

# Pleasant View HOA

---

## **MEETING PLAN** *(Special Board Meeting)*

<b>DATE</b>	November 1, 2011
<b>TIME</b>	5:30 PM
<b>LOCATION</b>	Bailey's Coffee Shop
<b>AUTHOR</b>	Bill McGlynn

<b>PLANNED ATTENDEES:</b>	<ul style="list-style-type: none"><li>• Ruth Hexter</li><li>• Rod Austin</li><li>• Jim Kelly</li><li>• Donna Dietz (Excused)</li><li>• Sam Allen</li><li>• Marcus Jackson (Excused)</li><li>• Bill McGlynn</li><li>• Steve Schmidt</li></ul>
---------------------------	--

<b>OBJECTIVE</b>
<ul style="list-style-type: none"><li>• Amendments of Bylaws, First reading of Series 3000</li></ul>

<b>DISCUSSION PLAN</b>
<ul style="list-style-type: none"><li>• Confirmation of Quorum for Meeting</li><li>• Amendments of Bylaws</li><li>• First reading of Series 3000</li></ul>

# Pleasant View HOA

---

## **Discussion Notes:**

- Confirmation of Quorum for meeting, 5:30 p.m.
  - Steve calls quorum
- Reading of the Amendment to the Pleasant View HOA By Laws (See below 1.1)
  - Rod motions to accept, Second by Jim, General Vote, Ayes Have it
- First reading of Series 3000 (See below 1.2)

Steve Motions to Adjourn, Second by Bill, Ayes have it  
Meeting Adjourned 6:45 p.m.

## **1.1**

### **RATIONALE: An Amendment to Bylaws**

A primary purpose of the Bylaws of the Pleasant View Homeowners' Association is to regulate and manage the affairs of the Association, consistent with law, local ordinances, and the Articles of Incorporation. (Section 1.1)

As outlined in the Declaration of Covenants, Conditions & Restrictions (CCR); Homeowners Association General Responsibilities; and our Bylaws, the purpose of Association shall be to enforce provisions of these Declarations. It is clearly stated the business affairs of the Association shall be managed by the Board of Directors.

Our Bylaws make provision for Amendments to the Bylaws. (Section 11.1)

Currently neither Bylaws nor the various Declaration of Covenants provide the Board with an immediate or effective method of covenant enforcement, other than initiating a lawsuit or proceedings to enjoin the violation, to recover damages, or both.

### **RECOMMENDATION:**

**Rather than attempt to amend several sets of covenants, the Board should consider an amendment to the Bylaws. Such an amendment would provide Due Process (Notice and Hearing) and a Schedule of Fines for violations of the Covenants.**

# Pleasant View HOA

---

(1.2)

## PLEASANT VIEW HOMEOWNERS ASSOCIATION

### RESOLUTION

#### Enforcement of Rules & Regulations

WHEREAS the property owners, tenants, guests, or other persons occupying Pleasant View homes, townhomes, condominiums units or using the common facilities are subject to the rules and regulations set forth in the Bylaws of the Pleasant View Homeowners' Association and Declaration of Covenants, Conditions & Restrictions (CCR), as well as those found in Montana law, and Missoula Municipal Codes, and

WHEREAS Montana law empowers the Board in matters relating to the collection of assessments and the enforcement of governing documents, and

WHEREAS Article 4.1 of the Bylaws of Pleasant View Homeowners' Association charges the Board with the powers and duties necessary for the administration of the affairs of the Association, and

WHEREAS Article 4.2 of the Bylaws of Pleasant View Homeowners' Association and Homeowner Association General Responsibilities gives the Board authority to take legal action against property owners found to be in violation of rules if corrective action for the violation is not taken, and

WHEREAS it is the intent of the Board:

1. To achieve compliance with rules, policies and procedures
2. To promote unity and harmony within the complex
3. To maintain the appearance and value of our property
4. To maintain cohesive community relationships in a manner that is fair and equitable for all residents and property owners,

NOW, THEREFORE, BE IT RESOLVED the following Amendment to the Bylaws of Pleasant View Homeowners' Association directs the Board to set forth a procedure to be used to address suspected violation of the rules and regulations set forth in the Declaration of Covenants, Conditions and Restrictions for Pleasant View Homes and the Bylaws of Pleasant View Homeowners' Association:

# Pleasant View HOA

---

## First Amendment Of The Bylaws of Pleasant View Homeowners' Association

The undersigned, acting on behalf of the Association, and pursuant to an affirmative vote of a two-thirds majority of those Directors in attendance at a Regular Meeting on \_\_\_\_\_ (Article 11.1 of the Bylaws, recorded July 7, 2010), hereby amend the Bylaws as follows:

**The Board of Directors shall establish a fair and equitable process to address suspected rules violations, nuisance complaints or safety issues brought to the Board's attention by any member of the Association.**

**The Board of Directors may take immediate financial and/or legal action as it deems reasonably necessary to prohibit conduct which it determines is in violation of the Declaration of Covenants, Conditions & Restrictions or Bylaws.**

**Such process must provide for Due Process.**

The Amendment set forth herein shall be fully incorporated into the Bylaws upon execution.

England's Pleasant View Homeowners' Association, Inc.

---

President: Steve Schmidt

---

Secretary: Billy McGlynn

# Pleasant View HOA

---

## PLEASANT VIEW HOMEOWNERS ASSOCIATION

### Series 3000 – Homeowners

#### VIOLATIONS and COMPLAINTS

Any Owner who violates a rule or regulation approved by the Association's Board of Directors or violates any provision of the Declaration of Covenants, Conditions & Restrictions or Association Bylaws or Rules regulating the use and occupation of the common area shall be fined by the Association's Board of Directors or designees.

