

RESOLUTION OF BOARD OF DIRECTORS OF  
THE TRAILMARK HOMEOWNERS ASSOCIATION, INC.

SUBJECT: Violations of governing documents regarding failure to timely landscape a Lot: enforcement procedure; fine schedule.

PURPOSE: To establish an enforcement procedure for violations of the Declaration of Covenants, Conditions and Restrictions for Chatfield Green (the "Declaration") and the Association's Design Guidelines (the "Design Standards"). to establish a procedure for imposing fines and to provide a fine schedule, specifically for failure to timely landscape a Lot.

AUTHORITY: The Declaration, Articles of Incorporation, and the Bylaws (collectively, the "Governing Documents").of TrailMark Homeowners Association, Inc. and Colorado law.

EFFECTIVE DATE: 8 SEPTEMBER, 2005.

RESOLUTION: The TrailMark Homeowners Association, Inc. (the "Association"), hereby adopts and gives notice of a Resolution establishing an enforcement procedure, a procedure for imposing fines and providing a fine schedule for violations of the governing documents regarding failure to timely landscape a Lot.

WHEREAS, Article 10, Section 10.10 of the Declaration grants the Association the power to enforce the provisions of the Declaration; and

WHEREAS, Article 8, Section 8.15 authorizes the Board of Directors to adopt Rules and Regulations; and

WHEREAS, Article 3, Section 3.14 provides that, ". . . at the time of, or as soon as reasonably possible following, the construction of Improvements on a Lot, but in any event no later than 6 months or one growing season after substantial completion of Improvements upon a Lot, such Lot shall be suitably landscaped as set forth in the Design Standards . . ."; and

WHEREAS, from time to time, Owners in the Association fail to landscape their Lots in compliance with the provisions of Section 3.14 of the Declaration.

NOW THEREFORE, it is hereby resolved that failure to timely landscape a Lot shall be enforced in compliance with the following procedure:

1. Power. The Board of Directors shall have the power and duty to hear and make decisions regarding violations, and written Complaints filed with the Board, pursuant to this Resolution. The Board may determine enforcement action on a case by case basis, and take other actions as it may deem necessary and appropriate to assure compliance with the Declaration and the Design Standards, the Association's Bylaws, rules and regulations promulgated thereunder, and to create a safe and harmonious living environment. These enforcement provisions are in addition to other specific provisions outlined in the

Association's Rules and Regulations, Declaration, Bylaws or Articles of Incorporation and the Association is not required to follow these enforcement provisions before seeking such other remedies. The Association may choose a legal remedy or seek assistance from other enforcement authorities, such as police, fire, or animal control.

2. **Courtesy Notice.** Complaints regarding alleged violations for failure to timely landscape a Lot may be reported by an Owner or resident within the community, a group of Owners or residents, the Association's management company, Board member(s) and/or committee member(s). One courtesy notice shall be provided informing an Owner of an alleged violation. The courtesy notice shall further state that continued failure to timely landscape may result in potential fines, and advise the Owner that they have 30 days to cure the alleged violation. If the violation is such that it will take more than 30 days to cure (e.g. submittal of plans to, and approval of, the Design Review Committee and commencement of work), then the Owner shall commence such cure within 30 days after the date of the notice and diligently prosecute the same to completion. If the Owner of the residential site does not respond to the courtesy notice and/or fails to cure the violation, a written Complaint shall be generated.

3. **Notice of Complaint and Hearing.** Upon receipt of a Complaint with or by the Association of a violation, and following the courtesy notice and the Owner's failure to cure or commence a cure within the allowed time, the Association shall send a Notice of Complaint and Hearing to the person(s) (the "Respondent") alleged to have failed to timely landscape a Lot, by first class mail addressed to the mailing address of the Respondent last appearing on the records of the Association, or any other mailing address designated in writing by the Respondent, or to the Lot address if no address has been given to the Association. The Notice of Complaint and Hearing shall: (1) address the details of the Complaint, or include a copy of the Complaint; (2) advise of the action to be taken and the reasons therefor; (3) advise of the Respondent's right to be heard, either orally or in writing, by the Board or by a tribunal or committee appointed by the Board at the next meeting of the Board which is at least fifteen days after the date of the notice; (4) advise of the date on which the hearing will be scheduled; and (5) advise that if the Respondent fails to appear at the specified date and time or otherwise respond to the Complaint, the Board may proceed with or without a hearing, at its discretion, to make its determination of the allegations contained in the Complaint based on all relevant facts and circumstances. The Board may determine that the Respondent's failure to respond or appear at the hearing constitutes a no-contest plea to the Complaint, and enforce the provisions of the Documents, including the imposition of fines and other sanctions.

