

## **AMENDED AND RESTATED ENFORCEMENT PROCEDURE FOR THE VILLAGE AT HIGHLANDS RANCH ASSOCIATION**

The following Amended and Restated Enforcement Policy and Procedures were adopted by resolution of the Executive Board of The Village at Highlands Ranch Association ("the Association") pursuant to Colorado law at a regular meeting of the Board.

### **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") not to exceed \$500.00 provided the Association complies with the requirements in the Colorado Common Interest Ownership Act and provides notice and an opportunity for the owner to be heard 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 ensure 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, other than failure to pay assessments.

### **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.

#### **1. Informal Resolution of Violation**

Any Owner, Owner's tenant, their family members residing in the community, director, 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 governmental entity to report the perceived violation.

In some cases, the Association may be more reluctant to commence formal resolution as detailed below or 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.

## **2. Mediation**

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.

The Association encourages residents of the community to consider mediation regarding issues with their neighbors to resolve issues that impact the parties involved but do not necessarily affect the community or other residents of the community.

For complaints that do not affect the community, are limited to two or three residents, that do not present a threat to the health, safety, or welfare of the residents or property in the community, the Board may require the residents of the community to implement mediation as an alternative dispute resolution tool prior to the Association initiating formal resolution as set forth below.

## **3. 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 ask the Association to initiate Formal Resolution of alleged 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 and the Association's agents.

C. If within the discretion of the Board, the written notice of violation 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 notice by submitting a second notice of violation for the Board's consideration. Depending on the Board's discretion the complainant may be required to submit additional evidence or attend a meeting before the Board.

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 of 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.

### **Violations Posing Health Safety Threat**

If the Board reasonably determines the violation has occurred, and the alleged violation(s) are a threat to the health, safety, and welfare of the residents or property in the community, the Association shall provide the owner written notice of the alleged violation informing the owner the alleged violation must be cured within seventy-two (72) hours or the Association may impose a fine on the Owner. If after inspection of the unit the Association determines the owner has not cured the violation within seventy-two (72) hours after receiving the notice, the Association may impose fines on the owner every other day and may take legal action (excluding a Judicial Foreclosure Action) against the owner for the violation.

### **Violations Not Posing Health Safety Threat**

If the Board reasonably determines the violation has occurred, but the alleged

violations do not pose a threat to the public health, safety, or welfare of the community, the Association shall through Certified Mail, return receipt requested, provide the owner written notice of the violation informing the owner the alleged violation must be cured within thirty (30) days of the notice or the Association after inspection may determine the owner has not cured the violation and at that point the Association will provide the owner with a second thirty (30) day notice to cure before taking legal action or imposing fines on the owner.

If the alleged violation is not a threat to the public safety of the community, the Association shall grant the owner two consecutive thirty (30) day notices to cure before the association may take legal action (excluding Judicial Foreclosure Action) against the owner for the violation. Written notices to cure will be sent to the owner in English, unless the owner has indicated a preference for notices and correspondence to be in a language other than English, via certified mail, return receipt requested advising the owner of the violation and allowing the owner thirty (30) days to cure the violation.

If the owner cures the alleged violation within the Thirty (30) day period to cure afforded the owner, the owner may notify the Association of the cure, if the owner sends with the notice of cure visual evidence that the violation has been cured, the violation shall be deemed to be cured on the date the owner sends notice. If the owner's notice of cure does not include visual evidence the violation is cured, the association shall inspect the property as soon as practicable to determine if the violation has been cured.

If the Association does not receive notice of the cure from the owner, the association will inspect the property within seven (7) days after the expiration of the thirty (30) day cure period to determine if the violation has been cured. If after the Association's inspection, whether or not the association received notice from the owner that the violation was cured, and Association determines the violation has not been cured the Association can proceed as follows.

For violations that do not pose a threat to the health and safety of the residents or property in the community, the Association shall send a second thirty (30) day notice to cure to the owner (the period to cure the second notice commences if only one initial thirty (30) day period to cure has elapsed.

If the owner cures the alleged violation within the second thirty (30) day period to cure afforded the owner, the owner may notify the Association of the cure, if the owner sends with the notice of cure visual evidence that the violation has been cured, the violation shall be deemed to be cured on the date the owner sends notice. If the owner's notice of cure does not include visual evidence the violation is cured, the association shall inspect the property as soon as practicable to determine if the violation has been cured.

If the Association does not receive notice of the cure from the owner, the association will inspect the property within seven (7) days after the expiration of the second thirty (30) day cure period to determine if the violation has been cured. If after the Association's inspection, whether or not the association received notice from the owner that the violation was cured, and Association determines the violation has not been cured after the expiration of the second thirty (30) day notice to cure the Association can proceed with legal action to enforce the violation and commence the protocol for imposing fines as set forth below.

