

THE VISTAS HOMEOWNERS ASSOCIATION
FINE AND CONSTRUCTION PENALTY POLICY AND PROCEDURE
(Adopted October 27, 2005, Revised September 26, 2013)

The Board of Directors (the “Board”) of The Vistas Homeowners Association (the “Association”) has been granted the responsibility to conduct, manage and control the affairs and business of the Association. The Association is governed by NRS 116 and the Declaration of Protective Covenants, Conditions and Restrictions, as amended (the “Declaration”), the Articles of Incorporation of the Association, (the “Articles”), the By-Laws of the Association, as amended (the “Bylaws”), and the Rules and Regulations of the Association, as amended (the “Rules,” and together with the Declaration, the Articles, and the Bylaws, the “Governing Documents”). The Board originally adopted a Penalty Policy and Procedure as a part of the Rules in 1995. This Fine and Construction Penalty Policy and Procedure (the “Fine Policy”) shall be effective 30 days after distribution to Unit Owners, and is intended to comply with statutory changes which have been adopted since 1995 and shall be effective. This Fine Policy is amended pursuant to the Board’s powers under the Governing Documents and constitutes a part of the Rules.

1) POLICY

Overview:

The primary intent of levying or imposing fines and other penalties against Unit Owners is to ensure uniform compliance with the Governing Documents. NRS 116.31031 and the Governing Documents empower the Board to impose various penalties for noncompliance, including levying fines for violations of Governing Documents. The Board has adopted this Fine Policy to achieve compliance with the Governing Documents, NRS 116 and to establish costs for collection of past due fines. After the Association has determined that an alleged violation of the Governing Documents has occurred, the Owner will receive the following:

(a) Courtesy Notification and Compliance/Correction Response. Issuance of a Courtesy Notification constitutes notice of an alleged violation of the Governing Documents. No fine is assessed against the Owner at this stage. A Compliance/Correction Response, to be returned to the Association by the non-complying Owner (the “Unit Owner”), shall accompany the Courtesy Notification.

(b) Upon the Unit Owner's failure to return the Compliance/Correction Response and/or correct or satisfactorily remedy the noticed alleged violation within ten (10) to fourteen (14) days, as indicated in the letter, the Unit Owner shall be issued a "Second Request for Compliance and Notice of Hearing." Upon issuance of a Second Request for Compliance and Notice of Hearing a fine may be set forth pursuant to the schedule set forth on Exhibit “A” hereto. The fine is subject to the approval and adjustment by the Board or a committee created by the Board, consisting of at least three members (the “Committee”), at a hearing, pursuant to the procedures set forth below. The date, time and location of the hearing as well as details specifying the alleged violation, a clear and detailed photograph of the alleged violation, if possible, and the proposed action to cure the alleged violation shall also be set forth in the Second Request for Compliance and Notice of Hearing.

(c) Not less than fourteen (14) days after issuance of the Second Request for Compliance and

Notice of Hearing, the Unit Owner must appear before the Board or the Committee, at the date, time and location set forth in the Second Request for Compliance and Notice of Hearing. The Board or Committee, as the case may be, shall have the power to impose a fine up to the maximum set forth in the Second Request for Compliance and Notice of Hearing.

(d) If the Unit Owner's violation caused damage to the Common Area the Board may also impose a Special Assessment against the Unit Owner in the amount of the cost of the damages to be repaired.

(e) In addition to the foregoing remedies, the Board may suspend the Unit Owner's voting privileges, prohibit the Unit Owner from using the Association's Common Elements until such time as the Unit Owner's violation of the Governing Documents is cured, and, subject to NRS 116.31162(4), treat any imposed penalty or fine as an assessment and exercise its lien and foreclosure rights as provided in The Vistas Homeowners Association Assessment Collection Policy, dated September 26, 2013.

