

**RESOLUTION OF THE BOARD OF DIRECTORS  
OF THE BANNING LEWIS METROPOLITAN DISTRICT NO. 1  
TO ADOPT HEARING POLICY AND FINE SCHEDULE**

Section 1. INTENT

- A. In accordance with the Declaration of Covenants, the Board of Directors (the “Board”) has adopted Rules to promote the health, safety, and welfare of the residents and the maintenance and aesthetic appearance of the community for the preservation of property values and the assets of the District.
- B. While many violations are resolved through a courtesy/warning notice (see below), there are instances when further action is required. Fines are intended to bring properties into conformance with the Declaration of Covenants, Architectural Guidelines, and other rules and regulations set forth by the District (collectively, the “Governing Documents”) in a timely manner while providing due notice and appeal rights to property owners, as described in Exhibit “A” – Violation and Fine Appeal Process attached hereto and incorporated herein by reference.
- C. In order to gain compliance, the Board intends to impose and collect monetary penalties as authorized by the Declaration of Covenants and reserves the right to enforce the community’s restrictions in any other legal manner.

Section 2. NOTICE OF VIOLATION

- A. Notice Required: Upon a unit/lot owner’s first violation of any provision of the Governing Documents, the District shall provide a written Courtesy/Warning Letter to the unit/lot owner to allow the unit/lot owner the right to cure said violation as stated in the Letter.
- B. Notice: If not cured, a Notice of the violation shall be mailed via certified mail, return receipt requested to the unit/lot owner with a copy mailed via first class U.S. mail to the occupant of the unit/lot, and contain, at a minimum, the following information:
  - 1. The alleged violation of the Governing Documents;
  - 2. The date of the violation or the date the violation was observed;
  - 3. A statement that the violation must be cured within fifteen (15) days of the date of the Notice, and failure by the unit/lot owner to cure the violation within fifteen (15) days may result in a fine in accordance with the Fine Policy and Schedule of Fines in effect at the time of the violation; and
  - 4. That the unit/lot owner has the opportunity for a hearing before the District Board or its designee. The process for the hearing is set forth in Exhibit “A”.
- C. Right to Submit Written Position Statement: A unit/lot owner who receives a Notice regarding a violation, in lieu of attending a hearing before the Board or its designee, may respond to the violation by sending a written position statement via certified mail to the District’s address (as listed on the notice of contact form recorded with the county

recorder) or to the District's covenant enforcement entity, within fifteen (15) days of the date of the Notice, but not less than fifteen (15) days before the hearing date contained in the Notice. The Board or its designee may consider the written position statement and any other information coming before it regarding the violation, in the same manner as though a hearing were conducted.

### Section 3. NOTICE AND IMPOSITION OF FINES

- A. Notice of Imposition of Fine: If the unit/lot owner fails to cure the violation within fifteen (15) days of the date of the Notice and fails to request or attend a hearing, or submit a position statement to the Board or its designee, and the Board or its designee determines a violation is present or has occurred the District shall send the unit/lot owner a Notice of Finding of Violation, which Notice shall state that the unit/lot owner has been found in Violation of the Governing Documents and may be assessed a fine for the violation in accordance with the Schedule of Fines approved by the Board or its designee, as amended from time to time, and that failure by unit/lot owner to cure the violation within the period stated in the Notice of Finding of Violation may result in additional fines to the unit/lot owner.
- B. Further Failure to Comply: Additional Notices of fines citing unit/lot owner's failure to cure the violation shall be mailed to the unit/lot owner at the frequency and fine rate stated in the Schedule of Fines approved by the Board or its designee, as amended from time to time. Each Notice shall indicate the current fine, pass due fines and late fees, if any, the date that the violation must be cured to avoid additional fines, and unit/lot owner's right to appeal. The District may record a Notice of Violation against the unit/lot where the Violation exists.

