

SOMERSET ESTATES HOMEOWNERS ASSOCIATION, INC.
ENFORCEMENT AND FINES POLICY

Adopted 2/27/2019

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").

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. Power. The Board shall have the power and duty to accept complaints from Members of the Association, or to issue complaints to Members of the Association; to appoint an "impartial decision maker" ("IDM") to hear and make decisions regarding violations and written complaints filed with the Board, or issued by the Board; and to impose fines or other sanctions, pursuant to this policy. As defined in the Act, [CRS 38-33-3-209.5(2)(b)(II)], the IDM means a person or group of persons who have the authority to make a decision regarding the enforcement of the Association's covenants, conditions, and restrictions, including its architectural requirements, and the other rules and regulations of the Association and who do not have any direct personal or financial interest in the outcome. A decision maker shall not be deemed to have a direct personal or financial interest in the outcome if the decision maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association. As used herein, the term "IDM" shall include any individual, tribunal or committee appointed by the Board consistent with the Documents and the Act, and may include members of the Board, members of the Architectural Control Committee (ACC), or other individuals selected by the Board. Initiation of a complaint by the Board does not disqualify the Board or any of members of the Board or the Association from serving as the IDM for that action. The IDM may determine enforcement action on a case by case basis, and take other actions it may deem necessary and appropriate to assure compliance with the Association's Declaration, Articles of Incorporation, Bylaws, and rules and regulations promulgated thereunder, as the same may be amended. 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.

2. Complaint. 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 ("Complainant") 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.

3. Notice of Complaint and Right to Hearing. 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 to the person(s) (the "Respondent") alleged to have violated the Documents, by prepaid, first class U.S. mail addressed to the mailing address of the Respondent appearing in the records of the Association. The notice shall advise the Respondent of the following: (1) the details of the complaint, or include a copy of the complaint; (2) the action that may be taken; (3) his/her right to be heard, either orally or in writing, by an IDM at a meeting of the Board that is at least fifteen (15) days after the date of the notice; (4) the date on which the hearing will be scheduled; and (5) the Board's right to proceed with or without a hearing, at its discretion, to make its determination of the allegation contained in the complaint based on all relevant facts and circumstances, if the respondent fails to appear at the specified date and time or otherwise respond to the complaint. 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 and impose and enforce fines as provided herein.

4. Hearing. Each hearing shall be held at the scheduled time, date, and place, unless the Respondent has failed to respond or appear at the hearing. The Board may grant continuance(s) for good cause. The IDM 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 IDM 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 to not present evidence at the hearing. Action taken by the IDM shall take into consideration all of the relevant facts and circumstances presented to it, and the IDM's decision will be final.

5. Decision. If the Respondent does not appear but a written response is filed, the IDM shall render its decision based on the information contained in the complaint and the written response, considering all of the relevant facts and circumstances presented to it. If neither an appearance nor a written response is made, the IDM need not conduct a hearing or make any further findings except that the IDM may determine that the Respondent's failure to appear or respond constitutes a waiver of the right to a hearing, and shall be deemed a no-contest plea to the complaint, and impose sanctions provided for herein or enforce the provisions of the Documents, or both. If an appearance is made, after all testimony and other evidence has been presented to the IDM at a hearing, the IDM shall render its decision(s), taking into consideration all of the relevant facts and circumstances presented to it. Except as provided herein, the IDM's decision shall have an effective date no sooner than five (5) days after the hearing. If the IDM does not inform the Respondent of its decision at the time of the hearing, or if no hearing is held, the Board will provide a written notice of the decision to the Respondent's address of record via first class U.S. mail within five (5) days after the decision is made.

6. Enforcement. The provisions of these policies and procedures shall not limit, or be a condition precedent to, the Association's right to enforce the Documents by any means available to the Association, as allowed by the Act and Article 15.7 of the Declaration. As stated in CRS 38-33.3-302 (1)(k)(I), the Association may, after notice and an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws, and Rules and regulations of the Association. This enforcement provision is in addition to other specific provisions outlined in the Documents, including suspension of membership privileges for as long as the violation continues and for up to 60 days thereafter. If the violation involves damage to Association property, the Association may levy a Specific Assessment exclusively against the violator's Lot to cover the costs of repair or replacement, in addition to any fines. Fines and Specific Assessments imposed pursuant to these policies and procedures shall become an Assessment imposed against the record Member's property and enforceable as provided in the Act, the Declaration, and the SEHOA Collection Policy.