Each violation may also be assessed a special Assessment by the Association's Board of Directors in an amount equal to any cost incurred by the Association to correct or remedy any such violation.

Such fine and Assessment shall constitute a lien upon the violator's and may be enforced as any other unpaid Assessment is enforced under the Declaration of Covenants.

This regulation shall be in addition to and not exclusive of any remedies that are afforded the association (and its individual members) at law or by the Governing Documents of Pleasant View Homeowners Association

#### A. NOTIFICATION:

1. (a) A suspected rules violation, nuisance complaint, or safety issue may be identified by a Board member, an appropriate committee, or may be brought to the Board's attention by any member of the Association.
- (b) All alleged complaints must be submitted to the Board in writing.
2. Upon receipt of a written complaint, the Board, an appropriate committee, or Board designee will examine the condition and will make an initial determination of whether a violation exists.
3. (a) If it is determined a violation does exist, property owner will be issued a **Warning Notice** requesting corrective action. Written notice will be sent to their last known address. Written notification to the property owner will be sent Registered Mail and electronic mail (if available).
- (b) If the property is a rental unit the renter will also receive a copy of the notification. Written notification to the property owner will be sent First Class Mail.

# Pleasant View HOA

---

- (c) Notification will state the rule which has been violated, a description of the violation, and the date by which the violation must be corrected to avoid penalty.
- (d) A time limit of ten (10) calendar days from the date of the postmark of the notification shall be set for compliance or correction of the violation.
- (e) If a violation exists after ten (10) calendar days, property owner will be issued a **Notice of Violation**. Such notice shall be subject to A3 (b) (c) and (d) stated above. Written notification to the property owner will be sent by Registered Mail.
- (f) **Notice of Violation** will also inform the property owner of the right to request a hearing.

## **B. HOMEOWNER'S RIGHT TO HEARING:**

1.
  - (a) A request for a hearing must be submitted within ten (10) days of the Postmark of notification of violation or the right to a hearing will be waived and a fine will be automatically assessed.
  - (b) A request for a hearing must be directed to the President of Pleasant View Homeowners' Association, or designee, whose name, address, phone number and e-mail address shall be listed on the Notice of Violation.
  - (c) Purpose of the hearing is to provide the property owner the opportunity to establish why the rule has not been violated or why the rule or procedure does not apply.
  - (d) After hearing the property owner's position, the Board, or a committee appointed by the Board, shall make a determination whether the Bylaws or Declaration of Covenants, Conditions & Restrictions (CCR) have been violated. The Board, or a committee appointed by the Board, shall either render its decision at the conclusion of the hearing or will take the matter under advisement and render a decision within five (5) days.
  - (e) No hearing will be held on a repeat or continued violation of the same rule or for the same or substantially the same conduct by the same party.
2.
  - (a) A decision by the Board, or a committee appointed by the Board, shall be presented to the property owner in writing at their last known address by Registered Mail and electronic mail (if available).
  - (b) If, after the hearing, it is determined no violation exists, no further action on the part of the homeowner will be required.
  - (c) If, after the hearing, it is determined a rules violation exists, the property owner will have ten (10) calendar days from the date of postmark to correct the problem. After the ten (10) day period, the appropriate committee or Board member shall inspect the property to insure satisfactory compliance.
  - (d) If a fine is to be imposed, the amount of the fine will be included in the Board's written decision and will be sent to the property owner in writing

# Pleasant View HOA

---

to their last known address by Registered Mail and electronic mail (if available).

## C. PENALTIES:

1. (a) If a violation still exists after the initial ten day period set forth in the **Notice of Violation**, and if the property owner has not requested a hearing, the following penalties will be automatically assessed on day eleven.
- (b) Additional fines will be assessed each week the homeowner is in violation. Said fine will accumulate on a weekly (seven calendar days) basis until the violation is corrected. Fines will be immediately due and payable.
2. (a) If a violation still exists after the ten (10) day period following a hearing determination, the following penalties will be automatically assessed on day eleven.
- (b) Additional fines will be assessed each week the homeowner is in violation. Said fine will accumulate on a weekly (seven calendar days) basis until the violation is corrected. Fines will be immediately due and payable.

## D. ASSESSMENTS

Landscape & Maintenance:	\$25.00 per week until corrected
Quiet Enjoyment (Nuisance):	\$25.00 per week until corrected
Maintenance of Animals:	\$25.00 per week until corrected
Parking Violation:	\$40.00 per week until corrected
Architectural Violation:	\$100 per week until corrected
Front and Rear Yard Installation Violation:	\$100 per week until corrected
ACC Application Violation:	\$100 per week until corrected

(An Architectural Control Committee Application must be submitted and approved before any architectural improvements can be made. If the application is not submitted and approved prior to commencement of the work, fines can be imposed from the day work began, after the appropriate notice and hearing,)

# Pleasant View HOA

---

## **E. ASSESSED FINES and LEGAL ISSUES:**

1. Fines are in addition to any legal fees or other expenses which may be incurred by the Association in seeking compliance with violations or for replacement or repair of common areas or facilities damaged by the property owner.
2. Should a fine be assessed, the amount will be invoiced and sent to the property owner at their last known address, and will be immediately due and payable.
3. Unpaid fines shall be subject to collections as assessments in accordance with the resolutions adopted by the Board of Directors, applicable state law, the Declaration of Covenants, Conditions & Restrictions, and the Bylaws.
4. Failure to pay fines within sixty (60) days may result in a lien placed against the property. If a lien is filed, the homeowner will be required to pay the delinquent assessment and accrued interest plus \$50 to cover the cost of filing fees and administrative expenses.