

**RESOLUTION OF THE
MASTERS CLUB HOMEOWNERS ASSOCIATION, INC.
REGARDING POLICIES AND PROCEDURES FOR
COVENANT AND RULE ENFORCEMENT**

The following enforcement procedures were adopted by resolution at a regular meeting of the Board of Directors of the Masters Club Homeowners Association ("the Association") pursuant to Colorado law.

RECITALS:

- A. Pursuant to Colorado Revised Statute ("C.R.S.") 38-33.3-209.5 (1)(b)(IV) the Association is required to adopt a policy concerning the enforcement of the Association's governing documents.
- B. C.R.S. 38-33.3-302(1)(k) allows the Association to levy reasonable fines for violations of the declaration, bylaws, and rules and regulations ("the Governing Documents") provided notice and an opportunity to be heard is given to the Member prior to the fine being imposed.
- C. C.R.S. 38-33.3-302(1)(d) authorizes the Association to institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting the Common Interest Community. In the event the Association prevails with its claim C.R.S. 38-33.3-123 allows the Association to seek reimbursement of its reasonable attorney fees and costs.
- D. For the benefit and protection of the Association and its Members, the Board deems it desirable to establish and operate by procedures to insure due process in cases where an Owner or tenant, their family Members, their guests or invitees are alleged to have violated provisions of the Governing Documents.

THEREFORE, IT IS RESOLVED:

That the following procedures shall apply to a violation of the Declaration, Bylaws, or the Rules and Regulations. However, this resolution shall not apply to those sections of the Declaration and Bylaws concerning payment and collection of assessments.

I. Informal Resolution of Violation

Any Owner, Owner's tenant, or agent of the Association may directly request that an Owner or resident cease or correct any act or omission, which appears to be in violation of the Governing Documents. It is the preference of the Board that residents of the community attempt informal resolution prior to seeking formal resolution.

In the event the perceived violation is also a violation of Federal, state, or local laws or regulations, the Board may request the complaining resident to contact the appropriate government entity to report the perceived violation.

In some cases the Association may be more reluctant to institute litigation than is the complaining Member. The Association would like this opportunity to advise the Members that any person subject to the Declaration and the Colorado Common Interest

Ownership Act may institute legal or equitable proceedings to enjoin violations of the Declaration or the Act, and if successful, the complaining party is entitled to seek reimbursement of their reasonable attorney fees and costs.

II. Mediation

The Association encourages residents of the community to mediate with their neighbors on issues that impact the party's involved but not necessarily other Members of the community. The Association intends to use mediation as a tool to address complaints alleging violations of the Association's governing documents; the decision of whether or not to employ mediation will be within the reasonable discretion of the Board of Directors.

III. Formal Resolution of the Violation

- A. The Board or its agent may initiate Formal Resolution of violations upon observation of a violation, no written notice of violation is necessary
- B. Residents of the Association may initiate Formal Resolution of violations by filing a written notice of violation with the Association via mail or hand delivery to its management company, in care of the Board. Said notice of violation must clearly indicate the specific nature of the violation, the date, time and location of the violation, the witnesses of the alleged violation, and the name(s) or Unit number of the violator(s). At this time, the name of the Owner(s) or resident(s) making the complaint will not be divulged to persons other than the Board of Directors and its agents.
- C. If within the discretion of the Board, the written notice does not allege facts necessary to constitute a violation, the complainant will be notified in writing as to why no action was taken. The complainant may request a reconsideration of the complaint at a subsequent meeting of the Board. The complainant is required to attend this meeting.
- D. If the Board, having reviewed the allegations contained in the notice believes a violation of the Association's governing documents has occurred, the accused individual, or the Owner if the accused individual is a tenant, family Member, guest, or invitee, will be notified in writing that a complaint has been made citing the nature, date, time and location of the violation. The person charged shall have twenty (20) days from the receipt of this notification to correct the problem or request a hearing with the Board. Failure to respond to such notification will be construed as an admission of the violation, at which point the Board may levy a reasonable fine against the Owner(s) for the alleged violation.
- E. If the person charged with a violation responds requesting a hearing, a hearing shall be set and written notice of the date, time and place of hearing, together with a copy of the hearing procedures shall be provided to the accused.
- F. The hearing procedures shall be as follows:
 - o The Board, through its Chair, shall direct the proceedings at the hearing. The person charged, the person's representative, the other Members or residents may speak only after being recognized by the Chair.
 - o The Chair will describe the specific provision of the declaration or rule or regulation, which is said to have been violated, including the date and

- place, or read the written complaint to the person charged.
- The person charged shall be asked to admit or deny the charge. The person charged may speak for himself or may be represented by counsel throughout the hearing. Failure to respond or attend the hearing will be construed as an admission of the alleged violation.
 - If the charge is denied, the complaining witness or other witness having personal knowledge of the facts supporting the alleged violation shall be required to describe the details and circumstances giving rise to the violation of the Governing Documents at the hearing.
 - The person charged shall have the opportunity to confront each witness who testified against him, and offer a defense to the actions or omissions giving rise to the alleged violation of the Association's Governing Documents.
 - When all complaining witnesses have been heard, the person charged may make statements in rebuttal, and may provide witnesses in support of that position. The Chair may ask questions of each such witness in turn.
 - The Board shall have the opportunity to question any witness or involved parties if it so desires.
 - At the conclusion of the hearing, the Board shall discuss the statements and vote whether or not the person charged violated the provisions of the Association's Governing Documents. A majority vote shall control. The result of the vote shall be recorded in the minutes of the meeting, and announced to the person charged and the party or parties who filed the Complaint. If the owner agrees that a violation has occurred, a time frame, agreeable to both the Board and the owner, will be established in order to correct the problem.
 - If the Board levies a fine, the Board shall provide written notice to the Owner of the initial fine, any potential subsequent fines and the date payment of the initial fine is due.
- G. Fine Schedule. The following fine schedule has been adopted for all recurring covenant violations:
- First violation: Warning letter
 - Second violation (within 90 days) of same covenant or rule: Fine up to \$50.00
 - Third violation (within 90 days) of same covenant or rule: Fine up to \$100.00
 - Fourth and subsequent violations (within 90 days) of same covenant or rule: Fine up to \$200.00. Fourth and subsequent covenant violations may be turned over to the Association's attorney to take appropriate legal action.
- H. Continued Violation After Initial Warning Letter. If the alleged violator does not come into compliance within 20 days of the initial warning letter, this will be considered a second violation for which a fine may be imposed following notice and opportunity for a hearing. A second and subsequent letter(s) shall then be sent to the alleged Violator, providing notice and an opportunity for a hearing, and explaining if a violation is found to exist, a fine may be imposed pursuant to this

