

**RESOLUTION OF THE TRAILMARK
HOMEOWNERS ASSOCIATION, INC.
REGARDING POLICIES AND PROCEDURES FOR COVENANT AND RULE
ENFORCEMENT**

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 standard procedure to be followed when enforcing covenants and rules to facilitate the efficient operation of the Association.

AUTHORITY: The Declaration, Articles of Incorporation, Bylaws of the Association, and Colorado law.

EFFECTIVE DATE: AUGUST 7TH, 2022.

RESOLUTION: The Association hereby adopts the following procedures to be followed when enforcing 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, and 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 and submitted to the Association's managing agent who will forward the complaint to the Board of Directors. The managing agent will handle the paperwork only and shall have no authority to determine guilt, impose penalties, or assess fines. A standardized complaint form shall be available from the managing agent or the Association. 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 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. The alleged Violator and the Owner of the Lot, if the Lot is leased, will be notified that a complaint has been filed and the nature of the complaint.
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 of Directors designated individual or committee. The Board of Directors shall have sole discretion in appointing an individual or committee to investigate the matter.

4. Violations that Do Not Threaten Public Safety or Health. If a violation is found to exist based on the violation of the governing documents and does not threaten the public safety or health, the Association must provide the Owner:

- (a) Written notice of the violation, informing the Owner that the Owner has thirty (30) days to cure the violation of the Association.
 - (i) The written notice must be in English, or in any other language the Owner has indicated as their preference for communication. If no preference is stated, it shall be in English.
 - (ii) The written notice must be sent by certified mail, return receipt requested.
 - (iii) The total amount of fines shall not exceed five hundred dollars (\$500).
- (b) After the thirty (30) days to cure has passed, and if the Association has not received a notice from the Owner that the violation has been cured, the Association must inspect the Unit within seven (7) days of the initial thirty (30) day cure period.
- (c) If, after inspection, the Association determines that the violation has not been cured, the Association may start fining the Owner, but the Association must provide a second thirty (30) day period to cure the violation.
- (d) If the Owner still has not cured the violation after the second thirty (30) day period, the Association may turn the file to the attorney for legal action. The Association may not foreclose on the fines owed alone.
- (e) If an Owner cures the violation within the required cure period, the Owner may notify the Association of the cure and may include visual evidence that the violation has been cured.
 - (i) If the Owner provides visual evidence of the cure, the violation is deemed cured on the date that the Owner sent the notice.
 - (ii) If the Owner does not provide visual evidence of the cure, the Association must inspect the Unit as soon as practicable to determine if the violation has been cured.

5. Violations that Threaten Public Safety or Health. If the Association reasonably determines that a violation of the governing documents threatens public safety or health, the Association must provide the Owner:

- (a) Written notice of the violation, informing the Owner that the Owner has seventy-two (72) hours to cure the violation, or the Association may fine the Owner.

- (i) The written notice must be in English, or in any other language the Owner has indicated as their preference for communication. If no preference is stated, it shall be in English.
 - (ii) The written notice does not need to be sent by certified mail, return receipt requested and can be sent by first class mail.
 - (b) After the seventy-two (72) hours has passed, the Association must inspect the Unit and determine that the Owner has failed to cure the violation. If not cured, the Association may impose fines every other day or some interval, but not on a daily basis, and may turn the file over to the attorney for legal action. However, the Association may not foreclose based on the fines owed alone.
6. When the Owner Cures Violation. Once the Owner cures the violation, the Association must:
- (a) Provide the Owner notice that the Owner will no longer be fined with respect to the violation, and
 - (b) Provide the Owner notice of any outstanding fine balance that the Owner still owes the Association.
 - (c) The written notice must be in English, or in any other language the Owner has indicated as their preference for communication. If no preference is stated, it shall be in English.
7. Notice of Hearing. If a hearing is requested by the alleged Violator, the Board of Directors, committee, or other person conducting such hearing as may be determined in the sole discretion of the Board of Directors, shall serve a written notice of the hearing to all parties involved at least fifteen (15) days prior to the hearing date.
8. Impartial Decision Maker. Under Colorado law, an Impartial Decision Maker is defined as “a person or group of persons who have the authority to make a decision regarding the enforcement of the Association’s covenant, conditions, and restrictions, including architectural requirements, and other rules and regulations of the Association and do not have a direct personal and or financial interest in the outcome.” The Board members that do not have a direct personal and or financial interest in the outcome of the decision could serve as the Impartial Decision Maker, or the Board of Directors could appoint other disinterested individuals as the Impartial Decision Maker.
9. 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 are required to be in attendance at the hearing. The Board of Directors 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 of Directors, all hearings shall be open to attendance by all Owners. After all testimony and other evidence has been presented at a hearing, the Board of Directors 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, either a finding for or against the Owner, shall be by a majority of the Board members present at the hearing. 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.

10. Failure to Timely Request Hearing. If the alleged Violator fails to request a hearing within fourteen (14) days of any letter, or fails to appear at any hearing, the Board of Directors 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.

11. Notification of Decision. The decision of the Board of Directors, 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.

12. Fine Schedule for Violations that do not Threaten Public Safety or Health. The following fine schedule has been adopted for covenant violations that do not threaten public safety or health. The total amount of fines per violation may not exceed \$500.00.

First Notice of Violation with 30 days to comply	No Fine
Second Notice of Violation with 30 days to comply (of the same covenant or rule)	\$200.00
Third Notice of Violation and account sent to legal (of same covenant or rule)	\$300.00

13. Fine Schedule for Violations that Threaten Public Safety or Health. The following fine schedule has been adopted for covenant violations that threaten public safety or health.

First Notice with 72 hours to cure the violation	No Fine
Additional Notices/Fine Notices	\$50.00 every other day

All fine notices should inform the Owner that failure to cure the violation might result in additional fines until the violation is cured.

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 of Directors 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.
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 laws of the State of Colorado governing the Association.
18. 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.
19. Amendment. This policy may be amended from time to time by the Board of Directors.

PRESIDENT'S CERTIFICATION:

The undersigned, being the President of the Trailmark Homeowners Association, Inc., a Colorado nonprofit corporation, 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 AUGUST 7TH, 2022 and in witness thereof, the undersigned has subscribed his/her name.

**THE TRAILMARK HOMEOWNERS
ASSOCIATION, INC.,**
a Colorado nonprofit corporation

By: 

President