

IV. ENFORCEMENT OF COVENANTS AND RULES, NOTICE AND HEARING PROCEDURES AND SCHEDULE OF FINES

The following definitions shall apply to this policy:

“Rules Committee” shall mean a committee created and convened by the **Board** for the purposes stated in this Policy, or if none, shall mean the **Board**.

“Violation” shall mean a failure of a **Member**, or through its agents or representatives, to comply with any **Governing Document**, whether the **Violation** is by reason of action or omission. **Violation** shall also include non-compliance with any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any property owned by a **Member** which is subject to assessment under the Declaration of Covenants.

1. **Members** are encouraged to informally request any other **Member** to cease or correct any other action or omission which appears to be a **Violation**.
2. Any **Member**, **Manager**, or the **Board** may initiate a formal review of an alleged **Violation**. A **Member** or **Manager** shall file with the **Board** a written statement which shall state in ordinary and concise language the acts or omissions which the author believes occurred and shall include as many specifics as are available as to time, date, location and persons involved, so that the complaint may be investigated and verified. Depending on the severity and immediacy of the alleged **Violation**, the **Board** may direct the **Manager** to attempt to obtain an informal resolution. Unless there is need for immediate action, the **Rules Committee** shall first refer the matter for resolution to the association board or rules committee, if any, for the subdivision or common interest community in which the lot is located. If the **Rules Committee** determines that the complaint is insufficient, then the **Member** making the complaint shall have the right to have the **Board** hear the matter.

3. **Letter to Member**

Should the **Rules Committee** determine that an alleged **Violation** has occurred, and informal resolution or referral to another governing association, rules committee or board has not been successful, the **Manager** shall send a letter to the **Member** identifying the **Violation**. The letter shall require the alleged

Violation cease within such period of time as the **Board** deems reasonable, based upon the nature of the alleged **Violation**. The letter shall be mailed to the last known address of the **Member**, via certified and regular mail.

4. Notice of Hearing³

Should the alleged **Violation** not be cured in the manner and by the date set forth in the letter to the **Member**, then a second letter shall be sent informing the **Member** that fines and costs per the Governance Policies shall be imposed unless within fourteen days of the date of the letter the Member requests in writing a hearing before the **Rules Committee**. If the **Member** does not request a hearing; or if following hearing, it is determined that a violation has occurred, the **Rules Committee** has the authority to levy fines, charges, attorney's fees and other monies, and to take such other action as is authorized by the Governing Documents and Colorado law. If the **Board** is sitting as the **Rules Committee**, the hearing shall be held at the next regularly scheduled board meeting if at least 14 days after notice of hearing, or at a special time as set by the Board. If there is a separate **Rules Committee**, the hearing shall be held not less than 14 and not more than 45 days from notice.

5. Constraints on the Committee

It shall be incumbent upon each **Member** of the **Rules Committee** to make a determination as to whether he or she is able to function in a disinterested fashion. If such **Member** is incapable of objective consideration in the case, he or she shall disclose such to the committee and remove himself or herself from the proceedings and have it so recorded in the minutes.

6. Hearing

The hearing will not be conducted according to technical rules relating to evidence and witnesses. Generally, any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Decisions of the **Rules Committee** may be made "under advisement," i.e. at a later date and time. All decisions of the **Rules Committee** are effective three

³ This section was amended April 2010 by the Board of Directors

days after written notice is sent to the **Member** (via regular, first class mail.) The Notice shall include the decision of the **Rules Committee** as to whether or not a **Violation** has occurred and the amount of the fine according to the Fine Schedule. If there is a **Rules Committee** separate from the **Board** and should the **Member** desire to appeal the decision of the **Rules Committee** to the **Board**, he or she shall deliver written request to the **Board** by sending or delivering the same to the Board Administrative Assistant no later than fifteen days after the date of the letter to the **Member**. The **Board** shall hear any such appeal at its next regular meeting. However, the decision of the **Rules Committee** shall be binding until otherwise overturned by the **Board**.

