



BUFFALO CREEK

A T W E L L I N G T O N

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**RESOLUTION
OF THE
BUFFALO CREEK SUBDIVISION AT WELLINGTON
HOMEOWNERS ASSOCIATION, INC.
REGARDING
POLICIES AND PROCEDURES
FOR
COVENANT AND RULE ENFORCEMENT**

Revised: May 14, 2015

SUBJECT: Adoption of a policy regarding the enforcement of covenants, 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.

EFFECTIVE DATE: January 1, 2006 – Revised: February 17, 2011; February 28, 2013; Sept 11, 2014; May 14, 2015

RESOLUTION: The Association hereby adopts the following procedures to be followed when enforcing the covenants and rules of the Association:

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**

a. **Complaints by Owners or Residents** – Shall be in writing or email and submitted to the Board of Directors. The complaining Owner or resident shall have observed the alleged violation and shall identify the complainant ("Complainant"), the alleged violator ("Violator"), if known, and set forth 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 or may not be investigated or prosecuted at the discretion of the Association.

b. **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 Director or Manager.

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. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.

4. **Impartiality** – Each Board Member or Committee member must make a determination as to whether he or she is able to function in a disinterested and objective manner in considering the violation matter. Any Board member or Committee member incapable of objective and

disinterested consideration shall voluntarily withdraw, call for a second opinion, or be disqualified by the Board or Committee from proceedings and discussions related to that matter.

5. **Initial Warning Letter** – If a violation is found to exist, a warning letter shall be sent to the Violator explaining the nature of the violation. The Violator will have fourteen (14) days from the date of the letter to come into compliance. The letter shall further state that the alleged Violator is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing within seven (7) days of the date on the violation letter. Violator request will be determined by postmark or email date and time sent.

6. **Continued Violation After Initial Warning Letter** – If the alleged Violator does not come into compliance within fourteen (14) days of the first warning letter, this will be considered a second violation for which a fine may be imposed following notice and opportunity for a hearing. A second letter shall then be sent to the alleged Violator, providing notice and an opportunity for a hearing, and explaining if a violation is found to exist, a fine may be imposed pursuant to this Policy.

7. **Continued Violation After Second Letter** – If the alleged Violator does not come into compliance within the time frame specified in the second letter, this will be considered a third violation for which an additional fine may be imposed following notice and opportunity for a hearing. A third letter shall then be sent to the alleged Violator. The Violator will have fourteen (14) days from the date of the third letter to come into compliance. The third letter shall provide notice and an opportunity for a hearing, and explain if a violation is found to exist; a fine may be imposed pursuant to this Policy. The letter shall further state that the alleged Violator is entitled to a hearing on the merits of the matter, provided that such hearing is requested in writing within seven (7) days of the date on the third violation letter.

8. **Continued Violation After Third Letter** – If the alleged Violator does not come into compliance within the time frame specified in the third letter, this will be considered a fourth violation for which an additional fine may be imposed following notice and opportunity for a hearing. A fourth letter shall then be sent to the alleged Violator. The Violator will have fourteen (14) days from the date of the fourth letter to come into compliance. The fourth letter shall provide notice and an opportunity for a hearing, and explain if a violation is found to exist; a fine may be imposed pursuant to this Policy. The letter shall further state that the alleged Violator is entitled to a hearing on the merits of the matter, provided that such hearing is requested in writing within seven (7) days of the date on the fourth violation letter.

9. **Notice of Hearing** – If a hearing is requested by the alleged Violator, the Board, committee or other person conducting such hearing as may be determined in the sole discretion of the Board, may serve a written notice of the hearing to all parties involved at least ten (10) days prior to the hearing date.

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. Neither the Complainant nor the alleged Violator is required to be in attendance at the hearing. The Board 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 Board shall, within a reasonable time, not to exceed thirty (30) days, render its written findings and decision, and impose a fine, if applicable. A decision, a finding either for or against the Owner, shall be by a majority of the Board members present at the hearing. Failure to adhere strictly to 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.

11. **Failure to Timely Request Hearing** – If the alleged Violator fails to request a hearing within seven (7) days of any letter or fails to appear at any hearing, the Board may make a decision with respect to the alleged violation; based on the Complaint, results of the investigation, and any other available information without the necessity of holding a formal hearing. If a violation is found to exist, the alleged Violator may be assessed a fine pursuant to these policies and procedures.

12. **Notification of Decision** – The decision of the Board, committee or other person, shall be in writing and provided to the Violator and Complainant within thirty (30) days of the hearing, or if no hearing is requested, within thirty (30) days of the final decision.

13. **Immediate Violations** – Immediate violations are for those things that are known to violate the HOA guidelines. These include trashcan violations, Semi Truck and trailer violations, and snow removal violations.

14. **Semi-truck and trailer, Commercial, and/or Oversized vehicle violations** – Will incur an immediate fine without a warning letter. Each additional occurrence will be at the next higher fine level.

15. **Trashcans** – Should be put out the morning of trash pickup day and stored that evening. We allow trashcans a twenty-four (24) hour grace period. Upon the homeowner's first violation a letter will be sent out explaining the violation and giving a 3-day period to correct prior to receiving a fine. Each additional occurrence within that year after receiving the warning, the homeowner will receive a violation letter and an immediate fine. Each additional occurrence within that year will be fined at the next higher fine level.

16. **Snow Removal** – Is required on the sidewalk in front of homes within twenty-four (24) hours after the snowfall ends. Upon the homeowner's first violation a letter will be sent out explaining the violation and giving a 3-day period to correct prior to receiving a fine. Each additional occurrence within that year after receiving the warning, the homeowner will receive a

violation letter and an immediate fine. Each additional occurrence within that year will be fined at the next higher fine level.

17. **Violations with Warning** – All other HOA violations will receive a warning letter and fall under the fine schedule.

18. **Fine Schedule** – The following fine schedule has been adopted for all recurring covenant violations:

Violation	Warning letter
Two (2) weeks after violation Warning Letter (of same covenant or rule)	\$50.00
Four (4) weeks after violation Warning Letter (of same covenant or rule)	\$100.00
Six (6) weeks after violation Warning Letter (of same covenant or rule)	\$200.00
Every additional two (2) week period thereafter Warning Letter (of same covenant or rule)	\$200.00

The Association may impose interest at the rate of eighteen percent (18%) per annum on any amount owed and outstanding. Unresolved violations may be turned over to the Association's attorney to take appropriate legal action.

19. **Waiver of Fines** – The Board 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 Violator coming into and staying in compliance with the Articles, Declaration, Bylaws, or Rules.

20. **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. Additional definition can be found in Policy and Procedures for Collection of Unpaid Assessments.

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

22. **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.


23. **Deviations** – The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.

24. **Amendments** – This policy may be amended from time to time by the Board of Directors.

PRESIDENT'S

CERTIFICATION: The undersigned, being the President of the Buffalo Creek Subdivision at Wellington Homeowners Association, Inc., a Colorado nonprofit corporation, certifies that the foregoing Resolution was approved and Board of Directors of the Association, at a duly called and held meeting of the Board of Directors of the Association on May 14, 2015 and in witness thereof, the undersigned has subscribed his/her name.

BUFFALO CREEK SUBDIVISION AT WELLINGTON
HOMEOWNERS ASSOCIATION, INC.
a Colorado non-profit corporation,

By: 

Tim Singewald, President