

MADISON ADDITION OWNERS' ASSOCIATION
POLICY FOR ENFORCEMENT OF COVENANTS AND BYLAWS
(INCLUDING NOTICE AND HEARING PROCEDURES AND SCHEDULE OF FEES/CHARGES)
Effective December 8, 2021

1. **Introduction**

The Board of Directors ("Board") of the Madison Addition Owner's Association, a Montana nonprofit corporation (the "Association"), acting pursuant to its bylaws and the protective covenants (collectively the "Association Documents") it has a duty to enforce, has enacted the following Policy effective as of the date set forth above. This Policy supersedes any previously adopted Policy on the same subject matter but is substantially the same as past enforcement policies and practices.

2. **Policy Purposes.** The purposes of this Policy are to:

2.1 Establish written procedures and rules to promote the consistent enforcement of the Association Documents;

2.2 Provide a framework for resolution of disputes between the Association and Owners, (except those primarily related to the collection of past due assessments i.e. annual assessments or "dues" covered in a separate policy) that may require an injunction, restraining order or other legal action; and

2.3 Provide Owners with notice of a schedule of charges or fees for violation of the Association Documents.

3. **Notice and Hearing procedures - Charge Policy.**

3.1 **Notice of Violation**

3.1.1 The Association or any member of the Association may report a violation. If reported by a member, the report should be in writing and mailed to the Association's address or emailed. If the violation is of a type that can readily be photographed, the report should include one or more dated photos of the reported violation.

3.1.2 If the Board verifies a reported violation, it will issue a written Notice to the violating Owner. The Notice will describe the nature of the violation, the time frame for correcting the violation (expressed as a certain number of days after the effective date of the Notice as determined below), and state that the Association may seek to remedy the violation and otherwise protect its rights as specified in the Association Documents and as provided by law.

3.1.3 The Notice, together with a copy of this Policy will be sent via U.S. Mail, first class postage prepaid, addressed to the last address of the Owner as listed in the Association's records. The Notice will be considered effective 7 days after it is deposited in the mail.

3.1.4 The Owner to whom the Notice was mailed then has the amount of time specified in the Notice to correct the violation.

3.1.5 If the violation is not corrected within the specified time, the Association may, in its sole discretion, assess a fee or charge against the Owner subject to the Request for Hearing provisions below.

3.1.6 Alternatively, the Association may, in its sole discretion, mail a follow-up Notice to the Owner setting a new date for correction of the violation.

3.2 Request for Hearing. Any Owner receiving a violation Notice has the right to request a hearing before the Board as the Association's impartial decision -maker. To request a hearing, The Owner must contact the Association in writing within four (4) days after the effective date of the Notice. The Association's Board shall then set a date for a hearing. If the hearing, for whatever reason, cannot be held prior to the date when the charge is scheduled to commence, the date the fee or charge begins shall be extended to the day following the hearing. No Board member may have any direct personal or financial interest in the outcome of the hearing process. A Board member shall not be deemed to have a direct personal or financial interest in the outcome if the Board member will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association. Any Board member who does have a direct personal or financial interest shall not participate in the hearing. The purposes of the hearing are to (1) determine if the Owner receiving the Notice should be held responsible for the alleged violation, (2) evaluate any mitigating circumstances, and (3) make arrangements for bringing the violation into compliance over a period of time if warranted. The hearing process will not and cannot be used to determine if a particular provision of the Association Documents is desirable.

3.3 Hearing Procedure. The general procedure for the hearing is as follows:

3.3.1 The presiding Board member shall (1) establish a quorum, (2) explain the fee or charge Policy and procedures, and (3) describe the nature of the violation as specified in the Notice.

3.3.2 The Owner may then provide evidence to rebut the Notice using witnesses or any other information deemed relevant and necessary.

3.3.3 After all testimony and other evidence has been presented, the Board shall decide whether the Owner should be held responsible for the alleged violation. If the Board finds that the Owner has violated the Association Documents, a fee or charge may be assessed, the Association's costs and attorney fees may be assessed against the Owner and/ or a mutually agreeable arrangement may be made with the Owner to ensure correction of the violation and compliance in the future. If the Owner is found not responsible for the alleged violation the Association may not assess any costs or attorney fees it may have incurred in the proceeding.

