

THE TOWN HOMES AT RED HAWK HOMEOWNERS ASSOCIATION, INC.

AMENDMENT TO BYLAWS EXHIBIT A

ENFORCEMENT POLICY AND PROCEDURES

Effective the 15 day of April 2008

In compliance with Colorado Statutes("C.R.S.") the Board of Directors of The Town Homes At Red Hawk Homeowners Association Inc (hereinafter "Association") adopts the following policy for Enforcement of Association Declaration of Covenants, Bylaws, and Rules and Regulations;

**RECITALS:**

- A. Pursuant to Colorado Revised Statute (38-33-3-209.5 (1) (b) (IV) the Association is required to adopt a policy concerning the enforcement of the Association's governing documents.
- B. C.R.S. 38-33.3-302 (1) (k) allows the Association to levy reasonable fines for violations of the declaration, bylaws, and rules and regulations ("The Governing Documents") provided notice and opportunity to be heard is given to the Member of the Association prior to the fine being imposed.
- C. C.R.S. 38-33-302 (1)(d) authorizes the Association to institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more Unit Owners on matters affecting the Common Interest Community. In the event the Association prevails with its claim C.R.S 38-33.3-123 allows the Association to seek reimbursement of its reasonable attorney fees and costs.
- D. For the benefit and protection of the Association and its members, the Board deems it desirable to establish and operate procedures to insure due process in cases where an Owner or tenant, their family members, their guests or invitees are alleged to have violated provisions of the Governing Documents, other than to failure to pay assessments.

**THEREFORE, IT IS RESOLVED:** That the following procedures shall apply to a violation of the Declaration of Covenants, Bylaws, or The Rules and Regulations. However, this resolution shall not apply to those sections of the Declaration and Bylaws concerning payment and collection of assessments.

1. **INFORMAL RESOLUTION OF VIOLATIONS**

- a. Any Owner, Owner's tenant, or agent of the Association may directly request that an Owner or resident cease or correct any act or omission, which is perceived to be in violation of the Governing Documents. It is the preference of the Board that residents of the community attempt informal resolution prior to seeking formal resolution.
- b. In the event the perceived violation is also a violation of Federal, state, or local laws or regulations, the Board may request the complaining resident to contact the appropriate government entity to report the perceived violation.
- c. In some cases the Association may be more reluctant to institute litigation than is the complaining Member. The Association would like this opportunity to advise the Members that any person subject to the Declaration and Colorado Common Interest Ownership Act may institute legal or equitable proceedings to enjoin violations of the Declaration or Act, and if successful, the complaining party is entitled to seek reimbursement of their reasonable attorney fees and costs.

**2. MEDIATION**

- a. The Association encourages residents of the community to mediate with their neighbors on issues that impact the party's involved but not necessarily other Members of the community. The Association intends to use mediation as a tool to address complaints alleging violations of the Association's governing documents; the decision of whether or not to employ mediation will be the reasonable discretion of the Board of Directors.

**3. FORMAL RESOLUTION OF VIOLATIONS**

- a. The Board or its agent may initiate Formal Resolution of Violations upon observation of a violation. No written notice of violation is necessary.
- b. Residents of the Association may initiate Formal Resolution of Violations by filing a written affidavit of violation with the Association via mail or hand delivery to its management company, in care of the Board. Said notice of violation must clearly indicate the specific nature of the violation, the date, time and location of the violation, the witness of the alleged violation, and the name(s) or Unit Address of the violator(s). At this time, the name of the Owner(s) or resident(s) making the complaint will not be divulged to persons other than the Board of Directors and its agent(s).
- c. If within the discretion of the Board, the written notice does not allege facts necessary to constitute a violation, the complainant will be notified in writing as to why no action was taken. The complainant may request a reconsideration of the complaint at a subsequent meeting of the Board. The complainant is required to attend this meeting.
- d. If the Board, having reviewed the allegations contained in the notice believes a violation of the Association's governing documents has occurred, the accused individual, or the Owner, if the accused individual is a tenant, family member, guest, or invitee, will be notified in writing that a complaint has been made citing the nature, date, time and location of the violation. The person charged shall have thirty (30) days from the receipt of this notification to request a hearing with the Board. Failure to respond to said notification may be construed as an admission of the violation, at which point the Board may levy a reasonable fine against the Owner(s) for the admitted violation.
- e. If the person charged with a violation responds requesting a hearing, a hearing shall be set and written notice of the date, time, and place of the hearing, together with a copy of the letter of the hearing procedures shall be provided to the accused.

**4. MISCELLANEOUS PROVISIONS:**

- a. The person obligated to pay the fine shall be the record Owner of real property subject to the Association's governing documents whether it is a natural person or a legal entity.
- b. Continuing violations shall constitute a separate violation for each 24-hour period the violation exists.
- c. Fines for violations of the governing documents will be imposed against the Owner and the real property subject to the Declaration of Covenants.