7. Fine Schedule

Upon determination that a **Violation** exists, the **Board** shall impose a fine according to the following table:

Covenant of Rule	1 st Violation	2 nd Violation	3 rd and Subsequent Violation(s)
Building Issues (§§ a-g of Covenants)	\$250	\$1,000	\$5,000
Clearing of Trees and Storage of fire hazards	\$150	\$500	\$1,000
Nuisance	\$75	\$150	\$500
Refuse and Rubbish	\$75	\$150	\$500
Commercial Vehicles	\$100	\$250	\$500
Signs	\$75	\$150	\$500
Animals	\$50	\$150	\$250
Aerials, Antennas, Clotheslines	\$100	\$250	\$500
Exterior tanks	\$50	\$100	\$300
Landscaping	\$100	\$250	\$500
Any other Violation	\$75	\$150	\$500

A second **Violation** shall be any new incident of the same **Violation** or shall be a continuing **Violation** that has not been removed or cured within thirty (30) days of the deadline for cure given to the **Owner** in the Letter to **Member** noticing the **Violation**.

A third **Violation** shall be a third new incident of the same **Violation** or a continuing **Violation** that has not been cured or removed within sixty (60) days of the deadline for cure given to the **Owner** in the Letter to **Member** noticing the **Violation**.

8. Payment of Fines

Fines shall be due and payable within 15 days of Notice and thereafter shall bear interest at the rate of 8% per annum. Unpaid fines shall be added to and become a part of the **Member's** assessment and shall be subject to the collection procedures set forth in Policy I, collection of Unpaid Assessments.

9. Exterior Maintenance

If the **Violation** is a **Member's** failure to maintain its property or improvements in a manner reasonably satisfactory to the **Board** and commensurate with the standards of the community, upon a two-thirds vote of the **Board**, it shall have the right, on behalf of **SPOA**, through its agents and employees, to enter upon the property and repair, maintain and restore the property and the exterior of the buildings and any other improvements erected upon the property. The cost of such exterior maintenance shall be added to and become part of the assessment to which the lot is subject.

10. Immediate Action

If the nature of the **Violation** threatens immediate destruction, injury, or damage to any person, to another lot, or to **SPOA** property; or if the nature of the remedy of the **Violation** would be to deconstruct or remove a planned or in-construction permanent improvement, the **Board** may immediately seek injunctive relief from the Routt County District Court.

11. Arbitration

In the event a **Member** disputes the **Board's** enforcement of covenants contained in Article V of the Declaration of Covenants, Conditions and Restrictions of **SPOA**, the matter shall be submitted to binding arbitration. The **Members** shall choose one arbitrator,

the **Board** shall choose one arbitrator and such arbitrator shall choose one additional arbitrator, and the decision of the majority of all the arbitrators shall be final and conclusive of the question involved.

12. Additional Enforcement Procedures

If a third **Violation** occurs, **SPOA** shall deem said third **Violation** as constituting obnoxious or offensive conduct to Section J, Article V. of the Declaration and a judicial proceeding may be brought to abate the conduct for the third or subsequent **Violation**.

13. Joint and Several Liability

Each **Member** of the lot upon which the **Violation** occurs shall be jointly and severally liable for any fine imposed pursuant to the enforcement of the **Governing Documents**, including but not limited to, all attorneys fees, expert witness fees and costs incurred by **SPOA** resulting from or in any way related to the **Violation** or the collection of fines.

14. Attorney's Fees and Costs

In the event the **Rules Committee** and/or **Board** determines a **Violation** has occurred, the non-complying **Member(s)** shall be responsible to pay all attorney fees and costs and fees incurred by **SPOA** arising from the **Violation**.

15. Remedy

Each remedy set forth in these Policies shall be in addition to all other remedies, whether available at law or in equity, and all such remedies, whether or not cumulative.