

**RESOLUTION OF
TIMBERS ESTATES HOMEOWNERS ASSOCIATION
REGARDING POLICIES AND PROCEDURES FOR
COVENANT AND RULE ENFORCEMENT**

Effective, _____, 20__, Timbers Estates Homeowners Association (the “**Association**”) hereby adopts the following procedures to be followed when enforcing the covenants and rules of the Association, which shall replace and supersede in its entirety any prior policy regarding covenant and rule enforcement:

1. Reporting Violations. Complaints regarding alleged violations may be reported by an Owner or resident within the community, a group of Owners or residents, the Association's management company, if any, Board member(s) or committee member(s) by submission of a written complaint.

2. Complaints. Complaints by Owners or residents shall be in writing and submitted to the Board of Directors, in care of the Association’s manager, if any. The complaining Owner or resident shall have observed the alleged violation and shall identify the complainant (the "**Complainant**"), the alleged violator, if known, the date on which the violation exists or occurred, and a statement describing the alleged violation, referencing the specific provisions which are alleged to have been violated, when the violation was observed and any other pertinent information. Non-written complaints or written complaints failing to include any information required by this provision may not be investigated or prosecuted at the discretion of the Association. Complaints by a member of the Board of Directors, a committee member, or the manager, if any, may be made in writing or by any other means deemed appropriate by the Board, if such violation was observed by the Board member, committee member or the manager, if any.

3. Investigation. Upon receipt of a complaint by the Association, if additional information is needed, the complaint may be returned to the Complainant or may be investigated further by a Board designated individual or committee, or the Association’s manager, if any. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.

4. Enforcement Process for Public Safety or Health Violations. Upon determining that a public safety or health violation has occurred, the Association, acting through the Board or the Association’s management company, if any, shall take the following steps:
 - (a) *Public Safety or Health Warning Letter.* If the Board, or the Association’s management company, if any, determines that a public safety or health violation

exists, either through the complaint and investigative process as set forth above, or through independent inspections or observations, a Public Safety or Health Warning Letter may be sent. The Public Safety or Health Warning Letter shall be in English and in any language requested by the Owner and sent to the Owner by certified mail, return receipt requested, to the address of the Owner on record with the Association and to a designated contact, if one is provided by the Owner. The Public Safety or Health Warning Letter shall notify the Owner of: (i) the covenant or rule violated and the nature of the public safety or health violation, (ii) that the Owner must have the public safety or health violation corrected within seventy two (72) hours after the date of receipt of the Public Safety or Health Warning Letter, and (iii) that failure to timely cure the public safety or health violation may result in potential fines or other sanctions.

- (b) *Every Other Day Fine Letter and Opportunity to Be Heard.* If after an inspection the Association determines that an Owner has failed to cure the public safety or health violation within seventy two (72) hours after receipt of the Public Safety or Health Warning Letter, the Association may in its discretion, in addition to any other remedy, send the Owner a notice of every other day fines (the “**Every Other Day Fine Letter**”), which shall advise the Owner of the possible imposition of every other day fines pursuant to the fine schedule set forth in Section 11 below, if the public safety or health violation is not cured. If a fine is to be imposed the Every Other Day Fine Letter shall further state that a hearing on the merits of the matter shall be held not less than ten (10) days and not more than forty-five (45) days of the date of the Every Other Day Fine Letter.

5. Enforcement Process for Continuous Violations. Upon determining that a “**Continuous Violation**” (defined as a covenant violation other than those listed as a public safety or health violation) has occurred, the Association, acting through the Board or the Association’s management company, if any, shall take the following steps:

- (a) *Warning Letter.* If the Board, or the Association’s management company, if any, determines that a Continuous Violation exists, either through the complaint and investigative process as set forth above, or through independent inspections or observations, a “**Warning Letter**” may be sent. The Warning Letter shall be in English and in any language requested by the Owner and sent to the Owner by certified mail, return receipt requested, to the address of the Owner on record with the Association and to a designated contact, if one is provided by the Owner. The Warning Letter shall notify the Owner of: (i) the covenant or rule violated and the nature of the Continuous Violation, (ii) the action or actions necessary to cure the Continuous Violation, (iii) that the Owner must have the Continuous Violation

cured within thirty (30) days after the date of the Warning Letter, (iv) that failure to timely cure the Continuous Violation may result in potential fines or other sanctions, and (v) a copy of the fine schedule set forth in Section 11 below. The Association shall inspect the Continuous Violation for correction within seven (7) days after the first thirty (30) day cure period has lapsed.

