

**SOMERSET ESTATES HOMEOWNERS ASSOCIATION, INC.**  
**ENFORCEMENT AND FINES POLICY**

Adopted December 20, 2022

The following policy has been adopted by Somerset Estates Homeowners Association, Inc. ("Association") pursuant to the Colorado Common Interest Membership Act ("Act"), including C.R.S. 38-33.3-209.5, as amended, at a regular meeting of the Executive Board ("Board"), and replaces in its entirety the previous policy. This policy contains provisions that may conflict with the terms of the Association's governing documents. The Act and this policy will control over any conflicting provisions in the governing documents.

**Purpose:** To establish a uniform and systematic protocol for enforcement of the Declaration, the Articles of Incorporation, the Bylaws, the Architectural and Landscaping Standards, and all other Rules, regulations, procedures, policies and guidelines, however denominated, adopted, or amended by the Board from time to time (collectively, "Documents"), for the regulation and management of the community, including Common Areas and Lots, and the imposition of fines for such enforcement.

NOW, THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following policy for the enforcement of the Documents of the Association:

1. **Fines Policy.** The Association may levy fines for violations of the Documents in accordance with the following fair and impartial fact-finding process that is designed to determine whether the alleged violation actually occurred and whether Owner allegedly violating the Association Documents is the one who should be held responsible for the violation.
2. **Notice of Violation ("Notice").** The Notice of Violation process is as follows:
  - A. **Complaints.** The Board shall have the power and duty to accept complaints from Members of the Association. A proceeding to determine if the Documents have been violated by a Member and/or by a Member's guest or renter/lessee, and any enforcement measures and remedies that may apply, shall be initiated by a Member filing a written complaint with the Board, by any Property Manager that may be engaged by the Board, by a Board Committee, or by the Board itself. The complaint shall state the specific provision(s) of the Documents alleged to have been violated and as many specifics as are available as to time, date, location, and persons involved, including photographs if the violation is of the type that can be readily photographed. Upon receipt of a complaint, if the Board determines that the allegations in the complaint are sufficient to constitute a violation of the Documents and that action is warranted, the Association shall send a Notice of Violation ("Notice") to the Owner(s) alleged to have violated the Documents. The Association may also, at its option, provide a copy of the notice to any non-Owner violator.
  - B. **Violations that Threaten Public Safety or Health.** If the Association reasonably determines that a violation threatens the public safety or health, the Notice will describe the nature of the violation, advise the Owner that he/she has 72 hours to correct the violation or may be fined, and state that the Association may seek to remedy the violation and otherwise protect its rights as specified in the Documents and as provided by law. The Notice may be sent by any of the following means: first-class mail; certified mail; email to an email address that the Association has on file because the Owner has provided the email address to the Association; text message to a cellular number that the Association has on file because the Owner has provided the number to the Association; or personal delivery. After 72 hours from receipt of the Notice, the Association will inspect the Owner's Lot and determine whether the violation has been cured (or take whatever action is needed to determine if the violation is cured). If the Owner has not cured the violation, the Association may impose fines on the Owner every other day (or weekly at the Board's discretion) in accordance with the fine schedule in Section 5A below and/or commence legal action to enforce the governing documents and cure the violation. The Association may choose a legal remedy or seek assistance from other enforcement authorities, such as police, fire, or animal control, as it deems appropriate.

- C. Violations that DO NOT Threaten Public Safety or Health. If the Association reasonably determines that a violation does not threaten public safety or health, the Notice will describe the nature of the violation, advise the Owner that he/she has 30 days to correct the violation or may be fined, and state that the Association may seek to remedy the violation and otherwise protect its rights as specified in the Documents and as provided by law. The Notice shall be sent to the Owner by certified mail, return receipt requested. Not later than 7 days after the conclusion of the 30-day period, the Association shall inspect the Owner's Lot to determine if the violation has been cured. If the violation has not been cured, the Association shall send a second Notice to the Owner advising that the violation has not been cured and that the Owner has an additional 30 days to cure the violation or may be fined and state that the Association may seek to remedy the violation and otherwise protect its rights as specified in the Documents and as provided by law. The second Notice shall also be sent to the Owner by certified mail, return receipt requested.

Before the expiration of either the first or the second 30-day period to cure the violation, the Owner may send the Association written notice that the violation has been cured, with visual evidence that the violation has been cured. The violation will be deemed cured as of the date the Owner sends the written notice. If the written notice from the Owner does not include visual evidence of the cure, then the Association shall inspect the Owner's Lot as soon as practicable to determine if the violation has been cured.

If the Owner does not provide written notice to the Association that the violation has been cured before the expiration of the second 30-day period to cure the violation, then within 7 days after the expiration of the second 30-day period the Association shall inspect the Owner's Lot as soon as practicable to determine if the violation has been cured. If upon inspection the Association determines that the violation has not been cured the Association may impose fines as set forth in Section 5B below and take other legal action the Association deems appropriate to cure the violation.

