

**RESOLUTION
OF THE
RED HAWK HOMEOWNERS ASSOCIATION, INC.
REGARDING POLICIES AND PROCEDURES
FOR THE
ENFORCEMENT OF COVENANTS AND RULES**

- SUBJECT:** Adoption of a policy regarding the Enforcement of Covenants and Rules and procedures for the notice of alleged violations, conduct of hearings, and imposition of fines.
- PURPOSE:** To adopt a uniform procedure to be followed when enforcing covenants and rules to facilitate the efficient operation of the Association.
- AUTHORITY:** The Declaration, Articles of Incorporation and Bylaws of the Association and Colorado law, including but not limited to C.R.S. §38-33.3-209.5.
- EFFECTIVE DATE:** October 10, 2013
- RESOLUTION:** The Association hereby adopts the following procedures to be followed for the enforcement of the covenants and rules of the Association:
1. **Generally.** Compliance with the standards of the Community, as set forth in the Declaration of Covenants, Conditions and Restrictions of Red Hawk (“Declaration”), is critical to ensure a quality living environment and to preserve and maintain the value of the property within the Community.
 2. **Responsibility of Owners for Violations Based on Actions of Guests, Minors, Family Members, and Tenants.** An Owner shall be responsible for violations based on the actions of its guests, minors, family members, and tenants (and their guests). Further, an Owner shall be personally liable and responsible for all fines and penalties assessed for violations based on the actions of the Owner’s guests, minors, family members, or tenants (and their guests).
 3. **Reporting Violations and Violation Documentation.** It shall be permitted for an Owner, resident, Director, Committee Member, Association Manager, or managing company, or neighbor (“Complainant”) to lodge a complaint with the Association regarding facts, circumstances, conduct, actions, and the like that are alleged to be violations of the Declaration and/or Guidelines by anyone within the Community, by submission of a private and confidential complaint. Each violation shall be substantiated by written documentation from one or more of the following:
 - (a) Manager or Managing Company
 - (b) Director
 - (c) Any Owner or
 - (d) Any neighbor
 - (e) Any law enforcement officer.
 4. **Complaints.** Complaints shall be in writing and submitted to the Board of Directors, the manager, or the management company for the Association. However, a written complaint is not required if the alleged violation can be independently verified by the Association. The Complainant shall have observed the alleged violation and shall identify himself or herself and the alleged violator (“Alleged

Violator”), if known. The Complainant shall set forth in writing his/her/their written statement describing the alleged violation, when the violation was observed, and any other pertinent information. Complaints failing to include any information required by this provision may not be investigated or prosecuted, at the discretion of the Board of Directors. Complaints by a Director, Committee Member, the manager, or managing company for the Association, if any, may be made in writing or by any other means deemed appropriate by the Board of Directors if such violation was observed by the Director, Committee Member, or manager.

5. **Investigation.** Upon receipt of a complaint by the Association, of additional information is needed, the complaint may be returned to the Complainant or may be investigated further by an individual or committee designated by the Board of Directors, in its sole discretion.
6. **Courtesy Letter.** Upon the receipt of a complaint, and following investigation thereof, where it is determined that a violation is likely to exist; the Board of Directors, through its agent, shall send a Courtesy letter to the Alleged Violator setting for the specifics of the alleged violation. The Alleged Violator will have ten (10) days from the date of the letter (Response Period) to either (i) cease and desist; (ii) come into compliance; or (iii) respond to the Board of Directors with a proposal for remediation, whichever may be appropriate.

The foregoing procedure will not be used, however, in the event is determined by the Board of Directors to be a Repetitious Violation as defined in paragraph 14 of the policy. In such event, the procedure outlined in paragraph 8 shall be followed.

7. **Continued Violation After Courtesy Letter.** Upon the failure of an alleged violator to act or respond as set forth above within the Response Period, the Association will consider whether a fine should be imposed following notice and opportunity for a hearing. Thereafter, a first notice (First Notice) of violation in the form of a Fine Threat Letter shall be sent to the Alleged Violator, identifying:
 - (a) The dollar amount of any fine that may be imposed;
 - (b) That the Board of Directors or a committee thereof is providing the Alleged Violator the opportunity to be heard, and stating a location, date, and time for such hearing opportunity; and
 - (c) That failure of the Alleged Violator to be present on the date and time specified in the letter shall be deemed a waiver by such Alleged Violator of the opportunity to be heard on the issue of such violation, an acknowledgment of a violation, and agreement to pay all fines and penalties assessed in connection with the violation.

The foregoing procedure will not be used, however, in the event the violation is determined by the Board of Directors to be a Repetitious Violation as defined in paragraph 14 of this policy. In such event, the procedure outlined in paragraph 8 shall be followed.

8. **Notice and Hearing.** Prior to the levying of fines or penalties, Owners who may be liable for the payment of such fines and assessments shall be provided a notice and an opportunity to be heard in accordance with section 7 above. The Fine Threat Letter will specify both the fine and the underlying violation. It will provide the Owner with the opportunity to present evidence and speak on his or her own behalf regarding the violation before a final determination is made as to the validity and the imposition of a fine.

The notice of the opportunity to be heard by the Board of Directors as to an alleged violation of any of the Declarations and/or Guidelines and the levy of any fine or assessment relative thereto shall be made in writing and shall be deemed given when delivered personally or when deposited into the U.S. mail, first class postage prepaid, and addressed to the Alleged Violator at his or her address on record

with the Association. Delivery to the last known address contained in the records of the Association shall constitute good and effective Notice.

