

**COVENANT AND USE RESTRICTION ENFORCEMENT POLICY
FALL VALLEY HOMEOWNERS ASSOCIATION**

Effective Date: 04/07/2020

In Compliance with the Colorado Common Interest Ownership Act, the Board of Directors desires to adopt a uniform and systematic policy to address covenant and rule enforcement under the Declaration of Covenants, Conditions and Restrictions of Fall Valley Subdivision (“Declaration”).

The Association hereby adopts the following Policies and Procedures for covenant and rule enforcement.

I. Enforcement Procedure: The Board shall not impose fines, exercise self-help remedies or commence legal action unless and until the Association has sent or delivered written notice to the Offending Owner and provided an opportunity for a hearing as provided below.

A. Complaint: Any Owner within the community may send the Association a formal written complaint via either electronic mail or regular mail; of a covenant or rule violation, with as much information as is known. Complaints may also be initiated by any member of the Board of Directors or of the Architectural Control Committee. The Board shall have no obligation to consider oral complaints or anonymous complaints that cannot be independently verified. The Board shall have the authority to determine whether a written complaint is justified before continuing with the Notice and Hearing Procedure.

B. Notice of Alleged Violation: A Notice of Alleged Violation of any provisions of the Declarations and/or Use Restrictions shall be provided in writing to the Offending Owner as soon as reasonably practicable following the receipt of a complaint or discovery by the Board of such violation. The Board may also, at its option, provide a copy of such notice to any non-owner violator. The notice shall describe the nature of the violation and the possible fine that may be imposed or legal action that may be taken, the right to request a hearing before the Board to contest the violation or possible fine, and may further state that the Board may seek to protect its rights as they are specified in the governing legal documents. All notices shall be delivered by messenger or sent by regular US Mail certified.

C. Request for a Hearing: If an Offending Owner desires a hearing to challenge or contest any alleged violation and possible fine, or to discuss any mitigating circumstances, the Offending Owner must request such hearing in writing within 14 days of the date of the Notice of Alleged Violation. The request for hearing shall describe the grounds and basis for challenging the alleged violation or the mitigating circumstances. In the event a proper and timely request for a hearing is not made within 14 days, the Board shall determine if there was a violation based upon the information available to it, and if so, assess a reasonable fine as set forth in the fine schedule, within an additional 14

days. The Board of Directors shall give written notice of said fine to the Offending Owner.

D. Board of Directors to Conduct Hearing: The Board shall hear and decide cases set for hearing pursuant to the procedures set forth herein. The Board may appoint an officer or other Association member to act as the Presiding Officer at any of the hearings. The Board shall determine whether a violation exists and impose fines.

E. Conflicts: Any Board member who is incapable of objective and disinterested consideration of any hearing before the Association shall disclose such to the President of the Association prior to the hearing on the case, if possible, or if advance notice is not possible, then such disclosure shall be made at the hearing and the Board member shall be disqualified from all proceedings with regard to the hearing. If disqualification of any Board member (s) results in an even number of remaining Board members eligible to hear a case, the Presiding Officer may appoint an Association member, in good standing, to serve as a voting member of the hearing board.

F. Hearing: The Board shall inform the Offending Owner of the scheduled time, place and date of the requested hearing by regular US Mail certified. The Presiding Officer may grant continuances for good cause. At the beginning of each hearing, the Presiding Officer shall establish a quorum, explain the rules, procedures and guidelines by which the hearing shall be conducted and shall introduce the case before the Board. The Complaining parties and the Offending Owner shall have the right but not the obligation to be in attendance at the hearing. Each party may present evidence, testimony and witnesses. The decision of the Board at each hearing shall be based on the evidence as may be presented at the hearing. Unless otherwise determined by the Board of Directors in accordance with the terms of the Colorado Common Interest Ownership Act, all hearings shall be open to attendance by all members of the Association. If a complaining party is unable to attend the hearing, he or she may instead submit a letter to the Board explaining the basis of the complaint.

G. Decision: After all testimony and other evidence have been presented to the Board at a hearing, the Board shall render its written findings and decision, and impose a reasonable fine, if applicable, within 14 days after the hearing. A decision, either a finding for or against the Offending Owner, shall be a majority vote of the Board members present.

II. Fine Schedule:

A. A \$50.00 fine will be levied for violation of the provisions of the Declarations and/or Use Restrictions of the Association. In addition to the fine, a \$25 per day fine may be levied in situations where the violation continues and does not come into compliance. The Board may waive all, or any portion of the fines if, in its reasonable discretion, such waiver is appropriate under the circumstances. Additionally, The Board

may condition waiver of the entire fine, or any portion thereof, upon the Offending Owner coming into compliance with the Declarations and/or Use Restrictions.

B. All fines shall be due and payable upon notice of the fine and will be late if not paid within 30 days of the date that the Offending Owner is notified of the imposition of the fine. All fines and late charges shall be considered an assessment and may be collected as set forth in the Declaration. Fines shall be in addition to all other remedies available to the Association pursuant to the terms of the Declaration and Colorado law, including the Association's right to collect attorney fees as authorized by Colorado law.

III. Legal Action. The Association may pursue legal action against an Offending Owner to enforce the provisions of the Declaration and/or Use Restrictions without first levying a fine, if the Board determines that such action is in the Association's best interest. The Offending Owner will be given a notice and an opportunity for a hearing before legal action is commenced.

IV. Failure to Enforce. Failure of the Association to enforce the Declaration and/or Use Restrictions will not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any of the above referenced governing documents for the Association.

The undersigned certify that this Policy was adopted on April 7, 2020 by resolution of the Board of Directors.

FALL VALLEY HOMEOWNERS ASSOCIATION



Randy Miller, President

Leslie Henderson, Secretary

Mary K Wendland, Treasurer