### Section 4. CONTINUING VIOLATIONS

- A. In the case of repeat and persistent violations, this system of fines may ultimately lead to prosecution of non-responsive violators. Fines will not take the place of legal action but will be used as an additional remedy. Fines shall not exceed the level, if any, established by state law.
- B. In addition, the Board shall have the right but not the obligation to remedy the violation and seek reimbursement from the unit/lot owner for collection costs and reasonable attorney fees incurred as a result of such failure to comply with the Governing Documents without the necessity of legal proceedings.
- C. The Board may take legal action against the unit/lot owner at any time after a fourth Notice has been sent to the unit/lot owner, when accrued fines equal or exceed \$250, or if the Board determines, in its sole discretion, that immediate legal action is necessary to preserve the health, safety, and welfare of District residents. Pursuant to state law, in any legal action pursued hereunder, the court shall award reasonable attorney fees, costs, and costs of collection to the prevailing party.

- D. To ensure that the Board is aware of continuing violations, the Management Company may list the violating unit/lot owner on the Executive Session agenda when a fourth Notice has been sent to the unit/lot owner, when accrued fines equal or exceed \$250, or whenever the Management Company believes immediate action by the Board is necessary to preserve the health, safety and welfare of District residents. At such time, the Board may consider whether the Board should take other appropriate action against the unit/lot owner as provided herein.

#### Section 5. RECURRENCE OF VIOLATION

Any recurrence of the same violation within six (6) months of the original violation, as noted in the Notice, shall make the unit/lot owner subject to the imposition of a fine. Such fine shall be levied at the current rate of a 3<sup>rd</sup> violation in accordance with the "Schedule of Violations and Fines" then in effect. Such violations shall be considered a continuing violation and no Notice shall be provided to the unit/lot owner.

#### Section 6. FAILURE TO PAY

- A. Fines shall be due and payable within 30 days of the violation notice. Fines not paid within 30 days shall be charged a late fee and any interest that may be applicable.
- B. All rights and remedies of the District are cumulative and not exclusive, and the District shall have all rights and remedies to levy and collect fines which may be available to it under the Governing Documents and applicable law.
- C. Until paid by the unit/lot owner, all fines, fees, and charges assessed against the unit/lot owner pursuant to the Fine Policy and Schedule of Fines approved by the Board or its designee, as amended from time to time, including, but not limited to, the cost of collecting fines, fees, and charges such as collection agents and attorney fees, shall constitute a lien on and against the property in accordance with the Declaration of Covenants.
- D. Fee Schedule:
1. Late Fee Charge: A late fee of \$15.00 will be assessed on every account that is not paid in full within the 30 days referenced above. The late fee charge may be amended from time to time by resolution of the Board.
  2. Bad Check Charge: For each check that for any reason is returned to the District unpaid, the unit/lot owner shall owe the District a "bad check" charge of \$35.00. The bad check charge may be amended from time to time by resolution of the Board.
  3. Collection Fees: The unit/lot owner shall be responsible for all collection costs incurred by the District as part of the collection process, including, but not limited to, attorney fees, collection agent fees, and court costs.

Section 7. HEARING PROCESS

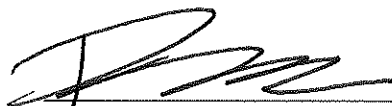
Violations and fines may be heard by the Board or its designee in accordance with the procedures set forth in Exhibit A, which procedures may be amended from time to time by a majority vote of the Board.

Section 8. SCHEDULE OF FINES

Fines may be levied as in accordance with the Schedule of Fines approved by the Board or its designee. The Board may amend the Schedule of Fines from time to time as it deems necessary by a majority vote of the Board or by delegating such authority to its designee by a majority vote of the Board.

Approved and adopted this 18<sup>th</sup> day of July, 2019.

BANNING LEWIS RANCH METROPOLITAN  
DISTRICT NO. 1

By:   
\_\_\_\_\_  
President

ATTEST:

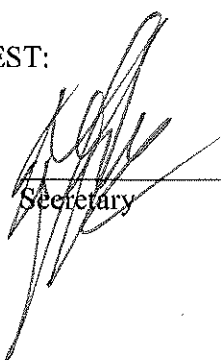
By:   
\_\_\_\_\_  
Secretary

Exhibit "A"  
VIOLATION AND HEARING PROCESS

SECTION 1 – NOTICE

1. Any unit/lot owner who receives a Notice of violation or imposition of fine may be heard regarding such violation by the Board of the District or its designee. Such hearing will be scheduled as set forth in the Notice. Fines set forth in any notice from the District may continue to accrue during the hearing process so that the process is not used to delay effective enforcement of the District's Governing Documents, as defined in the Fine Policy and Schedule of Fines, as amended from time to time.
2. In lieu of a hearing, a unit/lot owner may submit a written position statement no less than fifteen (15) days before the noticed hearing which written position statement shall be considered by the Board or its designee in the same manner that verbal testimony would be considered.