2) PROCEDURES

Prior to the imposition of any fine or other penalty for violation of the Governing Documents, the Association shall afford the Unit Owner with notice of the alleged violation, an opportunity to be heard in person or through a representative, the right to counsel, the right to present witnesses and the right to present information regarding any conflict of interest of any member on the hearing panel at an executive session of the Board or the Committee called for such purpose.

a) NOTICE

i) Upon receipt of a written complaint from a Unit Owner or a director or officer of the Association alleging a violation of the Governing Documents, the Board shall cause an investigation to be conducted. If it is determined that the alleged violation does exist or occurred, then the Association shall issue a Courtesy Notification, which shall serve as notice of the alleged violation to the Unit Owner. The notification shall include a detailed description of the alleged violation and a clear and detailed photograph of the alleged violation, if the alleged violation relates to the physical condition of the unit or the grounds of the unit or an act or a failure to act of which it is possible to obtain a photograph, and the proposed action to cure the alleged violation. Service by USPS mail to the address of the unit and, if different, to a mailing address specified by the Unit's Owner shall be deemed complete on the date of mailing.

ii) The Unit Owner will be instructed to respond in writing to the Courtesy Notification by returning the Compliance/Correction Response which is sent with the Courtesy Notification. If the Unit Owner fails to timely cure the alleged violation or adequately respond to the Courtesy Notification, a Second Request for Compliance and Notice of Hearing shall be sent to the Unit Owner, which shall specify the amount of the fine sought to be imposed and the date, time and location of the hearing on the matter. The Second Request for Compliance and Notice of Hearing will also include a detailed description of the alleged violation, a clear and detailed photograph of the alleged violation, if the alleged violation relates to the physical condition of the unit or the grounds of the unit or an act or a failure to act of which it is possible to obtain a photograph, and the proposed action to cure the alleged violation. The hearing date shall be not

less than fourteen (14) days from the date the Second Request for Compliance and Notice of Hearing is mailed to the Unit Owner. Service by USPS mail to the address of the unit and, if different, to a mailing address specified by the Unit's Owner shall be deemed complete on the date of mailing.

b) HEARING AND PENALTY:

i) If the Unit Owner fails to either timely return the Compliance/Correction Response, cure the noticed alleged violation or fails to cease and desist from further violation, the Board shall set the amount of the fine and shall set the date, time and location of a hearing (the "Hearing"), and issue a Second Request for Compliance and Notice of Hearing, if the Board desires to impose fine or penalty. The Board or Committee, as the case may be, shall have the right to reasonably limit the duration of the Hearing and limit the time allotted to Unit Owner for presentation of evidence. The hearing shall be held in an executive session of the Board or the Committee unless the person who may be sanctioned for the alleged violation requests in writing that an open hearing be conducted by the Board.

ii) Proof that the Unit Owner received the Second Request for Compliance and Notice of Hearing shall be entered into the minutes of the Hearing. Proof that the Unit Owner has been given Second Request for Compliance and Notice of Hearing shall be conclusive if a copy of the Second Request for Compliance and Notice of Hearing, together with a statement of the date and manner of delivery, is entered into the minutes of the meeting by the officer, director or agent who delivered the Second Request for Compliance and Notice of Hearing. The Unit Owner shall be deemed to have received the Second Request for Compliance and Notice of Hearing if mailed to the address of the unit and, if different, to a mailing address specified by the Unit's Owner. If the Unit Owner is present at the Hearing, notice shall be deemed adequate.

iii) At the Hearing, the Unit Owner or representative may present any evidence or make any statement relating to the alleged violation, either in person or in writing to the Board. The Board or Committee, as the case may be, may reasonably limit the time allotted to the Unit Owner.

iv) Upon hearing all of the evidence, the Board or Committee, as the case may be, may, by a majority vote:

a) Find that no violation exists;

b) Allow the Unit Owner additional time to cure the violation. If the violation is not cured within the time set by the Board, a fine will be imposed as set forth in the Second Request for Compliance and Notice of Hearing.