- (b) *Fine Letter and Opportunity to Be Heard.* If an Owner fails to cure a Continuous Violation within thirty (30) days of the date of the Warning Letter, a notice of potential fine and opportunity to be heard (the “**Fine Letter**”) may be sent to the Owner by first-class United States mail to the address of the Owner on record with the Association notifying the Owner of the Continuous Violation and of the potential fine that may be imposed, pursuant to the fine schedule set forth in Section 11 below, if the Continuous Violation is not cured within thirty (30) days. If a fine is to be imposed the Fine Letter shall further state that a hearing on the merits of the matter shall be held not less than ten (10) days and not more than forty-five (45) days of the date of the Fine Letter. The Association shall inspect the Continuous Violation for correction within seven (7) days after the second thirty (30) day cure period has lapsed.
- (c) *Every Other Day Fine Letter and Opportunity to Be Heard.* In the event that a Continuous Violation continues to exist uninterrupted thirty (30) days after the date of the Fine Letter, the Association may in its discretion, in addition to any other remedy, send the Owner a notice of every other day fines (the “**Every Other Day Fine Letter**”), which shall advise the Owner of the possible imposition of every other day fines pursuant to the fine schedule set forth in Section 11 below and which, if a fine is to be imposed, shall state that a hearing on the merits of the matter shall be held not less than ten (10) days and not more than forty-five (45) days of the Every Other Day Fine Letter.

6. Curing the Violation. Upon determining that a public safety or health violation or a Continuous Violation (collectively a “**Covenant Violation**”) has been cured, the Association, acting through the Board or the Association’s management company, if any, shall take the following steps:

- (a) *Cure Letter.* After the Association has confirmed through independent inspections or observations that a Covenant Violation is cured, a “**Cure Letter**” shall be sent. The Cure Letter shall be in English and in any language requested by the Owner to and sent to the Owner by first class United States mail to the address of the Owner on record with the Association and to a designated contact, if one is provided by the Owner. The Cure Letter shall notify the Owner of: (i) that the Owner shall not

be fined further with regard to the Covenant Violation, and (ii) of any outstanding fine balance owed to the Association. In the event the Owner cures the Covenant Violation and provides notice to the Association along with visual evidence of the cure, the Covenant Violation will be deemed cured on the date notice is sent.

7. Notice of Hearing. In addition to sending the covenant violation letter provided for in Section 4(b), Section 5(b), or Section 5(c) (each a "Violation Letter"), the Board, shall serve a written notice of the hearing to all parties whose interest would be significantly affected at least ten (10) days prior to the hearing date. The notice shall include the date, time and place of the hearing.
8. Owner Approval for Fines and Turnovers. Approval of fifty-one percent (51%) of lots is required prior to the imposition of a fine or turnover of a Covenant Violation to an attorney.
9. Impartial Decision Maker. Pursuant to Colorado law, an Owner has the right to be heard before an "**Impartial Decision Maker**". An Impartial Decision Maker is defined under Colorado law as "a person or group of persons who have the authority to make a decision regarding the enforcement of the association's covenants, conditions, and restrictions, including architectural requirements, and other rules and regulations of the association and do not have any direct personal or financial interest in the outcome. A decision maker shall not be deemed to have a direct personal or financial interest in the outcome if the decision maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the association." Unless otherwise disqualified pursuant to the definition of Impartial Decision Maker, the Board may appoint to act as the Impartial Decision Maker the entire Board, specified members of the Board, any other individual or group of individuals.
10. Hearing. At the beginning of each hearing, the presiding officer shall introduce the case by describing the alleged violation and the procedure to be followed during the hearing. Each party or designated representative, may, but is not required to, make an opening statement, present evidence and testimony, present witnesses, and make a closing statement. The presiding officer may also impose such other rules of conduct as may be appropriate under the given circumstances. The Impartial Decision Maker shall base its decision solely on the matters set forth in the Complaint, results of the investigation and such other credible evidence as may be presented at the hearing. Unless otherwise determined by the Board, all hearings shall be open to attendance by all Owners. After all testimony and other evidence has been presented at a hearing, the Impartial Decision Maker shall, within a reasonable time, not to exceed ten (10) days, render its written findings and decision, and impose a fine, if applicable. Any Owner having a right to notice a hearing shall have the right to appeal with the Board within ten (10) days after being notified of the decision. The

Board will review the appeal within forty-five (45) days. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the hearing committee's decision absent a showing of denial of due process.

12. Notification of Decision. The decision of the Impartial Decision Maker and the imposition of any fine shall be in writing and provided to the Owner within ten (10) days of the hearing.

13. Fine Schedule. The following fine schedule has been adopted for any and all covenant and rule violations:

(a) *Public Safety or Health Violations:*

Every Other Day Fine Letter: \$50/every other day

(b) *Continuous Violations:*

Fine Letter: \$50

Every Other Day Fine Letter: \$50/every other day

*Maximum of \$500.00 in fines per Continuous Violation.

(c) *Attorney Turnover.* Any Covenant Violation that remains uncured on or after the date on which an Every Other Day Fine Letter may be set, can be turned over to the Association's attorney to take appropriate legal action, upon receiving approval of fifty-one percent (51%) of lots as provided for in Section 8.

14. Waiver of Fines. The Board of Directors 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 Owner coming into and staying in compliance with the Articles, Declaration, Bylaws or Rules.

15. 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.

16. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.

17. 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.
18. Deviations. The Board may deviate from the procedures set forth in the Resolution if in its sole discretion such deviation is reasonable under the circumstances.
19. Amendment. This Resolution may be amended from time to time by the Board of Directors.

The undersigned, being the President of the Association, certifies that this Resolution was adopted by the Board of Directors of the Association on _____, 20__.

**TIMBERS ESTATES HOMEOWNERS
ASSOCIATION,**
a Colorado nonprofit corporation,

By: _____
President