

# theRUTH

## RESOLUTION OF THE BOARD OF DIRECTORS

This resolution is made on the date set forth below by the Board of Directors (the “Board”) for the St Andrews Drive Owners Association (the “Association”).

### RECITALS

- A. Real property in Salt Lake County, Utah, known as St Andrews Drive Owners Association, was subjected to covenants, conditions, and restrictions pursuant to a Declaration (the “Declaration”);
- B. Pursuant to Utah Code § 57-8a-208, the Association has the right to assess fines against an Owner for violating the Association’s governing documents;
- C. Pursuant to the above-referenced Codes, the Board desires to set forth procedures for the assessing of fines for violations, and the hearing procedures used for hearings requested by Owners;
- D. This Resolution was properly adopted by the necessary vote of the Board in compliance with the provisions of the Association Bylaws;

### NOW BE IT RESOLVED:

- 1. Fining for Violations. The Board may enforce the Declaration, Bylaws, and rules and regulations by assessing fines as follows:
  - a. Any violation of the Declaration, rules and regulations, and Bylaws shall be subject to a fine.
  - b. The following procedures will be followed prior to levying a fine:
    - (i) All Owners will be given a written notice of a violation, which notice shall include the following:
      - (a) a description of the violation;
      - (b) a statement of the rule or provision of the Association’s governing documents that the lot Owner’s conduct violates,
      - (c) a statement that the Board, in accordance with this resolution and Utah Code § 57-8a-208, may assess fines against the Owner if a continuing violation is not cured or if the Owner commits similar violations within one year after the day on which the Board gives the Owner written warning or assesses a fine against the Owner under Utah Code § 57-8a-208 or this resolution; and
      - (d) if the violation is a continuing violation, states the time after the Board gives notice during which the Owner must cure the violation without incurring a fine.
    - (ii) All violations are considered non-continuing violations. If after receipt of the notice of violation an Owner commits another similar violation, no additional notice need be given prior to fining for the offense. Such fining may occur any time within one year after the initial offense.
    - (iii) If a violation is not cured within 48 hours of receipt of the initial notice of violation, it becomes a continuing violation. As such, the Board may assess a fine for the failure to cure the violation within 48 hours, plus a fine will be added monthly

without further notice until the violation has been cured. In the event that the violation is of such a nature that a complete cure would take longer than 4 hours to complete (e.g. violation of architectural guidelines), Owners will be given 48 hours to provide proof that they have commenced a cure within the 48 hours. Any similar continuing violation committed within one year of the initial notice of violation shall be subject to a fine without further notice.

c. Unless otherwise specified in the rules or Declaration the Association shall follow the following schedule of fines:

- (i) \$50.00 for a first violation;
- (ii) \$100.00 for a second or more similar violation or failure to cure the first violation within 10 days from the first fine; subsequent fines will double until they reach \$500 per month per offense.

Enforcement remedies are cumulative; accordingly, the Board reserves its right to pursue any enforcement action authorized by law or the Declaration at any time during the fining process.

d. If a fine is levied, the offending Owner shall have the right to request an informal hearing with the Board to protest or dispute the fine. A request for a hearing must be made in writing within 30 calendar days from the date notice of the fine is received. If a request for hearing is not received by the Board, or their designated agent, within 30 calendar days from the date the notice of fine is received, the fine shall be deemed to be uncontested and the Owner forfeits their right to hearing. A request for hearing shall be delivered to the Board of Directors directly or by registered mail. The hearing shall be conducted in accordance with the procedures adopted by the Board. An Owner may also contest the fine by initiating a civil action within 180 calendar days after the expiration of the 30 calendar day period.

e. Pursuant to Utah Code Ann. § 57-8a-208, fines shall be collected in the same manner as past due assessments. However, if the Owner timely requests an informal hearing as described above, no interest and late fees may accrue until after the Board conducts the hearing and the Owner receives the final decision.

2. Informal Hearing Procedures. The following procedures shall govern an informal hearing of the Board.

a. To request a hearing, an Owner must submit a written request to the Board within the timeframe identified above. The hearing shall, within reason, be conducted at the first Board meeting after the receipt of the request. The Board shall give notice of the date, time, and location of the hearing to the requesting Owner. Notice of the hearing shall be delivered to the requesting Owner and, if necessary, to the complaining Owner by electronic means, USPS first-class mail, postage prepaid, or by hand delivery. No other Owners or parties shall be entitled to notice of the hearing. If the hearing date is unacceptable to the requesting Owner, they may request one continuance of the hearing date. To request a continuance, the requesting Owner shall deliver a written request for continuance to the Association. The request must be received by the Association at least five calendar days prior to the original hearing date. The request must contain a valid cause for continuance. The Board has sole authority to determine what constitutes valid cause. If the Board continues the hearing, the continued hearing shall, within reason, take place at the second Board meeting after the receipt of the original request for hearing. Failure by a requesting Owner to appear at a hearing or continued hearing shall result in a waiver of the requesting Owner's right to hearing and the enforcement action shall be deemed uncontested.


b. The hearing shall be conducted by one to three Board members. The requesting Owner shall be given 15 minutes to dispute the issue for which the hearing was requested. The requesting Owner may present documentation or witnesses to dispute the issue. The Board may question the requesting Owner or witnesses during the hearing. If the request for hearing is based



on the complaint of neighboring Owners, the Board shall interview or review written statements from the neighboring Owners during the hearing. After hearing the requesting Owner's position and evidence, the Board may either render its decision at the hearing or take the evidence and argument under advisement. If the Board takes the evidence under advisement, they shall render a final decision by the next scheduled regular Board meeting. Once a decision is rendered, the Board shall give written notice of their decision to the requesting owner. All decisions are final, with the exception of a hearing to contest a fine, which may be appealed by filing a civil action within 180 calendar days of the final decision.

3. Receipt of Notice. All notices sent out pursuant to this resolution are deemed received by Owner 3 calendar days after which the notice was posted and placed in a U.S. mail receptacle by the Association or its agent. If notice is sent via electronic means, the notice is deemed received by Owner the same day it is sent by the Association.

ATTEST:

  
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President

  
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Secretary

Effective Date: 9.12.19