HARTZELL HOMEOWNERS ASSOCIATION

SMOKING AND SECONDHAND SMOKE:

ENFORCEMENT AND DISPUTE RESOLUTION POLICY

(Adopted October 14, 2014)

RECITALS

A. Over the last several years there has been a great deal of controversy regarding the adverse effects of secondhand smoke on non-smokers. Governmental health agencies and medical professionals have identified secondhand smoke as a serious health risk.

B. The Association's Declaration of Covenants, Conditions and Restrictions (CC&Rs) at Article VI,
Section 6.5 prohibits any noxious or offensive activity in a unit or in the common area which may be or become an annoyance or nuisance to other residents.

C. The county of Marin, under whose jurisdiction the Association falls, adopted Smoking Ordinance No. 3584 in May of 2012 ("the Ordinance"). Based on the severe and well documented health risks of second hand smoke, the Ordinance prohibits smoking in public places, places of employment, and in multi-family housing projects. This includes electronic cigarettes and other similar devices.

D. The Association is considered a multi-family housing project and is therefore subject to the Ordinance, and accordingly, was designated nonsmoking as of the effective date of the Ordinance in November of 2012.

E. The Ordinance prohibits the Association from knowingly permitting smoking in an area which is under the legal or de facto control of the Association.

F. The Board of Directors views complaints relating to secondhand smoke as very serious. Secondhand smoke is, without question, a serious health hazard. The Ordinance effectively prohibits smoking at the Association and potentially subjects the Association to liability for non-compliance. The goal and purpose of this Policy is to outline the legal requirements of the Ordinance, address general nuisance principles, and provide for an enforcement and dispute resolution procedure relating to complaints involving smoking.

POLICY

1. Hartzell HOA, as of November of 2012, has been designated as a nonsmoking community association.

2. The Ordinance defines "Smoking" as engaging in an act that generates smoke, such as for example, possessing a lighted cigar, a lighted cigarette of any kind (including electronic cigarettes), a lighted pipe, or a lighted hookah pipe; or lighting a pipe, a hookah pipe, a cigar, or a cigarette of any kind. Smoking marijuana for medical purposes as permitted by California Health and Safety Code Section 11362.7 et seq. is not prohibited by the Ordinance, as long as the marijuana smoke is not reasonably detectable and complaints are not received.

3. The Ordinance defines "Unit" to mean a personal dwelling space, even where lacking cooking facilities or private plumbing facilities, and includes any associated exclusive-use enclosed area or unenclosed area, such as, for example, a private balcony, porch, deck, or patio. "Unit" includes a condominium unit and its associated exclusive use areas.

4. The Ordinance defines "Common area" as every area of a multi-unit residence that residents of more than one unit of that multi-unit residence are entitled to enter or use, including, for example, halls and paths, lobbies and courtyards, pathways and stairs, community rooms and playgrounds, gym facilities and swimming pools, parking garages and parking lots, shared restrooms, shared laundry rooms, shared cooking areas, and shared eating areas.

5. As of November of 2012, smoking is prohibited in all of the Units at Hartzell HOA, and associated exclusive use areas (such as private balconies, porches, decks, and patios), and smoking in the common areas at Hartzell HOA is prohibited.

6. The Association reserves the right to create designated common area smoking areas in compliance with the Ordinance. The Ordinance allows for the creation of these areas, as long as they meet specified criteria, among them the following:

    - The area must be located a reasonable distance from any unit or enclosed area where smoking is prohibited, with a reasonable distance defined as 20 feet away;

    - The area must not include, and must be a reasonable distance from, unenclosed areas primarily used by children and unenclosed areas with

- improvements that facilitate physical activity including, for example, playgrounds, and swimming pools.

- The area must be no more than ten percent of the total unenclosed area of the multi-unit residence for which it is designated;

- The area must have a clearly marked perimeter;

- The area must be identified by conspicuous signs.

7. Prior to filing any legal action relating to smoking, the association and/or the impacted resident or owner, and/or the complaining party, shall first attempt to resolve all complaints by the alternative dispute resolution process set forth in paragraph 9 below. The only exceptions to this requirement are (1) if the Board conducts an internal disciplinary hearing after receiving a complaint (this does not relieve the responsible party or parties of their obligation to follow the alternative dispute resolution process below); (2) if immediate action or injunctive relief is necessary to protect the health of the impacted resident, or (3) if there is a refusal or an unreasonable delay in completing the alternative dispute resolution process.

8. The following alternative dispute resolution process must be implemented before legal action is filed, except as noted above:

   Step One: Neighbor Cooperation. As a first step, the impacted resident or owner is encouraged to discuss the concern directly with the party or parties concerned.

   Step Two: Complaint to Association. If the impacted resident is unable or unwilling to communicate directly with the party or parties concerned, or if the communications do not result in a satisfactory resolution, a written complaint may be lodged with the Board of Directors. Upon receipt of the written complaint the Association shall endeavor to identify and notify the resident smoker and/or owner of the Unit, or responsible guests, and shall facilitate the completion of Step Three below.

   Step Three. The impacted resident, the Association, and/or the smoker may implement the following Internal Dispute Resolution procedure

("IDR"), which shall be completed at no cost to the residents or owners, and shall include the following:

- The requesting party shall ask the other parties to meet and confer in person in an effort to resolve the dispute. The request shall be in writing. If the requesting party or the responding party is a tenant, the owner of the unit must also participate in t meet and confer unless the parties otherwise agree;

- The Association's Board of Directors shall designate a member of the Board to participate in the meet and confer;

- The parties shall meet promptly at a mutually convenient time and place, preferably the affected unit, and explain their positions to each other, and confer in good faith in an effort to resolve the dispute;

- A resolution of the dispute agreed to by the parties shall be memorialized in writing and signed by the parties.

Step Four. In the event that IDR does not resolve the dispute, the parties shall endeavor to submit their dispute to either mediation or arbitration, prior to filing legal action.

9. Nothing in this policy is intended or does create any additional legal obligations on the Association with regard to enforcing the CC&Rs, this Policy, and/or the Ordinance. The Association's Board of Directors retains broad discretion in determining on a case by case basis, whether it will undertake enforcement efforts, and if it does so, what form the enforcement effort will take. As always, the impacted resident or owner may independently enforce the CC&Rs, this Policy, and/or the Ordinance as allowed by law.

10. This Policy may be amended from time to time.

(End of Policy)

CERTIFICATE OF SECRETARY

I certify that I am the duly qualified and acting secretary of the Hartzell Homeowners Association, a California Nonprofit Mutual Benefit Corporation. The foregoing is a true and correct copy of the Policy duly adopted by the Board of Directors of the corporation at a duly noticed Board meeting held on October 14, 2014 and entered in the minutes of such meeting. The Policy as of this date has not been modified or appealed and is, as of now, in full force and effect.

DATED:_____

HARTZELL HOMEOWNERS ASSOCIATION

By:_____
Secretary