

TrailMark Homeowners Association, Inc.
Covenant Enforcement Policy
(Revised)

WHEREAS, the Board of Directors of TrailMark Homeowners Association, Inc. is empowered to adopt and enforce rules and restrictions within the community and enforce the Covenants of the Declaration pursuant to Article 8 of the Declaration of Covenants, Conditions and Restrictions and Colorado Law.

WHEREAS, the Board of Directors is committed to adopting a policy to ensure the protection of the health, safety, and welfare of the residents and property owners of the HOA; to preserve property values; enhance the quality of life for all HOA residents; and provide a fair and consistent enforcement process of the Governing Documents.

WHEREAS, it is the intent that this policy resolution shall be applicable to all Owners regarding the enforcement of the Association's Covenants, Rules, and Restrictions of the Governing Documents.

NOW THEREFORE, BE IT RESOVLED THAT the following policies and procedures are established regarding the enforcement of the Association's Governing Documents:

- A. Definitions. For the purpose of this policy, the following definitions shall apply regarding the types of Violation and Notices:
1. **“Continuous Violation”** refers to a violation that is ongoing, uninterrupted by time, and may take time to cure.
Examples: Roof or paint requiring maintenance.
 2. **“Individual Violation”** refers to a violation that occurs at a set point in time and does not require time to cure.
Examples: Parking of a restricted vehicle in the community or leaving trash cans out beyond the time allowed.
 3. **“Design Guidelines Violation”** refers to a violation of the TrailMark Homeowners Association Design Guidelines.
Examples: Not receiving approval from the Design Review Committee before undertaking an external improvement to property.
 4. **“Warning Notice”** applies to any covenant or rule violation and refers to the first notice sent which shall inform the Owner of:
 - a. The restriction violated and the nature of the violation;
 - b. That the Owner must have the violation corrected within 14 calendar days of he date of the Warning Notice;

- c. That the failure to timely cure the violation may result in potential fines or other sanctions; and
 - d. That future violations of the same covenant or rule which occur within 180 days of this first violation shall be treated as a Repetitious Violation.
 - 5. **“Hearing Notice”** applies to any covenant or rule violation and refers to the second notice sent to an Owners, which both states that a fine may be levied if the alleged violation is not cured and also give the Owner the opportunity to request a hearing to determine if there is an actual violation.
 - 6. **“Decision Notice”** refers to the notice sent to an Owner after a hearing, which will inform the Owner as to the Board’s decision as to whether a violation exists, based on the testimony and evidence at the hearing. This notice shall inform an Owner deemed in violation of potential actions which the Board may take to resolve the violation.
 - 7. **“Continued Violation & Fine Notice”** refers to the third notice which is sent if an Owner has not requested a hearing regarding an alleged Continuous Violation and notifies the Owner that a covenant enforcement fine has been applied to the Owner’s account.
 - 8. **“Repeated Violation Notice”** refers to the third notice which is sent if an Owner has violated the same covenant or rule three or more times within the same 180 day period and the Owner has not requested a hearing. This notice also informs the owner that a fine has been applied to the Owner’s account and that any subsequent violations of the same covenant or rule shall also cause a fine to be imposed, if such subsequent violations occurs within 180 days of the first violation.
 - 9. **“Daily Fine Notice”** refers to a notice sent if the Owner has not resolved the Violation after two fines have already been applied to the Owner’s account for the same Continuous Violation and notifies the Owner that their account shall now accrue daily covenant enforcement fines until the violation is cured.
- B. **Enforcement Policy.** The HOA may enforce the Governing Documents through administrative proceedings or judicial action, and any non-compliance with the Governing Documents by any owner, renter, or guest will be the responsibility of the owner of the respective property subject to this Resolution (“the Owner”). This Resolution is intended to serve as guidance to the Board and the HOA’s authorized representative (the “HOA Representative”), and does not limit or restrict the authority of the Board. The Board may intervene at any time with respect to any authority granted to or action undertaken by the HOA Representative. In addition, this Resolution shall not supersede the procedures for

approval, disapproval, or notice of noncompliance related to improvements as set forth in the Governing Documents.