(a) Fines may be levied for violations of the Documents as follows:

<u>Number of violations in a 12-month period</u>	<u>Fine Amount</u>
First violation:	Written warning
Second violation:	\$100
Third violation:	\$200
Fourth violation:	\$400

Any violation that is not corrected within 30 days may result in an additional violation, without another notice and hearing. Fines are cumulative. A Member or guest who accumulates more than 4 violations of the same type within a 12 month period will be deemed to be an habitual offender. Without limiting the Board's ability to fine or suspend membership privileges in accordance with these policies and procedures, habitual offenders, continuing violations, or violations that have an indefinite commencement or termination date, shall all be subject to a fine of \$400 per month until the violation is corrected, as determined by the Board.

(b) In the event that any Member's guest or renter/lessee violates the Documents and a fine is imposed, the Member shall pay the fine upon notice from the Board.

(c) If these fines do not bring compliance with the Documents, the board may take additional enforcement action, including exercising self-help or taking action to abate any violation of the

Documents, levying Specific Assessments to cover costs incurred by the Association to bring a Lot into compliance with the Documents, or taking other action to abate a violation on the Common Areas or a violation on a Lot in an emergency situation, and bringing action at law or in equity to enjoin any violation or to recover monetary damages or both.

7. Collection Costs and Attorney Fees and Costs.

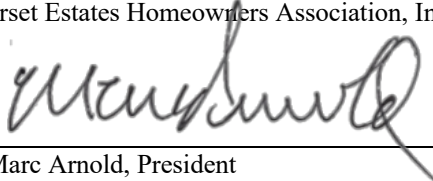
- (a) The Association shall be entitled to reimbursement of all reasonable attorney fees and costs incurred by the Association in connection with any enforcement action, including any proceeding under this policy. If a Member fails to timely pay any fines and Specific Assessments due to the Association under this policy, the Association may seek reimbursement for all collection costs and reasonable attorney fees and costs incurred as a result of such failure, without the necessity of commencing a legal proceeding, according to the SEHOA Collection Policy. For any failure to comply with the provisions of the Documents, other than the payment of any money or sums due to the Association, the Association or any Member adversely affected by the failure to comply may seek reimbursement for collection costs and reasonable attorney fees and costs incurred as a result of such failure to comply, without the necessity of commencing a legal proceeding.
- (b) If, as a result of the Association's process to hear a complaint, it is determined that the Respondent should not be held responsible for the alleged violation, the Association shall not allocate to that Member's account with the Association any of the Association's costs or attorney fees incurred in asserting or hearing the complaint. Notwithstanding any provision in the Documents, a Member shall not be deemed to have consented to pay such costs or fees.

8. Violations or Offenses that Constitute a Present Danger. If, in its sole discretion, the Board deems that any violation is or may be an immediate or substantial threat to the health, safety or welfare of the community or an individual, the Board may impose any appropriate sanction as necessary to abate the threat to health, safety or welfare of the community or individual without prior compliance with Sections 1 through 7 above.

9. 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.

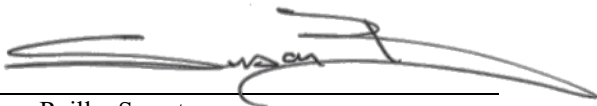
10. Severability. If a provision of this policy is or becomes illegal, invalid or unenforceable, that shall not affect the validity or enforceability of any other provisions of this policy.

Somerset Estates Homeowners Association, Inc.

By: 

Marc Arnold, President

This Enforcement and Fines Policy and Procedures was adopted by the Executive Board on the 27th day of February, 2019, effective the 27th day of February, 2019 and is attested to by the Secretary of the Somerset Estates Homeowners Association, Inc.

By: 

Susan Reilly, Secretary