9. **Failure to Attend.** In the event any Alleged Violator afforded a scheduled opportunity to be heard by the Board of Directors fails to appear, he or she will be presumed to have acknowledged the violation and will be subject to all fines and penalties in connection with the violation. No further opportunity to be heard will be scheduled.
10. **Opportunity to be Heard.** At the beginning of any meeting called for the purpose of providing an Alleged Violator the opportunity to be heard (or where such opportunity is on the agenda of a regular meeting of the Board of Directors or committee thereof), the Chair shall:
 - (a) Read the complaint(s);
 - (b) Describe and review the investigations made following the Association's receipt of such complaint;
 - (c) Identify the fact, conduct, act, or circumstance, and the date and place of occurrence (where appropriate);
 - (d) Identify the Community Document(s) (and specify the parts thereof) that have been allegedly violated;
 - (e) Identify the date and nature of all prior letters and notices sent by the Association to the Alleged Violator; and
 - (f) Identify the fine or assessment associated with the alleged violation.

Such opportunity to be heard shall proceed in accordance with such guidelines, rules, and procedures for conducting meetings as adopted by the Association. In addition, the Chair may also impose such other rules of conduct as may be appropriate under the given circumstances to include a time limit for any presentations on behalf of the Alleged Violator.

The Alleged Violator shall have the opportunity to be heard before the Board of Directors. When conducting the hearing, the Directors shall be impartial decision makers. A Director is an impartial decision maker if said Director does not have any direct personal or financial interest in the outcome. A Director shall not be deemed to have a direct personal or financial interest in the outcome if the Director will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association.

11. **Decision of Board of Directors or Committee.** Following the conclusion of any meeting or part thereof where an Alleged Violator has had the opportunity to be heard as to the alleged violation, the Board of Directors or applicable committee may, in its sole discretion based on the totality of the circumstances, finalize its action with respect to such alleged violation. Such final action shall in all events be reduced to writing and shall be maintained in the records of the Board of Directors. Unless otherwise determined by the Board, all such opportunities to be heard on an alleged violation shall be open to attendance by all Owners.
12. **Review and Ratification.** In the event that an opportunity to be heard on an alleged violation has been carried out, and a final action determined, by a committee of the Board of Directors, same shall be reviewed and subject to the adoption and ratification by the Board of Directors.

13. **Notification of Final Action.** With respect to any alleged violation hereunder, the final action, as may be ratified by the Board of Directors, shall be reduced to a writing and hand delivered, mailed by U.S. Mail or otherwise, provided to the Alleged Violator within 10 days of the final action.
14. **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 of Directors, with each individual violation separated by a period of no less than one (1) day, nor more than ninety (90) days, the result of which is a pattern of violations of the same Declaration, Rule, Regulation, and/or Guideline restriction.

In the event of such Repetitious Violation, in the discretion of the Board of Directors, each instance of noncompliance may constitute a separate violation, and the Board of Directors shall not be required to provide a period of days from each violation for the Alleged Violator to come into compliance. The period of separation between Repetitious Violations shall vary depending on the nature of the violation at the sole discretion of the Board of Directors. For example, violations regarding health and safety shall have a relatively short separation period whereas violations of a cosmetic nature will be relatively longer.

A Fine Threat Letter shall be sent for the first violation in the series in accordance with Section 7 of this document. After the first Fine Threat letter, the Board of Directors may cause violation notices to be sent for each violation in the series stating the amount of the fine to be imposed for each separate violation (pursuant to the fine schedule in paragraph 15) and giving notice and an opportunity for a hearing. The Board of Directors shall independently 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.

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 Fine Threat letter on the first instance of the violation. On the second and subsequent instances of the violation, the Owner will receive an additional Fine Threat letter that shall be determined by the Board of Directors and notice and opportunity for a hearing.

15. **Fine Schedule.** The following fine schedule shall be adopted for all violations of Association Documents:

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| (a) Alleged violation | Courtesy Letter |
| (b) First violation | Fine Threat Letter with \$25.00 fine |
| (c) Second violation | Fine Threat Letter with \$50.00 fine |
| (d) Third and subsequent violations | Fine Threat Letter with \$100.00 fine |
| (e) Fourth and subsequent violations may be turned over to the Association's attorney to take appropriate legal action at the discretion of the Board. | |

16. **Fines and Penalties as Assessments.** Pursuant to CCIOA and Article IV, Section 17 of the Declaration, all fines, late charges, or other monetary charges or penalties levied by the Association, and all attorney's fees and costs shall be collected as Assessments.

17. **Waiver of Fines.** The Board of Directors may, at its sole discretion, waive all or any portion, of any fines and assessments levied hereunder. The Board of Directors generally will not charge off or waive any attorney's fees, management service fees, or other direct costs that have been incurred by the

Association as a result of any violations. Additionally, the Board of Directors may condition waiver of the entire fine, or portion thereof not to include other direct costs, upon the violator coming into and staying in compliance with the Association Documents.

- 18. **Other Enforcement Means.** The enforcement policy and process, as well as the fine schedule set forth herein shall be in addition to all other enforcement means which are available to the Association through the Association Documents or by law. The use of this process does not preclude the Association from using any other enforcement means, including suspending the voting rights of a Member, for a period not to exceed sixty (60) days, for any infraction of the Association's Bylaws or rules and regulations.
- 19. **Deviations.** The Board of Directors may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.
- 20. **Miscellaneous Provisions.** In the event a Court of competent jurisdiction finds a provision of this collection policy void or otherwise unenforceable, the other provisions shall remain in full effect.

PRESIDENT'S CERTIFICATION: The Undersigned, being the President of the Association 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 OCT 1, 2013 and in witness thereof, the undersigned has subscribed his/her name.

RED HAWK HOMEOWNERS ASSOCIATION, INC.,
a Colorado nonprofit corporation

By: *Ralph J. Alenator*
President