- C. **Investigative Procedure.** Upon receipt of a written complaint alleging a violation of the Governing Documents, the HOA Representative shall conduct an investigation to determine whether a violation of the Governing Documents has occurred.
- D. **Enforcement Process for Continuous Violations.** Upon determining that a Continuous Violation has occurred, the HOA Representative and the Board shall take the following steps:
 1. **First Violation/Warning Notice.** If the HOA Representative determines that a Continuous Violation of the Governing Documents exists, either through the investigative process as set forth above, or through independent inspections or observations of the HOA Representative, the HOA Representative will send a Warning Notice to the Owner by first-class United States mail to the address of the Owner on record according to the records of the County Assessor ("Owner's Address"). If, in the discretion of the HOA Representative, the Continuous Violation requires more than 14 days to cure, the HOA Representative may extend the cure period or require the Owner to commence such cure within 30 days of the date of the First Violation and diligently prosecute the same to completion.
 2. **Second Violation/Hearing Notice.** If an Owner fails to cure (or provide adequate proof that he or she is diligently seeking to cure, if applicable) a Continuous Violation within 14 days of the date of the Warning Notice, or 30 days if such time period to cure is extended pursuant to Section 4a above, this shall be considered a second violation for which a fine may be imposed. The HOA Representative shall send a Hearing Notice which acts as a notice of complaint and offers and opportunity to be heard to the Owner. This notice specifically informs the owner of the Continuous Violation and of the potential fines that may be imposed if the Continuous Violation is not cured. The Hearing Notice shall further state that the Owner is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing by the Owner within 10 days of the date of the Hearing Notice. (see Paragraph G for Hearing on Violation)
 3. **Third Violation.** If the Owner has not requested a hearing within 10 days of the date of the Hearing Notice nor cured the Continuous Violation or made arrangements to cure the Continuous Violation and communicated such arrangements to the HOA Representative in writing within 14 days of the Hearing Notice, this shall be considered a third violation for which a fine shall be imposed. The HOA Representative shall send a Continued Violation Notice to the Owner, demanding that the Owner cure the ongoing Continuous Violation and informing the Owner

that a fine has been imposed on the Owner's account pursuant to the fine schedule set forth in Paragraph J below.

4. Fourth Violation. If the Continuous Violation remains uncured 14 days after the date of the first Continued Violation Notice or the Owner has not made arrangements to cure the Continuous Violation and communicated such arrangements to the HOA Representative in writing within 14 days of the first Continued Violation Notice, this shall be considered a fourth violation for which an additional fine shall be imposed. A second Continued Violation Notice shall be sent to the Owner and shall advise the Owner of the imposition of an additional fine, pursuant to the fine schedule set forth in Paragraph J of this Resolution.
5. Daily Fines. In the event that a Continuing Violation continues to exist uninterrupted 14 days after the date of the second Continued Violation Notice, the HOA may in its discretion, in addition to any other remedy, send the Owner a notice of daily fines ("Daily Fine Notice") and thereafter impose a fine of up to ten dollars (\$10.00) for every subsequent day that a Continuous Violation continues.

E. Enforcement Process for Individual/Repetitious Violations. Upon determining that an "Individual Violation" has occurred, the HOA Representative and Board shall take the following steps:

1. First Violation/Warning Notice. If the HOA Representative determines that an Individual Violation of the Governing Documents has occurred, either through the investigative process as set forth above, or through independent inspections or observations of the HOA Representative, the HOA Representative will send an Warning Notice to the Owner by first-class United States mail to the address of the Owner on record according to the records of the County Assessor ("Owner's Address").
2. Second Violation/Hearing Notice. If an Owner subsequently violates the same covenant or rule within 180 days of the First Violation, this shall be considered a second violation for which a fine may be imposed. The HOA Representative shall send a Hearing Notice which acts as a notice of complaint and offers an opportunity to be heard to the Owner. This notice specifically informs the owners of the repeated violation and of the potential fine(s) that may be imposed if the Owner either does not cure the violation or violates the same covenant or rule within the 180 days following the date of the Hearing Notice. The Hearing Notice shall further state that the Owner is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing by the Owner within 10 days of the date of the Hearing Notice.