c) Find that the Unit Owner is in violation and impose the fine set forth in the Second Request for Compliance and Notice of Hearing, which fine shall not exceed \$100 per violation or \$1,000 total, and/or impose additional penalties as set forth hereinafter. To the extent that the violation threatens the health, safety or welfare of the residents of the Association, the foregoing limits shall not apply, provided, however, that the fine imposed must be commensurate with the severity of the violation, as determined in the reasonable discretion of the Board.

v) In the event it is determined that a violation exists or was committed, the Board or the

Committee may order any or all of the following penalties:

- a) Suspend the Unit Owner's voting rights until the violation is cured.
 - b) If the violation resulted in damage to the Common Elements, impose a Special Assessment on the Unit Owner's unit so that the costs of repair of the Common Elements are charged to the Unit Owner. (Special Assessments may only be assessed by the Board).
 - c) If the violation is not corrected within fourteen (14) days of the Hearing, the violation shall be deemed a continuing violation and the Board or Committee, as the case may be, may impose an additional fine without providing the opportunity to cure the violation and without further notice or hearing. Thereafter, an additional continuing violation shall accrue each successive seven (7) day period thereafter, and the Board or Committee, as the case may be, may impose an additional fine without providing the opportunity to cure the violation and without further notice or hearing. Even where a violation may be temporarily corrected, if the same or similar violation reoccurs within a three month period following the date of the Courtesy Notification, such condition shall constitute a continuing violation.
6. If any Unit Owner accused of an alleged violation of the Governing Documents, after notice as provided herein, shall fail to appear for a hearing, the Board or its designee shall proceed in the Unit Owner's absence, and make a determination based on the facts presented which determination shall be final, binding and conclusive against the Unit Owner.
7. All fines are due and payable within fourteen (14) calendar days of being imposed. The fine becomes past due after such fourteen (14) calendar day period. Reasonable fees may be charged against the Unit Owner for the costs of collecting any past due obligation.
8. If, after the Hearing, the Unit Owner refuses to abide by the decision imposed by the Board, the Board may, without further notice, elect to compel compliance with such decision as provided for in the Governing Documents, including without limitation, by judicial enforcement. In addition to the foregoing remedy and subject to NRS 116.31162(4), the Association may elect to treat any imposed penalty or fine as an assessment and exercise its lien and foreclosure rights as provided in The Vistas Homeowners Association Assessment Collection Policy, dated September 26, 2013
9. Any action taken by the Board pursuant to this Fine Policy shall not deprive the Association of any remedies otherwise available by law.
10. If civil action is commenced to enforce payment of a past due fine, all charges and costs of the civil action are added as assessments against the Unit's Owner, whether or not the violation threatens the health, safety or welfare of the residents of the Association.

This Fine and Construction Penalty Policy and Procedure amends and restates the Fine and Construction Penalty Policy and Procedure adopted October 27, 2005 and revised at the January 22, 2009 and April 22, 2010 Board of Directors Meeting.. This Fine and Construction

Penalty Policy and Procedure was adopted on September 26, 2013 at the Quarterly Board of Directors Meeting and is effective _____30 days after distribution to the Unit Owners.

By: _____

Date: _____

Attested by: _____

Date: _____

EXHIBIT "A"
FINE STRUCTURE

TO THE EXTENT THAT THE VIOLATION THREATENS THE HEALTH, SAFETY OR WELFARE OF THE RESIDENTS OF THE ASSOCIATION, THE FOLLOWING LIMITS SHALL NOT APPLY, PROVIDED, HOWEVER, THAT THE FINE IMPOSED MUST BE COMMENSURATE WITH THE SEVERITY OF THE VIOLATION, AS DETERMINED IN THE REASONABLE DISCRETION OF THE BOARD.

<u>DESCRIPTION OF VIOLATION</u>	<u>INITIAL FINE</u>	<u>CONTINUATION FINE</u>
1. Visible Garbage Containers	\$25	\$25
2. All other violations of the Governing Documents	\$50	\$50