4. **The Association's Enforcement Rights.** In the event the Respondent does not respond to the Notice of Complaint and does not request a Hearing regarding the alleged failure to timely install initial landscaping of a Lot, the Board shall have the right, upon an affirmative vote of a majority of all Directors on the Board, to take any one or more of the actions and to pursue one or more of the remedies permitted under the provisions of the Governing Documents.

5. **Hearing.** Each hearing shall be held at the scheduled time, place and date, unless the Respondent has failed to respond or appear at the hearing. The Board may grant continuance(s) for good cause. The Board may: (a) exercise its discretion as to the specific manner in which a hearing shall be conducted; (b) question witnesses and review evidence; and (c) act as it may

deem appropriate or desirable to permit the Board to reach a just decision. Neither the complainant nor the Respondent must be in attendance at the hearing, but both are encouraged to attend. Any party may elect not to present evidence at the hearing. Action taken by the Board shall be fair and reasonable taking into consideration all of the relevant facts and circumstances. Each hearing shall be open to attendance by all Members of the Association.

6. Sanctions/Fines. Upon finding that a violation of the Governing Documents has occurred with respect to the Owner's failure to timely landscape a Lot, and in accordance with the recommendation of the Tribunal if applicable, the Board may revoke or suspend the Respondent's membership privileges for a period commensurate with the offenses, except that any suspension of voting rights of the Respondent shall not exceed 60 days following any violation by such Respondent unless such violation is a continuing violation, in which case such suspension may continue for so long as such violation continues and for up to 60 days thereafter. Subject to the provisions below, fines may be levied for failure to timely install initial landscaping of a Lot as follows:

<u>Duration of Continuing Violation</u> <u>Failure to Timely Install Landscaping</u>	<u>Fine Amount</u>
Upon finding that Owner failed to timely landscape	\$100.00
30 days or more after Board's finding that Owner failed to timely landscape	\$10.00 per day
Over 91 days	fines continue and refer account to attorney for further action

7. Waiver of Fines. The Board may waive all or any portion of the fines or other sanction if, in its sole discretion, such waiver is appropriate under the circumstances. Additionally, the Board may condition its waiver of the entire fine or other sanction, or any portion thereof, upon the Respondent coming into compliance with the Governing Documents or compliance with such other conditions as the Board reasonably determines.

8. Obligation for Payment of Fines. The record Owner of the Lot subject to the Declaration shall have the primary obligation to pay fines imposed for their actions. Fines imposed pursuant to this Resolution shall become a Reimbursement Assessment imposed against the record Owner's Lot and enforceable as provided in the Declaration.

9. Enforcement: Attorney's Fees. The provisions of this Resolution shall not limit, or be a condition precedent to, the Association's right to enforce the Governing Documents by any means available to the Association, including, but not limited to, commencement of a lawsuit to force compliance or seeking injunctive relief or damages. The Association shall be entitled to

reimbursement of all attorney's fees and costs incurred by the Association in connection with any enforcement action, including any proceeding under this Resolution.

10. Modification. The Board reserves the right, from time to time, to amend or repeal this Resolution, subject to any limitations placed on the Board in the Governing Documents or by law.

11. Miscellaneous.

a. Failure by the Association to enforce any provision of this Resolution shall in no event be deemed to be a waiver of the right to do so thereafter. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is necessary under the circumstances.

b. The provisions of this Resolution shall be independent and severable. The invalidity of any one or more of the provisions hereof by judgment or court order or decree shall in no way affect the validity of enforceability of any of the other provisions, which other provisions shall remain in full force and effect.

c. The use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders. The captions are inserted only as a matter of convenience and are in no way to be construed to define, limit or otherwise describe the scope of this Resolution.

d. Unless otherwise defined in this Resolution, capitalized terms defined in the Declaration shall have the same meaning herein.

e. In the event of a conflict between this Resolution and the Declaration or the Bylaws, the provisions of the Declaration and Bylaws shall control.

The undersigned, constituting the Board, have adopted this Resolution for the TrailMark Homeowners Association, Inc. effective the 8 day of SEPTEMBER, 2005.

Michael North 9/8/2005  
Director Date

D.M. Stead 9/8/2005  
Director Date

Sandy Ocker 9/8/05  
Director Date

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Director Date

Victoria Haynes 9/8/2005  
Director Date