- D. Additional Required Notices. If an Owner cures a violation, the Association will notify the Owner: (1) of any outstanding fine balance owned to the Association, and (2) that the Owner will not be further fined with regard to the violation.

- E. Notices from the Association will be sent in English; provided, however, that the Owner may send written notice to the Association with an alternate language preference. The Association will attempt to provide an accurate translation of the original English version but due to nuances in translating to a foreign language, slight differences may exist.

- F. An Owner may send written notice to the Association identifying another person to serve as a designated contact for the Owner for notices and correspondence. The Association will send the same written communications to the designated contact that it sends to the owner. If the Owner wishes to change or cease the designated contact, the Owner must send the Association written notice.

- G. For the purpose of this policy to comply with Colorado law, a Notice is deemed received when sent by and according to the following timelines:

- Email or text – Upon successful transmission of electronic mail or text;
- Certified Mail/First-Class Mail – 3 business days after deposit for delivery;
- Posting – upon physical posting at the Owner's Lot; or
- Actual Notice – Upon hand-delivery.

3. Request for Hearing. If an Owner desires a hearing to contest any alleged violation and possible fine or to discuss any mitigating circumstances, the Owner must request the hearing in writing prior to the deadline and in the manner stated in the Notice of Violation. The request for hearing should describe the grounds and basis for challenging the alleged violation or the mitigating circumstances. If a timely request for a hearing is not made, the right to a hearing is deemed forever waived. If a hearing is not requested by the deadline, the Board will determine if there was a violation based upon the information available to it, and if so, assess a fine as set forth in the fine schedule upon expiration of any applicable cure period(s).

The hearing process will not and cannot be used to determine if a particular provision of the Documents is desirable.

4. **Hearing Procedure.** The general procedure for a hearing is as follows:
  - A. **Hearing Notice.** The Board will inform the Owner of the scheduled time, date, and place of the requested hearing by any of the following means: first-class mail; certified mail; email to an email address that the Association has on file because the Owner has provided the email address to the Association; text message to a cellular number that the Association has on file because the Owner has provided the number to the Association; or personal delivery. Hearings may be conducted during or subsequent to any applicable cure period(s). The Board or presiding officer may grant continuances for good cause.
  - B. **Hearing Board to Conduct Hearing.** The hearing board, which may be the Executive Board, will hear and decide cases set for hearing pursuant to the procedures set forth in this policy. The hearing board may appoint an officer or other Owner to preside at any hearing. The hearing board shall contain an odd number of members with a minimum of three.
  - C. **Conflicts.** Any Owner who requests a hearing will be afforded a fair and impartial fact-finding process by "impartial decision maker" (persons with authority to make a decision on a claimed covenant, rule, or architectural and landscaping violation and without a direct personal or financial interest in the outcome of the hearing). Any decision-maker who is incapable of objective and disinterested consideration will disclose this to the presiding officer prior to the hearing, if possible. If advance notice is not possible, the disclosure will be made at the hearing, and the decision-maker will be disqualified from all proceedings related to the hearing. If disqualification of any decision-maker results in an even number of individuals eligible to hear a case, the presiding officer may appoint an Association Member, in good standing, to serve as a voting member of the hearing board.
  - D. **Process.** At the beginning of each hearing, the presiding officer will explain the rules, procedures, and guidelines by which the hearing will be conducted. The complaining parties and the Owner will have the right, but not the obligation, to attend the hearing. Each party may present evidence, testimony, and witnesses. The decision will be based on the matters set forth in the Notice, request for hearing, and evidence as may be presented at the hearing. Unless otherwise requested by the Owner, all hearings will be conducted during executive session. If a complaining party is unable to attend the hearing, the complainant may submit a letter to the hearing board explaining the basis of the complaint.
  - E. **Decision.** After all testimony and other evidence has been presented the hearing board shall decide whether the Owner should be held responsible for the alleged violation. If the hearing board finds that the Owner has violated the Documents, a fine shall then be assessed by the hearing board due upon expiration of any applicable cure period(s) or mutually agreeable arrangements made with the Owner to ensure cure of the violation and compliance in the future. If the hearing board finds that the Owner should not be held responsible for the alleged violation, then (1) no fine shall be assessed, and (2) the Association shall not allocate to that Owner's account any of the Association's costs or attorneys' fees incurred in asserting or hearing the alleged violation. A decision, either a finding for or against the Owner, will be by a majority vote of the hearing board.
5. **Fines.**
  - A. **Violations that Threaten Public Safety and Health.** The Association may impose a fine every other day in the amount of \$25.00 (or \$100.00 per week at the Board's discretion) for violations that threaten public safety or health until the violation is cured. If the violation is not cured within two weeks, the Association may impose a fine of \$200.00 per week until the violation is cured. If the violation is not cured within another two weeks (four weeks total), the Association may impose a fine of \$500.00 per week until the violation is cured. If the violation is not cured within another two weeks (six weeks total), the Association may impose a fine of \$1000.00 per week until the violation is cured.
  - B. **Violations that DO NOT Threaten Public Safety and Health.** If an Owner fails to timely cure a