The written notice of violation and the first and second thirty (30) day notice to cure will be sent to the owner in English unless the owner indicates to the Association the owner prefers correspondence in a language other than English.

E. If the Association's inspection(s) result in evidence the violation subject to the thirty (30) days notices to cure have not been cured in the time provided in the thirty (30) day notice(s) and after the owner has been provided with at least 15 days notice and the opportunity to be heard, determines the owner, resident, or their guests or invitees have violated provisions of the Association's governing documents, the Board may suspend the owner's (use of the Common Elements / Common Area) and/or (voting rights) for up to 60 days for each infraction; written notice of the suspension shall be provided to the Owner or resident.

F. 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. The hearing will be an impartial fact-finding process held before the Board or its designee in executive session; a determination of violation and fine may be announced at the end of the hearing or the Association may issue a written statement within a reasonable conclusion of the hearing. To ensure the hearing is impartial the Board will confirm the Chair and other fact finders and decision makers are not materially affected by the alleged violation subject to the hearing.

G. The hearing procedures shall be as follows:

1. The Association, through the Board or its designee, shall direct the proceedings at the hearing. The person charged, the person's representative, other Members or residents may speak only after being recognized by the Chair.

2. 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 Notice of Violation and/or Notice of Complaint to the person charged.

3. The person charged shall be asked to admit or deny the charge. The person charged may speak for themselves or may be represented by counsel throughout the hearing. Failure to respond or attend the hearing may be construed as an admission of the alleged violation.

4. If the charge is denied, the complaining witness or other witnesses 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.

5. The person charged shall have the opportunity to confront each witness who testified against the person charged and offer a defense to the actions or omissions giving rise to the alleged violation of the Association's Governing Documents.

6. When the witnesses have been heard, and documents presented, 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.

7. The Board or its Designee shall have the opportunity to question any witness or involved parties if it so desires.

8. At, or after, the conclusion of the hearing, the Board or its Designee shall discuss the statements and documents and vote whether or not the person charged violated the provisions of the Association's Governing Documents and impose a fine not to exceed \$500.00 for said violation. A majority vote shall control. The result of the vote shall be recorded in the minutes of the meeting, and announced, or otherwise communicated to the person charged and the party or parties who filed the Complaint.

9. If the Board levies a fine, the Board shall provide written notice to the Owner of the fine and the date payment of the fine is due. In the event the Owner fails to pay the fine consistent with the notification, appropriate legal action may be initiated by a vote of the Executive Board to collect the fine.

10. The Board of Directors must use reasonable discretion in levying fines in accordance with the severity of the violation. The following is a schedule of the presumptive fine range for ordinary violations of the Governing Documents:

First Violation	a warning letter
Second Violation	up to \$50.00
Third Violation	up to \$100.00

11. The Colorado Common Interest Ownership Act: (1) caps the fines that can be levied for a violation of the Governing Documents at \$500.00 and (2) prohibits the Association from foreclosing solely on fines, and costs including attorney fees.

#### 4. Miscellaneous Provisions:

The Person obligated to pay the fine(s) shall be the record 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 48-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.

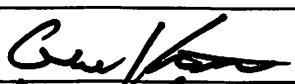
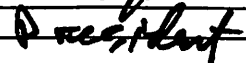
Any and all money collected from such fines may be deposited in the Association's general operating fund.

In the event the violation constitutes a threat to the health, safety, or welfare of the residents or the property within the community, the Association acting through the Executive Board will adhere to the procedures and requirements relative to Violations Posing a Health Safety Threat set forth in detail in Section 3(D). Nothing in this paragraph constitutes an election of remedies nor precludes the Association from levying fines as set forth above while at the same time seeking injunctive and legal relief for 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.

Procedure adopted this 14<sup>th</sup> August day of ~~July~~ 2024 by Resolution of the Board of Directors of The Village at Highlands Ranch Association.

By   
Its 

**FIRST NOTICE TO CURE VIOLATION**

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Re: Alleged Violation

Dear \_\_\_\_\_:

The following information has been brought to the attention of the Board of Directors:

**Information regarding alleged incident(s)**

Date(s) of alleged incident(s):

If true, the alleged incident(s) violate the following statutes, covenants, bylaws, rules, regulations, policies, or procedures (include citations to specific provisions):

Pursuant to the Colorado Common Interest Ownership Act and the Association's policies as revised this Notice of Violation ("Notice") shall serve as written notice of the alleged violation of the provisions mentioned above. Violation(s) of the/these provision(s) may subject the Owner of real property within the community to legal proceedings to enjoin the violations, fines which may also result in a lien against the real property subject to Colorado Revised Statute.

