

**ENCLAVE AT SUN CANYON HOA
FINE SCHEDULE**

Adopted July 9, 2019

- A. **WHEREAS**, Enclave at Sun Canyon HOA (the “**Association**”) is organized and operating as a Utah non-profit corporation and serves as the governing body for the Enclave at Sun Canyon project (the “**Project**”) under the Utah Community Association Act, Utah Code §§ 57-8a-101 et seq.;
- B. **WHEREAS**, the Project and the Lots and Units therein are subject to and governed by that certain Declaration of Covenants, Conditions, and Restrictions, recorded on January 24, 2008 with the Office of Recorder for Summit County, Utah as Entry No. 00835747, Book 1911, beginning at page 0512 (the “**Declaration**”), as the same may be amended from time to time;
- C. **WHEREAS**, pursuant to the Declaration, the Board of Directors of the Association (the “**Board**”) is authorized to promulgate rules and regulations, policies, and procedures as may be necessary and desirable to aid the Board in carrying out its functions;
- D. **WHEREAS**, consistent with the Utah Community Association Act, Utah Code § 57-8a-208, the Board has determined it necessary and desirable to adopt a written schedule of fines for violations of the covenants, conditions, and restrictions applicable to the Project as set forth in the Plat, the Declaration, the Design Guidelines, the Association Rules, and any other governing documents (collectively, the “**Governing Documents**”).

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NOW, THEREFORE, for the reasons set forth in the above Recitals, and consistent with the power and authority granted in the Governing Documents and by Utah law, the Board hereby adopts the following Fine Schedule:

1. A fine may be assessed for each and every violation of each and every specific provision, prohibition, and requirement of the Governing Documents.
 - a. **First Violation.** The Association shall give a written warning to the Owner, by hand-delivery, first class mail, or email which shall notify the Owner of the violation and inform the Owner that a fine will be imposed if a second similar violation occurs, or if a continuing violation is not cured within forty-eight (48) hours.

- b. Second Violation. Upon the second violation of the same type after a warning in any one-year time period, or a continuing uncorrected violation after the initial forty-eight (48) hour warning period, a fine of \$1,000.00 may be imposed on the Owner. Upon the second violation or continued uncorrected violation of Section 9.12 of the Declaration, a fine of \$5,000.00 may be imposed on the Owner.
 - c. Third Violation. Upon the third violation of the same type within a one-year period, or a continuing uncorrected violation of at least ten (10) days after the assessment of the second fine, a fine of \$2,500.00 may be imposed on the Owner, provided, however, that upon the third violation or continuing uncorrected violation of Section 9.12 of the Declaration restricting Short Term Occupancy a Unit, a fine of \$5,000.00 may be imposed on the Owner.
 - d. Fourth and Subsequent Violations. Upon the fourth violation and each additional violation of the same type within a one-year period, or each continuing violation of at least ten (10) days after the assessment of the third and each subsequently assessed fine, a fine of \$5,000.00 may be imposed on the Owner. Upon the fourth violation and each additional violation of Section 9.12 of the Declaration or each continuing violation of Section 9.12 of the Declaration, a fine of \$10,000.00 may be imposed on the Owner.
2. Consistent with the Utah Community Association Act, Utah Code § 57-8a-208(4), an Owner who is assessed a fine may request an informal hearing to protest or dispute the fine within thirty (30) days from the date the fine is assessed. The hearing shall be conducted in accordance with the standards below.
 3. If a hearing is requested, no interest or late fees shall accrue related to the fine until after the hearing has been conducted and a final decision has been rendered by the Board.
 4. All requests for hearing shall be in writing and shall be emailed, mailed or delivered to the Board or the Association's manager.
 5. The hearing shall occur within thirty (30) days after the Board's receipt of such written request for hearing and the Owner shall be provided notice of the hearing at least fourteen (14) days before the date of the hearing.
 6. The hearing shall be governed by the following rules:
 - a. The Owner must appear at the time and place designated by the Board for the hearing. The Board, in its discretion, may conduct a hearing telephonically. An Owner may appear telephonically at any in-person hearing.

- b. At the hearing, the Owner contesting the fine shall be entitled to present evidence to challenge the alleged occurrence of the violation or such other evidence and information as the Owner believes is pertinent or appropriate to the consideration of the Board. Witnesses may appear and present information telephonically.
 - c. The Board may establish and announce at or before the hearing any other reasonable rules regarding the hearing.
 - d. The Board may rely on any reasonable information and evidence in determining whether or not a violation of the Governing Documents has occurred both initially and after a hearing.
 - e. Within ten days following the hearing, the Board shall issue to the Owner a written decision regarding the dispute.
 - f. The Board's decision shall be final, subject only to judicial review, if any is timely sought by an aggrieved Owner.
7. Any fine which remains unpaid after the Board's decision, or after the time for requesting a hearing has expired without a hearing being requested, may be collected as an unpaid Assessment as set forth in the Governing Documents and shall constitute a lien against the Owner's Unit.
8. Nothing in this fine schedule is intended or shall be interpreted to restrict the Association from pursuing any other enforcement action authorized or permitted in the Governing Documents or by law.
9. Capitalized terms not defined herein are defined in the Declaration.

IN WITNESS WHEREOF, the undersigned has affixed his/her signature as the President of the Association, confirming that the foregoing accurately represents action taken by a majority of the Board at a duly noticed Board meeting or by action without a meeting in accordance with the Utah Revised Nonprofit Corporation Act, Utah Code 16-6a-101 *et seq.* on this 9 day of

July, 2019.

Gregory K Douglass
President

Myra Selste
Secretary

ATTEST: