

**Two Rivers Homeowners Association
Fine Policy and Procedure – August 2014**

Introduction

The *Master Declaration of Covenants, Conditions and Restrictions of Two Rivers Subdivision* is the governing document for Two Rivers Subdivision. This document includes the power to fine up to \$100 per day directly against owners who violate any restrictions or rules or regulations. As of July 1, 2014, Idaho law (Idaho Code, Section 55-115) requires that certain steps be taken before an association levies fines against an owner. Herein, the Two Rivers Homeowners Association is updating its procedures accordingly. The Association intends for all of its policies and procedures to comply with federal and Idaho law, and for all of the Association's managers and agents to comply with federal and Idaho law and to interpret and implement all current Association policies in a manner that complies with Section 55-115 of the Idaho Code.

Definitions

The "Board" defined in subsection 1(b) of the Fine Statute is the Board of Directors of the homeowners association elected pursuant to its governing documents;

The "covenants and restrictions" mentioned in the Fine Statute are the *Master Declaration of Covenants, Conditions and Restrictions* of Two Rivers Subdivision, recorded on July 25, 2000 in the Records of Ada County Idaho, as amended, supplemented and updated from time to time;

The "Fine Statute" is Idaho Code §55-115;

The "homeowner's association" defined in subsection 1(a) of the Fine Statute is Two Rivers Subdivision Homeowners Association, Inc. organized July 31, 2000 as an Idaho nonprofit corporation; and

The "member" or "membership" defined in subsection 1(c) of the Fine Statute are the owners or members of the homeowner's association as defined in the covenants and restrictions and governing documents.

Preamble

WHEREAS, the covenants and restrictions clearly set forth the authority for the homeowner's association to impose a fine pursuant to section (2) of the Fine Statute;

WHEREAS, the Board desires for the homeowner's association to comply with all applicable laws, including the Fine Statute and the covenants and restrictions;

WHEREAS, the Board finds that it is in the best interest of the homeowners association and all of its members to use fines to enforce the provisions of the covenants and restrictions, but desires to use other remedies when the total amount of fines become excessive; and

WHEREAS, the Board desires to communicate a clear policy to all members and enforce it even-handedly and consistently;

NOW THEREFORE, the Board adopts the following policy and fine procedure to be kept in the official records of the Association, effective upon adoption.

Resolution

The Board hereby adopts the following policy and procedure to be used when fines are considered or levied.

POLICY AND PROCEDURE

A. Amounts of Fines for Violations Covenants

1. The Board of Directors shall approve a schedule of fines to be assessed according to the violation; such schedule shall be regularly reviewed by the Board and published to members.

B. First Current Offense:

1. The Management company will notify a homeowner of a violation at its first observance:
 - a. The management company will notify the owner by regular US mail, stating the date of the violation and referencing the specific covenant that was violated.
 - b. A copy of the Fine Policy and Procedure shall be referenced.

C. Notice of Continuing Offense:

1. Upon observing the continuation of a fineable violation, the management company shall:
 - a. Track and document the violation with one or more photographs.
 - b. Give written notice by certified mail of the reported violation to the member at the member's last known address.
 - c. Indicate the violation for which a fine is being considered.
 - d. Indicate how the member can fully resolve the violation.
 - e. Indicate the amount of the fine to be imposed, and if the fine will be a one-time fine or a continuing fine.
 - f. Give notice of the Board's next meeting that is a minimum of thirty (30) days from the date of service of the Notice ("Hearing Meeting").
 - g. Give notice that the Board will vote to impose the fine at the Hearing Meeting, unless resolution of the violation has begun, or if the violation is fully resolved, or if the owner has taken steps or shown an intent to fully resolve the violation, prior to the Hearing Meeting.
 - h. Observe on a regular basis whether the violation is ongoing or has been corrected.

D. Hearing Meeting.

1. At the hearing meeting, the Board shall:
 - a. Review all fine notices that were given at least thirty (30) days prior to the Hearing Meeting and all pending unresolved violations.
 - b. Determine if each violation is fully resolved, partially resolved, or unresolved.
 - c. By majority vote, impose a fine in the amount stated in the notice for each unresolved violation.
 - d. For each partially or temporarily resolved violation, set a time to follow-up and determine if the member has continued to address the pending violation in good faith until fully resolved. This may be at the next regular Board meeting or sooner if required.

- e. A majority vote by the Board shall be required to impose a fine.
- f. The decision of the Board at the hearing shall be relayed to the member within seven (7) days of the hearing date.
- g. Fines shall be assessed immediately following the Hearing Meeting.

E. Other Remedies

1. The Board shall maintain the right to, at any time, take any legal action granted it in the governing documents in lieu of fining.
2. If an infraction has been corrected temporarily, but has since occurred repeatedly or as an ongoing infraction, and where notification of non-compliance was given, and opportunity to be heard also previously given, and where the hearing offered was at least 30 days from the time of the original legal notification, then that correction or resolution shall be considered to have failed, and a fine may be assessed immediately with notice.
3. For each property at which an ongoing violation is incurring ongoing fines, Board shall review the status of the case in light of the current total balance, and shall analyze if the fine process shall continue. When the accumulated fines exceed the estimated cost of other remedies available to the Association, the Board shall vote as to which remedy shall be used including fines or other legal remedies.
4. For each property on which an action is taken or a fine levied, the management company shall notify the member of the finding of the Board and assess fines or costs.