Policy. The letter(s) shall further state that the alleged Violator is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing within 20 days of the date on the violation letter. The foregoing procedure will not be used, however, in the event the violation is determined by the Board to be a Repetitious Violation as defined in below in Paragraph I of this policy. In such event, the procedure outlined in Paragraph I shall be followed.

- I. Repetitious Violations. Repetitious Violations are defined as a series of identical or substantially similar individual violations that occur repeatedly or continuously within a period of time to be determined in the discretion of the Board, with each individual violation separated by a period of no less than 1 day, nor more than 90 days, the result of which is a pattern of violations of the same covenant restriction. In the event of such Repetitious Violation, in the discretion of the Board, each instance of noncompliance may constitute a separate violation, and the Board shall not be required to provide a period of 20 days from each violation for the alleged Violator to come into compliance. A warning letter shall be sent for the first violation in the series*. After the warning letter, the Board may cause violation notices to be sent for each violation in the series stating the amount of the fine to be imposed (pursuant to the Fine Schedule in Paragraph G), and giving notice and an opportunity for a hearing. The Board shall individually consider each violation for which a hearing is requested, but is permitted to combine any and all hearings requested for Repetitious Violations on one date.
*Such warning letter shall state that the violator is in the "Repetitious Violations" category. The Board reserves the right to fine on a day-to-day basis. Thus, Day One shall be the first day after warning letter, Day Two shall be fine level two, Day Three fine level three, and Day Four fine level four.
 - o Examples of Repetitious Violations include, but are not limited to repeatedly or continually parking a restricted recreational vehicle in the community, repeated failure to remove and store a portable basketball hoop, and failure to remove excessive weeds growing on a lot. In each one of these examples, the Owner will receive a warning letter on the first instance of the violation. On the second instance of the violation, the owner will receive a \$50 fine letter, and notice and opportunity for a hearing. On the third instance of the violation, the owner will receive a \$100 fine letter and notice and opportunity for a hearing. On the fourth instance of the violation, the owner will receive a \$200 fine letter and notice and opportunity for a hearing. If hearings are requested, the Board may set them all on the same date.
- J. Waiver of Fines. The Board may waive all, or any portion, of the fines if, in its sole discretion, such waiver is appropriate under the circumstances. Additionally, the Board may condition waiver of the entire fine, or any portion thereof, upon the Violator coming into and staying in compliance with the Articles, Declaration, Bylaws or Rules.
- K. Other Enforcement Means. This fine schedule and enforcement process is adopted in addition to all other enforcement means, which are available to the Association through its Declaration, Bylaws, Articles of Incorporation and Colorado law. The use of this process does not preclude the Association from using any other

- enforcement means.
- L. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning.
 - M. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.
 - N. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.
 - O. Amendment. This policy may be amended from time to time by the Board of Directors.

IV. Miscellaneous Provisions

Person charged shall include the Owner of real property subject to the Association's Governing Documents whether it is a natural person or a legal entity.

Continuing violations shall constitute a separate violation for each 24-hour period the violation exists.

Fines for violations of the governing documents will be imposed against the Owner and the real property subject to the Declaration.

Any and all money collected from such fines may be deposited in the Association's general operating fund.

In the event the violation is of a continuing nature or if the violation constitutes a threat to the health, safety, or welfare of the residents or the property within the community, the Association acting through the Board of Directors may institute an action in a court of competent jurisdiction seeking injunctive relief to abate the violation without proceeding through procedures set forth in 3(D), 3(E), or 3(F) above. Nothing in this paragraph constitutes an election of remedies nor precludes the Board from levying fines as set forth above while at the same time seeking injunctive relief for violations of a continuing nature or violations that affect the health, safety, or welfare of the residents or the property.

In the event it is determined the Association was the prevailing party in the suit the Association shall be entitled to seek reimbursement of its costs including reasonable attorney fees, court costs, and other legal costs; conversely, if it is determined the Owner was the prevailing party, the Owner shall be entitled to reimbursement of the same expenses and costs.

In the event a Court of competent jurisdiction finds a provision of this Enforcement Policy void or otherwise unenforceable, the other provisions shall remain in full effect.

PRESIDENT'S CERTIFICATION: The undersigned, being the President of the Masters Club Homeowners Association, Inc., a Colorado nonprofit corporation, certifies that the foregoing Resolution was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on

April 9, 2013 and in witness thereof, the undersigned has subscribed his/her name.

MASTERS CLUB HOMEOWNERS ASSOCIATION, INC., a Colorado nonprofit corporation

By: James Hahl, President