3. **Third and Subsequent Violations/Repeated Violation Notice.** If the owner has subsequent violations of same covenant or rule within 180 days of the date of the Hearing Notice, each such instance shall constitute a separate Repetitious Violation for which fines may be imposed pursuant to the fine schedule set forth in Paragraph J. Upon the occurrence of each subsequent Repetitious Violation, the HOA Representative shall send the Owner a notice advising the Owner of the Repeated Violations and of the fine to be imposed.
- F. **Enforcement Process for Design Guidelines Violations.** Upon determining that a Design Guidelines Violation has occurred, the HOA Representative and the Board shall take the following steps:
1. **First Violation/Warning Notice/Hearing Notice.** If the HOA Representative determines that a Design Guidelines Violation has occurred, either through the investigative process as set forth above, or through independent inspections or observations of the HOA Representative, the HOA Representative will send a Warning Notice to the Owner by first-class United States mail to the address of the Owner on record according to the records of the County Assessor (“Owner’s Address”). This shall be considered a violation for which a fine may be imposed pursuant to the fine schedule set forth in Paragraph J. The HOA Representative shall also send a Hearing Notice which acts as a notice of complaint and offers an opportunity to be heard to the Owner. This notice specifically informs the owners of the violation and of the fine that may be imposed, as set forth in Paragraph J, if the Owner does not get approval from the Design Review Committee or otherwise does not cure the violation and come into compliance with the Design Guidelines. The Hearing Notice shall further state that the Owner is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing by the Owner within 10 days of the date of the Hearing Notice.
 2. **Transformation of Violation.** If the violation of the Design Guidelines is ongoing _____ days after the date of the First Warning Notice, this violation may then become classified as a Continuous Violation, at the discretion of the Board. If this violation becomes a Continuous Violation, the processes in Paragraphs D and the appropriate fine schedule in Paragraph J then apply. Upon the transformation of a Design Guidelines Violation into a Continuous Violation, the Design Guidelines Violation will first become a Second Violation of the Continuous Violation Fine Schedule in Paragraph J, after the warning notice has been sent and the fine has been levied against the violator pursuant to the Design Guidelines Fine Schedule in Paragraph J. Continued noncompliance with the Design Guidelines will move the violation from a Continuous Violation Second Violation to a Third Violation, from a Third Violation to a Fourth Violation, from a Fourth Violation to a Fifth Violation, and from a Fifth Violation to Final Notice, in conjunction with Paragraph D and Paragraph J.

- G. Hearing on Violation. If a hearing is requested by the Owner pursuant to Paragraphs D.2, E.2, or F.1 above, the HOA Representative shall notify the Owner of the date, time, and place of the hearing at least 10 days prior to the hearing. Hearings regarding violations of the Governing Documents shall be conducted by the Board, or a tribunal consisting of HOA residents or other persons as selected by the Board.
- H. Failure to Attend or Request Hearing. In the event any Owner fails to request a hearing within 10 days of the date of the Hearing Notice or fails to appear at a requested hearing, the Board or tribunal designated by the Board to conduct the hearing may, but shall not be required, to make a decision with respect to the violation based on the complaint, the results of the investigation, and any other available information without the necessity of holding a formal hearing. However, failure to request a hearing or to appear at a requested hearing may result in the Owner being deemed to have admitted and acknowledged the violation and the Owner will thereafter be subject to all fines and penalties assessed in connection with the violation. After offering an Owner the opportunity for a hearing in the Hearing Notice, regardless of whether the Owner then requests a hearing or not, the shall decide on a case-to-case basis as to whether to offer the opportunity for a hearing for any additional fines to be imposed for failure to cure a Continuous Violation or for subsequent instances of a Repetitious Violation.
- I. Decision Notice. After the Board has taken the steps as outline above, the Board shall send a Decision Notice to the Owner, which shall inform the Owner as to whether the Board determined that the Owner was in violation of the Governing Documents. Upon a finding that an Owner is in violation of the Governing Documents, The Decision Notice shall also state what penalty/penalties is being imposed on the Owner for the violation(s). The HOA may revoke or suspend the Owner's privileges, impose fines in accordance with the fine schedule set forth below, and/or take such other actions as it may deem necessary or appropriate to assure compliance with the Governing Documents.
- J. Fine Schedule. The following fine schedules are adopted for any and all violations of the Governing Documents.

<u>Continuing Violation Fine Schedule</u>	
Continuous Violations	Action
First Violation	Warning Notice
Second Violation	Hearing Notice & \$50.00 Fine*
Third Violation	(First) Continued Violation Notice & \$100.00 Fine
Fourth Violation	(Second) Continued Violation Notice & 150.00 Fine

Fifth Violation	Daily Fine Notice & Fines Up to \$10.00 per day of continued violation after date of notice
Final Notice	Fines will continue & the issue transferred to legal counsel

*This fine shall be levied if, within 10 days after the Hearing Notice is sent, no hearing is requested and/or the violation has not been cured.

<u>Repetitious Violation Fine Schedule</u>	
Repetitious Violations	Action
First Violation	Warning Notice
Second Violation of the same covenant or rule within 180 days of the First Violation	Hearing Notice & \$50.00 Fine*
Subsequent Violations of the same covenant or rule within 180 days of the Hearing Notice	\$50.00 per subsequent violation
Final Notice	Fines will continue & the issue transferred to legal counsel

*This fine shall be levied if, within 10 days after the Hearing Notice is sent, no hearing is requested and/or the violation has not been cured.

<u>Design Guidelines Fine Schedule</u>	
Design Guidelines Violations	Action
First Violation	Warning Notice & \$250.00 Fine*

*Unless this violation is cured, or approval is received from the Design Review Committee, within __ days after the warning notice and fine, it will transform into a Second Violation under the Continuous Violation Fine Schedule, and will subsequently follow the fine schedule of the Continuous Violation Fine Schedule for ongoing violations, pursuant to Paragraph F.2.