SECTION 2 – HEARING PROCESS

1. The hearing shall be held before the Board in open session or its designee in an open forum unless the unit/lot owner requests that the hearing be closed.
2. The Board President or Board's designee shall summarize the violation to be heard before the Board or its designee and introduce all parties.
3. The unit/lot owner shall be afforded 10 minutes to state his or her case and to present to the Board or its designee any evidence that is applicable to the unit/lot owner's position.
4. Each Board Member or the Board's designee shall have an opportunity to question the unit/lot owner regarding the violation.
5. Any Board Member or the Board's designee may receive additional evidence to aid in the determination of the matter including, but not limited to, any relevant documentation and/or information from third parties.
6. Upon completion of the question and answer period, the Board President or the Board's designee will state that the violation has been heard and the Board or its designee will make their decision following an executive session if the Board or the designee deems an executive session to be available under applicable law and necessary in the given circumstances. In reaching a decision, the Board or its designee may take into account the unit/lot owner's statements and evidence presented, the unit/lot owner's willingness to work towards compliance, and any other factors that may be pertinent as determined by the Board or its designee.

7. The Board or its designee may continue the hearing if it determines that additional information is required from the unit/lot owner before making an informed decision. The Board or its designee shall notify the unit/lot owner in writing of the date and time of the continued hearing and the additional information that the unit/lot owner must present on the continued hearing date.
8. The minutes of the meeting shall contain a written statement of the results of the hearing and the fine, if any, imposed. The unit/lot owner shall be given written notice of the results of the hearing within five (5) days from the date of the hearing.

### SECTION 3 – FINDING OF VIOLATION

1. All decisions of the Board or its designee are final and may not be further appealed through the District.
2. If the Board or its designee finds that a violation is present, the unit/lot owner must bring the violation into compliance and pay all outstanding fines and charges accrued to date within the time period specified in the written notice received from the Board or its designee, regarding the Board's or the designee's decision. Failure to cure the violation within the designated time period stated therein shall constitute a continuing violation and subject the unit/lot owner to subsequent fines at the rate and frequency noted in Fine Policy and Schedule of Fines, as amended from time to time, which additional fines shall not be subject to the hearing process.
3. The Board may, in its sole discretion, take legal action against the unit/lot owner at any time after a unit/lot owner's violation has been confirmed and the unit/lot owner has accrued fines equal to or greater than \$250 or the Board determines that immediate legal action is necessary to preserve the health, safety, and welfare of District residents.

Exhibit "B"

SCHEDULE OF FINES

(Appended to the Resolution of the Board of Directors of the  
Banning Lewis Ranch Metropolitan District No. 1 to  
Adopt Hearing Policy and Fine Schedule)

Effective July 18, 2019

Fines may be levied by the District or its designated representative for Violations of the Districts' governing documents, as follows:

<u>Complaint/Investigation/Violation</u>	<u>Action</u>
Courtesy/Warning Notice	\$0.00
Second Notice of Violation	Intent to Fine
Third Notice of Violation	\$50.00 Fine
Fourth Notice of Violation	\$100.00 Fine and notice of possible referral to attorney for further action
Fifth Notice of Violation and Fines exceeding \$250.00	\$150.00 Fine and referral to attorney
Continuing ("repeat and persistent") Violations	At least \$100.00 Fine per occurrence, amount determined in the discretion of the Board

Until paid, all fines, fees, and charges assessed against a Lot for violations of the governing documents, and all costs of collection including attorney's fees and related expenses, shall constitute a prior and perpetual lien against the property where the violations are found to occur. Late fees, interest and other charges may be imposed in accordance with the provisions of the Master Declaration of Covenants, Conditions and Restrictions for Banning Lewis Ranch and the Hearing Policy and Fine Schedule to which this Exhibit "B" is attached.