3.4 Fees/Charges. If an Owner fails to timely correct a violation, the Board may assess a one-time fee or charge in the amount of \$100.00 to \$1,000.00 as the Board finds reasonable and necessary to promote correction of the violation. In addition, the Board may assess daily fees or charges for continuing or persistent violations in the amount of \$15.00 to \$50.00 per day as the Board finds reasonable and necessary to promote correction of the violation until the Owner has corrected the violation. The Owner is responsible for notifying the Association in writing if and when the violation has been corrected. Any daily fee or charge shall continue at the stated rate until the earlier of (a) the date on which the Owner gives written notice of correction, regardless of when the violation was corrected, or (b) 120 days after commencement of the daily charge. Notice of any fee, charge, assessment, or cost the Board imposes pursuant to Sec. 3.3.3 above or this section shall be delivered to the Owner by U.S. Mail specifying:

- a. The total amount due together with interest at the rate of 1.5% per month or part thereof from the date of delinquency if the Board has imposed such an interest charge;
- b. That the Association is entitled to recover its attorney fees for preparing a lien, associated recording costs and other expenses of preparing a lien or otherwise related to any lawsuit that may be filed to collect a delinquent account;
- c. Information identifying the Association representative to contact if there are questions about the account;
- d. That action is required to cure the Owner's delinquency and if the Owner fails to do so within 30 days following the date of the Association's letter, the past due account may be turned over to a collection agency or an attorney, a lawsuit may be filed against the Owner, a lien may be filed and foreclosed upon the Owner's real property associated with the delinquency, and the Association may pursue any other remedies available under Montana law.

3.5 Application of Payments on Delinquent Accounts. All payments on an Owner's delinquent account shall be applied first to any of the Association's attorneys' fees and costs, other expenses of enforcement and collection, late charges, interest, returned check charges, and any other costs owing under the Association Documents prior to being applied to payment of any dues, assessments, or charges then due.

3.6 Collection Remedies. In the event payment is not received from a delinquent Owner within 30 days of the Association's letter referenced above, the Association may pursue any one or all of the following remedies:

- a. File an assessment lien against the delinquent Owner's property;

- b. Commence and maintain legal proceedings lawsuits seeking personal judgments and foreclosure actions for the recovery of the delinquent assessments, late fees, interest, attorney fees and costs as may be allowed by the Association's Documents or Montana law;
 - c. Pursue collection of any judgments obtained against the Owner(s); and,
 - d. Take all other legal action necessary to collect delinquent assessments, charges, fees, costs etc. in accordance with the Association Documents and Montana law.
 - e. If the Association fails to follow the procedures set forth above it shall not be construed as a waiver or release of a delinquent Owner's obligation to pay assessments or the Association's right to collect the above in accordance with the Association Documents or Montana law.
4. **Association's Attorney Fees and Costs.** Any delinquent Owner shall be responsible for attorney fees and costs incurred by the Association in the collection of past due assessments, dues, or charges whether or not a lawsuit is commenced, in accordance with the Association Documents and Montana law.
5. **Variations.** The Board may from time to time vary from the requirements set forth above if the Board determines in its sole discretion that such variance is reasonable under the circumstances.
6. **Amendment.** This Policy may be amended from time to time by the Board.

CERTIFICATION

The undersigned, being the duly elected and acting as Secretary of the Madison Addition Owners' Association, a Montana non-profit corporation (Association) certifies that the foregoing POLICY FOR ENFORCEMENT OF COVENANTS AND BYLAWS (INCLUDING NOTICE AND HEARING PROCEDURES AND SCHEDULE OF FEES/ CHARGES) was approved by the vote of the majority of the Association's Directors at their meeting held on _____, 2021. Madison Addition Owners' Association, a Montana nonprofit corporation.

By: _____
Tim Donnigan, Secretary