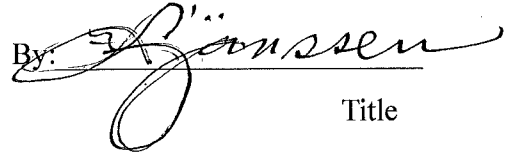
- K. Violations or Offenses that Constitute a Present Danger. If a violation concerns a serious or immediate risk to the health, safety, or welfare of person or property, the HOA Representative shall seek to obtain prompt action by the Owner to correct the violation and avoid any reoccurrence, and the procedural requirement under this Resolution may be waived by the Board and a hearing scheduled as soon as possible. The Board may impose sanctions as necessary to abate any threat to health, safety, or welfare of any person or property.
- L. Waiver of Fines and Other Amounts. The HOA may determine enforcement actions on a case by case basis, and take other actions as it may deem necessary or appropriate to assure compliance with the Governing Documents. The HOA Representative and/or the Board

may, either in their/its sole discretion, waive all or any portion of any fines and other amounts levied under this Resolution. Additionally, the HOA Representative and/or the Board may condition waiver of any fine or other amounts upon the Owner coming into and staying in compliance with the Governing Documents.

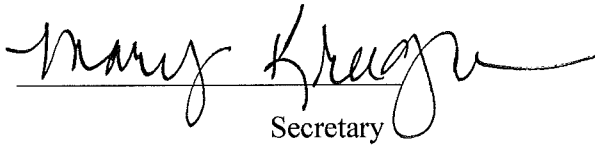
- M. Other Enforcement Means. The provisions of this Resolution shall be in addition to all other enforcement means which are available to the HOA through the Governing Documents, or by law. Application of this Resolution does not preclude the HOA from using any other enforcement means, including, but not limited to the recording of liens, foreclosure, and any other legal or equitable remedies available to the HOA.
- N. Legal Action. Any violation of the Governing Documents may, in the discretion of the Board, be turned over to legal counsel to take appropriate legal action either in lieu of, or in addition to, the imposition of any fines or other penalties under this Resolution, and Owners shall be responsible for all attorneys' fees and costs incurred in enforcing this Resolution and in collecting amounts due and owing the HOA.
- O. Foreclosure of Lien. All amounts imposed pursuant to this Resolution shall, until paid, constitute a statutory, perpetual lien on and against the property served, and any such lien may be foreclosed in the manner provided by the laws of the State of Colorado for the foreclosure of mechanic's liens, pursuant to 32-1-1001(1)(j), C.R.S., such lien being a charge imposed for the provision of services and facilities to the property. Said lien may be foreclosed at such time as the HOA in its sole discretion may determine. The lien shall be perpetual in nature (as defined by the laws of the State of Colorado) on the property and shall run with the land.
- P. Deviations. The HOA may deviate from the procedures set forth herein if, in its sole discretion, such deviation is reasonable under the circumstances.
- Q. Amendment. The policies, procedures, and fine schedule set forth in this Resolution may be supplemented and/or amended from time to time by the HOA, in its sole and absolute discretion.
- R. Payment. Payment for all fines shall be by check or equivalent form acceptable to the Association, made payable to "TrailMark HOA" and sent to the designated payment address, on or before the assessment due date (as specified in the Collections Policy).
- S. Severability. If any portion of this Resolution is declared by any Court of competent jurisdiction to be void or unenforceable, such decision shall not affect the validity of any remaining portion of this resolution, which shall remain in full force and effect. In addition, in lieu of such void or unenforceable provision, there shall automatically be added as part of this Resolution a provision similar in terms to such illegal, invalid, or unenforceable provision so that the resulting reformed provision is legal, valid, and enforceable.

T. Effective Date. This Resolution shall become effective immediately, and shall be the sole existing policy of the Association regarding the covenant enforcement procedures of the Association, and shall replace and supersede any previously adopted policy, rule, or regulation regarding the covenant enforcement procedures of the Association.

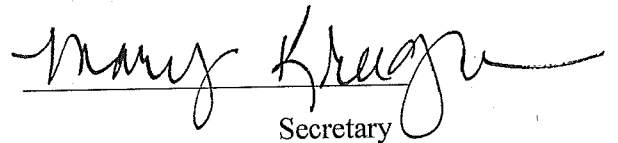
TrailMark Homeowners Association, Inc.

By: 
Title

Attest


Secretary

This Policy regarding Covenant Enforcement was adopted by the Board of Directors on the 14th day of May, 2020, effective the 1st day of June, 2020, and is attested to by the Secretary of the TrailMark Homeowners Association, Inc.


Secretary