorney's fees 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 Hearing 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.
 - e. Decision and Order. As soon as possible after all testimony and documentary or physical evidence has been presented to the Hearing Board, but in no case more than ten (10) days after the close of the hearing, the Hearing Board shall meet in executive session to deliberate and reach a decision. A majority decision of the Hearing Board shall be controlling. The decision of the Hearing Board shall be in writing, and shall summarize the evidence presented to and considered by the Hearing Board, shall state the facts upon which the Hearing Board has based its decision and shall contain a finding as to whether or not the respondent has violated the Governing Documents or a decision of the Board made as provided in the Governing Documents. The decision of the Hearing Board must be based on substantial evidence, which shall be set forth in the decision.

Upon a decision that a violation has occurred, the Hearing 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 order of the Hearing Board shall become effective ten (10) days after it is served on the respondent in the manner provided for in Rules, Article III, Paragraph 2.c unless the Hearing Board otherwise provides in its order. The Hearing Board may provide in its order for the imposition of a reasonable fine not to exceed the maximum amounts set from time to time by resolution of the Board. The fine may include a daily fine in the event that the respondent does not comply with the order of the Hearing Board, including the payment of the fine, within the allotted time. The Hearing Board may also provide in its order that the non-prevailing party shall reimburse the

Association for its costs, including reasonable attorney's fees, incurred in connection with the proceeding. Any fine or charge so imposed by the Hearing Board shall be the personal obligation of the person against whom it is imposed, shall constitute an Assessment secured by a lien upon the Unit owned or occupied by that person, and may be collected as an Assessment in the manner provided in Section 11 of the Declaration. The decision of the Hearing Board, including a minority opinion if any, shall be served on each party to the matter in the manner provided for in the Rules, Article III, Paragraph 2.c. A copy of the decision and order shall be sent to the Secretary of the Association and shall be included in the books of the Association.

- f. Judicial Enforcement. Failure to comply with a provision of the Governing Documents or a Board Decision, or to comply with a decision of the Hearing Board following notice of a violation and an opportunity for a hearing, shall be grounds for an action to recover sums due for damages, which shall include any fines levied by the Hearing Board and any costs incurred by the Association in connection with the proceedings before the Hearing Board, maintainable by the Association (acting through the Board) on behalf of the Owners. Such failure shall further be sufficient grounds for the issuance of injunctive relief in such an action. Nothing contained in the Rules shall be deemed or construed as a waiver of the Association's right to bring an action as provided in this Section without first exhausting the Association's internal enforcement procedures in cases where the Board deems immediate legal action to be necessary or appropriate. If the Board fails or refuses, after demand by an aggrieved owner, to take appropriate action to enforce compliance with any provision of the Governing Documents, any board Decision, or any Hearing Board decision, an aggrieved Owner on his or her own may maintain an action for damages or injunctive relief against the party (including an Owner or the Association) failing to comply. In any action brought by the Association or by an Owner as provided in this Section, the prevailing party shall be entitled to recover as part of its judgment a reasonable sum for attorneys' fees incurred in connection with the action, in addition to taxable costs permitted by law.

APPENDIX A TO RULES

NOTICE OF RESPONDENT'S RIGHTS AND HEARING BEFORE THE HIDDEN WOOD WEST ASSOCIATION HEARING BOARD

RESPONDENT: _____

COMPLAINANT: _____

CASE NUMBER: _____

The above-named parties are hereby notified that a hearing will be conducted before the Hearing Board at

On the ____ day of _____, 20____ at the hour of _____.

Upon the charges made by complainant in the complaint attached to this Notice. In the event that you are not present at the hearing a decision may be rendered against you. You have the right to be present at the hearing and to be represented by counsel at your own expense. You are entitled to present any relevant witnesses or other evidence and will be given full opportunity to cross-examine any witnesses presented by the other party. You are entitled to determine the identity of witnesses to be presented by the other party and to examine relevant records by applying to the Hearing Board.

If any of the parties can show good cause as to why they cannot attend the hearing on the above date, they shall petition the Hearing Board at least forty-eight (48) hours prior to the scheduled hearing date. Failure to appear or to obtain an order rescheduling the hearing will constitute a "default" and the Hearing Board shall proceed with the hearing.

The respondent has the right to object to the complaint on the ground that it does not state acts or omissions upon which the Hearing Board may proceed and has the right to object to the form of the complaint on the ground that it is so indefinite or uncertain that the respondent cannot identify the violating behavior or prepare a defense.

Any objection to the form or substance of the complaint must be received by the Hearing Board within ten (10) days of the date on which the complaint is served on the respondent.

The respondent may also admit to the complaint in whole or in part. In that event, the Hearing Board may hold a hearing as to any mitigating circumstances or to determine the appropriate penalty or may make a determination to waive the hearing and simply impose penalty, if any.

DATED This _____ day of _____ 20_____.

Secretary of the Hearing Board