F. Use of Fines:

1. The Association shall not use any portion of any fine to increase the remuneration of any board member or agent of the board. This restriction does not apply to attorney's fees.

ADOPTED ON THE 12 day of Aug, 2014.

THE BOARD

I hereby certify that this Fine Policy and Procedure was adopted at a properly-called meeting by resolution of the Board of Directors of Two Rivers Subdivision Homeowners Association, Inc.



Name: Laurel Baker
Secretary

Date:

Violation

Fine

Governing Doc Reference

Violation	Fine	Governing Doc Reference
Property Maintenance		
Trash cans visible	\$50 per day	MD: Article 11: Section C: Garbage and Refuse
Improper storage of boats/trailers/ rv's	\$100 per day	MD: Article 11: Section F: Parking and Storage
Property use as a business	\$50 per day	MD: Article 11: Section A: Lot Use
Storage of equipment on property	\$50 per day	MD: Article 11: Section D: Nuisance
Lamp post not working	\$50 per day	MD: 1S Article 3: Photosensitive lights
Nuisance	\$50 per day	MD: Article 11: Section C: Garbage
Sight distances	\$50 per day	MD: Article 11: Section G: Sight at distances
Mailboxes	\$50 per day	MD: Article 11: Section K: Mailboxes
Landscaping		
Brown yard, grass dying	\$50 per day	MD: Article 12: Section 4: Landscaping
Yard equipment left out	\$50 per day	MD: Article 11: Section D: Nuisance
Trees dead or missing	\$50 per day	MD: Article 12: Section 4: Landscaping
Weeds	\$50 per day	MD: Article 12: Section 4: Landscaping
Other		
Signs	\$50 per day	AMD: Article 11: Section L: Signs
Animals	\$50 per day	MD: Article 11: Section B: Animals
ACC Non-Compliance	\$100 per day	MD: Article 13: Section 2: Approvals required
Vacant lot maintenance	\$50 per day	2AMD: Article 10: Section 2: Maintenance by owner

IN THE SENATE

SENATE BILL NO. 1310

BY COMMERCE AND HUMAN RESOURCES COMMITTEE

AN ACT

1 RELATING TO PROPERTY; AMENDING CHAPTER 1, TITLE 55, IDAHO CODE, BY THE AD-
2 DITION OF A NEW SECTION 55-115, IDAHO CODE, TO DEFINE TERMS, TO PROVIDE
3 THAT A HOMEOWNER'S ASSOCIATION MAY NOT IMPOSE FINES ON MEMBERS UNLESS
4 ITS AUTHORITY TO DO SO IS CLEARLY SET FORTH IN THE COVENANTS AND RE-
5 STRICTIONS; TO PROVIDE A PROCEDURE RELATING TO THE IMPOSITION OF FINES
6 ON HOMEOWNER'S ASSOCIATION MEMBERS, TO PROVIDE THAT NO FINE SHALL BE
7 IMPOSED IF A MEMBER BEGINS RESOLVING THE VIOLATION PRIOR TO THE MEETING
8 SO LONG AS THE MEMBER CONTINUES TO ADDRESS THE VIOLATION IN GOOD FAITH
9 UNTIL FULLY RESOLVED, TO PROVIDE A RESTRICTION RELATING TO THE USE OF
10 FINES AND TO PROVIDE THAT SPECIFIED LAW SHALL NOT AFFECT CERTAIN AUTHOR-
11 ITY THAT MAY ALLOW FOR THE RECOVERY OF ATTORNEY'S FEES.
12

13 Be It Enacted by the Legislature of the State of Idaho:

14 SECTION 1. That Chapter 1, Title 55, Idaho Code, be, and the same is
15 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
16 ignated as Section 55-115, Idaho Code, and to read as follows:

17 55-115. HOMEOWNER'S ASSOCIATION -- PROHIBITED CONDUCT. (1) As used in
18 this section:

19 (a) "Homeowner's association" shall have the same meaning as in section
20 45-810(6), Idaho Code.

21 (b) "Board" means the entity that has the duty of governing the associ-
22 ation that may be referred to as the board of directors, executive board
23 or any such similar name.

24 (c) "Member" or "membership" means any person or entity owning or pos-
25 sessed an interest in residential real property or lot within the phys-
26 ical boundaries of an established homeowner's association.

27 (2) No fine may be imposed for a violation of the covenants and restric-
28 tions pursuant to the rules or regulations of the homeowner's association
29 unless the authority to impose a fine is clearly set forth in the covenants
30 and restrictions and:

31 (a) A majority vote by the board shall be required prior to imposing any
32 fine on a member for a violation of any covenants and restrictions pur-
33 suant to the rules and regulations of the homeowner's association.

34 (b) Written notice by personal service or certified mail of the meeting
35 during which such vote is to be taken shall be made to the member at least
36 thirty (30) days prior to the meeting.

37 (c) In the event the member begins resolving the violation prior to the
38 meeting, no fine shall be imposed so long as the member continues to ad-
39 dress the violation in good faith until fully resolved.

40 (d) No portion of any fine may be used to increase the remuneration of
41 any board member or agent of the board.

1 (e) No part of this section shall affect any statute, rule, covenant,
2 bylaw, provision or clause that may allow for the recovery of attorney's
3 fees.