This letter shall serve to allow you to cure the violation within thirty (30) days of the date of this Notice. If the violation is cured within the period set forth above the Association will not impose fines for the violation. If possible, please provide the Association visual evidence the violation has been cured within the thirty (30) day cure period and the Association will consider the violation cured upon receipt.

This letter shall also provide you an opportunity to be heard with regard to the alleged violation(s) prior to the Association, acting through the Executive Board, to consider fines for the alleged violation(s).

To be heard by the Board of Directors, you must respond to this Notice within 30 days of the date of this Notice by completing, signing, and returning this form as set forth below.

**The information regarding the alleged incident(s) is not accurate or the alleged incident(s) should not be a violation of the cited authority because:**

(Use additional sheets of paper if necessary)

Please sign below:

Date

---

**Please send completed form to:**  
**The Village at Highlands Ranch Association**  
c/o PMI Denver Metro  
3600 South Yosemite, Suite 550  
Denver, CO 80237

You will be contacted in writing to be advised of the date, time, and location for the hearing, or in the alternative that no hearing is necessary and no fine will be imposed.

**SECOND NOTICE TO CURE VIOLATION**

Date: \_\_\_\_\_

Name: \_\_\_\_\_

Address: \_\_\_\_\_

City/State/Zip: \_\_\_\_\_

Re: Alleged Violation

Dear \_\_\_\_\_:

As you are aware from the First Notice to Cure Violation, the following information has been brought to the attention of the Board of Directors:

**Information regarding alleged incident(s)**

Date(s) of alleged incident(s):

If true, the alleged incident(s) violate the following statutes, covenants, bylaws, rules, regulations, policies, or procedures (include citations to specific provisions):

Pursuant to The Colorado Common Interest Ownership Act and the Association's policies as revised this Notice of Violation ("Notice") shall serve as your final written notice of the alleged violation of the provisions mentioned above. Violation(s) of the/these provision(s) may subject the Owner of real property within the community to legal proceedings to enjoin the violations, fines which may also result in a lien against the real property subject to Colorado Revised Statute.

This letter shall serve to allow you a second and final opportunity to cure the violation within thirty (30) days of the date of this Notice. If the violation is cured within the period set forth above the Association will not impose fines for the violation. If possible, please provide the Association visual evidence the violation has been cured within the thirty (30) day cure period and the Association will consider the violation cured upon receipt.

If you do not submit visual evidence the violation is cured within the thirty (30) day cure period, the Association will inspect your property within seven days after the thirty (30) day cure period expires. In the event there is evidence the violation has not been cured the Association has the authority to commence court proceedings to enjoin the violation and commence the statutory fining procedures beginning with an opportunity for a hearing on the alleged violation cited above.

This letter shall provide you an opportunity to be heard regarding the alleged violation(s) prior to the Association, acting through the Executive Board, to consider fines for the alleged violation(s).

To be heard by the Board of Directors, you must respond to this Notice within 30 days of the date of this Notice by completing, signing, and returning this form as set forth below.

**The information regarding the alleged incident(s) is not accurate or the alleged incident(s) should not be a violation of the cited authority because:**

(Use additional sheets of paper if necessary)

Please sign below:

Date

---



**Please send completed form to:**  
**The Village at Highlands Ranch Association**  
c/o PMI Denver Metro  
3600 South Yosemite, Suite 550  
Denver, CO 80237

You will be contacted in writing to be advised of the date, time, and location for the hearing, or in the alternative that no hearing is necessary and no fine will be imposed.

**Notice of Violation**

Date: \_\_\_\_\_  
Your Name: \_\_\_\_\_  
Your Address: \_\_\_\_\_  
Your Telephone Number: \_\_\_\_\_  
Your E-mail address: \_\_\_\_\_

**Information regarding incident(s):** (Please include as much information as possible.)

Name of person committing the alleged violation: \_\_\_\_\_  
Address of person committing the alleged violation: \_\_\_\_\_  
\_\_\_\_\_

Date(s) of alleged incident(s): \_\_\_\_\_  
Please describe the incident(s) in as much detail as possible (use additional sheet(s) if necessary):  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

What statutes, covenants, or other rules were violated (please identify specific sections):  
\_\_\_\_\_  
\_\_\_\_\_

Did anyone else witness these incidents: \_\_\_\_\_  
If the answer is "Yes," please state the witnesses' names, addresses and telephone numbers: \_\_\_\_\_  
\_\_\_\_\_

Please sign below: \_\_\_\_\_ Date \_\_\_\_\_

---

**Please send completed form to:**  
**The Village at Highlands Ranch Association**  
c/o PMI Denver Metro  
3600 South Yosemite, Suite 550  
Denver, CO 80237