violation that does not threaten public safety or health, as set forth in Section 2C above, then the Board shall fine the Owner \$100.00 at the end of the 30-day notice period, and written notice of the fine shall be provided to the Owner ("Initial Fine Letter"). If the violation is not cured within 30 days of the date of the Initial Fine Letter, then the Board shall fine the Owner an additional \$200.00 and written notice of the additional fine shall be provided to the Owner ("Second Fine Letter"). If the violation is still not cured within 30 days of the Second Fine Letter, then the Board shall fine the Owner \$200.00 and written notice of the fine shall be provided to the Owner. In the alternative, the Association may fine the owner the sum of \$50.00 every other day, up to a maximum of \$500.00, until the violation is corrected. In no circumstance may the Owner be fined in excess of \$500.00 per violation.

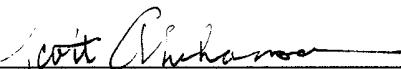
- C. The Owner is responsible for notifying the Association in writing if and when the violation has been corrected.
  - D. In the event that any Owner's guest or renter/lessee violates the Documents and a fine is imposed, the Owner shall pay the fine upon notice from the Board.
6. **Injunction.** If the violation has not been cured within 60 days after the Notice, the Association may commence the necessary legal proceedings under the Documents or under Colorado law to compel correction of the violation as well as to recover any unpaid fines, court costs, attorney fees, and other Association expenses arising from the violation. Nothing in this paragraph shall preclude the Association from commencing legal proceedings to correct the violation prior to expiration of the 60-day period.
7. **Collection of Fines.** Assessed fines shall be billed to the Owner pursuant to the Association's Collection Policy and are legally collectable as Assessments in accordance with the Documents and Colorado law. Furthermore, the violating Owner is responsible for all administrative and other costs and reasonable attorney fees incurred by the Association as a result of the violation. Examples include but are not limited to, certified mailings or costs to translate a notice to a language other than English. The fines and costs are the personal obligation of the violating Owner and, in addition, constitute a lien against such Owner's Lot.
8. **Repeat Violations.** A "repeat violation" is a subsequent or additional violation of the same provision (covenant, restriction, rule, or regulation) as the first violation committed by an Owner, and which occurs within twelve months after the first violation. Such violation is considered a continuation of the first violation, and thus an Owner with a repeat violation is not entitled to the same hearing procedures set forth above. However, the Association shall provide Notice of the repeat violation to the Owner in accordance with Section 2B above. If the repeat violation has not been cured within the time period specified in the Notice for correction of the violation, then the fine (which will be determined by the Board and may be up to double the amount of the fine assess for the first violation but shall in no event exceed \$500.00 per violation that does not threaten public safety or health) will be imposed upon the expiration of the correction time period, notwithstanding any other provisions of this Policy to the contrary. After the twelve-month period, any subsequent occurrence of the same violation will be treated as a new first violation.
9. **Additional Enforcement Rights.** Fines levied under this Policy are not the Association's exclusive remedy for addressing a violation. Nothing in this Policy precludes the Association from pursuing any other remedy provided under the Documents or under Colorado law for correcting the violation.
- A. **Recorded Notice of Violation.** The board may issue and record with the Clerk and Recorder of boulder County a Notice of Violation.
  - B. **Specific Assessments.** The Board may levy specific Assessments against any Owner and Owner's Lot for those purposes set forth in the Declaration, including, but not limited to reimbursing the Association for costs incurred in bringing an Owner into compliance.
  - C. **Self-help Remedies.** The Association or its duly authorized agent has the authority to abate or remove any structure, thing, or condition that violates the Documents as more fully provided in Section

3.4.4(10) of the Declaration. All costs of self-help will be assessed against and be a lien on the Owner's Lot.

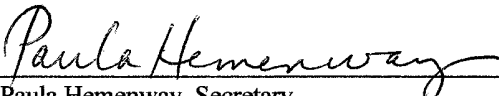
D. Suspension of Right to Vote. An Owner's right to vote may be suspended after notice to the Owner if the Owner is in violation of the documents as more fully provided in Section 3.4.4(11) of the Declaration.

10. Miscellaneous. Failure by the Association to enforce any provision of this policy shall in no event be deemed to be a waiver of the right to do so thereafter.
11. Severability. If a provision of this policy is or becomes illegal, invalid or unenforceable, that shall not affect the validity or enforceability of any other provisions of this policy.

Somerset Estates Homeowners Association, Inc.

By:   
Scott Abrahamson, President

This Enforcement and Fines Policy was adopted by the Executive Board on the 20<sup>th</sup> day of December, 2022, effective immediately, and is attested to by the Secretary of the Somerset Estates Homeowners Association, Inc.

By:   
Paula Hemenway, Secretary