The Town Homes At Red Hawk Homeowners Association, Inc.  
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- d. Any and all money collected from such fines will be deposited in the Association's general fund.
- e. In the event the violation is of a continuing nature or if the violation constitutes a threat to the health, safety, or welfare of the residents or the property within the community, the Association acting through the Board of Directors may institute an action in a court of competent jurisdiction seeking relief to abate the violation without proceeding through procedures set forth in 3(c), 3(d), or 3(e) above. Nothing in this paragraph constitutes an election of remedies nor precludes the Board from levying fines as set forth above while at the same time seeking injunctive relief for violations of a continuing nature or violations that affect the health, safety, or welfare of the residents or the property.
- f. In the event it is determined the Association was the prevailing party in the suit the Association shall be entitled to seek reimbursement of its costs including reasonable attorney fees, court costs, and other legal costs; conversely, if it is determined the Owner was the prevailing party, the Owner shall be entitled to reimbursement of the same expenses and costs.
- g. In the event a Court of competent jurisdiction finds a provision of this Enforcement Policy void or otherwise unenforceable, the other provisions shall remain in full effect.

IN WITNESS THEREOF, the undersigned certify that this CONFLICT OF INTEREST POLICY was adopted at a duly called meeting of The Town Homes At Red Hawk Homeowners Association, Inc. held on the 18<sup>TH</sup> day of MARCH 2008

The Town Homes At Red Hawk Homeowners Association, Inc

BY:   
\_\_\_\_\_  
President

ATTEST:  
BY:   
\_\_\_\_\_

**AFFIDAVIT OF VIOLATION**

**DATE** \_\_\_\_\_

**Your Name:** \_\_\_\_\_

**Your Address:** \_\_\_\_\_

**Your Telephone Number:** \_\_\_\_\_

**Your E-mail address:** \_\_\_\_\_

**Information regarding incident(s): (Please include as much information as possible.)**

**Name of person alleged to have committed violation:**

**Address of person alleged to have committed violation:**

**Date(s) of alleged incident(s):** \_\_\_\_\_

**Please describe the incident(s) in detail (use additional sheet(s) if necessary):**

**What statutes, covenants, or other rules were violated (please identify specific sections)**

**Did anyone else witness the incident(s):**  yes  no

**If the answer is "yes" please identify each witness:**

**Name** \_\_\_\_\_ **Name:** \_\_\_\_\_

**Address** \_\_\_\_\_ **Address:** \_\_\_\_\_

**Telephone number** \_\_\_\_\_ **Telephone number** \_\_\_\_\_

**Please sign** \_\_\_\_\_

**Date** \_\_\_\_\_

**Please send completed notice to:**

**The Town Homes At Red Hawk HOA, Inc.  
%Western States Property Services  
10020 East Girard Avenue, Suit 175  
Denver, Co 80231**

**NOTICE OF COMPLAINT**

Name: \_\_\_\_\_  
Street address: \_\_\_\_\_  
City/State/Zip: \_\_\_\_\_

Date: the \_\_\_\_\_ day of \_\_\_\_\_ 2008

**Re: Alleged Violation**

Dear Sir or Madam:

The following information has been brought to the attention of the Board of Directors.

**Information regarding alleged incident(s):**

\_\_\_\_\_  
\_\_\_\_\_

**Date(s) of alleged incident(s):** \_\_\_\_\_

If true, the alleged incident(s) violates the following statutes, covenants, bylaws, rules, regulations, policies, and/or procedures (herein the citation of specific provision)

\_\_\_\_\_  
\_\_\_\_\_

Pursuant to Colorado Revised Statutes 38-33.3-302 (1) (k) and the Association's policies this letter shall serve as written notice of the alleged violation(s) of the provisions mentioned above. Violation(s) of provision(s) may subject the Owner of real property within the community to fines which may also result in a lien against the real property subject to Colorado Revised Statute 38-33.3-316.

This Notice of Complaint shall also serve to require the Board of Directors to allow you an opportunity to be heard with regard to the alleged violation(s) prior to the Board considering fines for the alleged violation(s).

In order to be heard by the Board of Directors you must respond to this Notice of Complaint within 30 days of the date of this Notice of Complaint by completing, signing, and return this notice as set forth below.

The information regarding the alleged incident(s) is not accurate, or the alleged incident(s) should not be a violation of the cited authority because:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Please sign \_\_\_\_\_

Date \_\_\_\_\_

Please send completed notice to:

**The Town Homes At Red Hawk HOA, Inc.**  
%Western States Property Services  
10020 East Girard Avenue, Suit 175  
Denver, Co 80231

**You will be contacted in writing to be advised of the date, time, and location of the hearing, or in the alternative that no hearing is necessary no fine will be imposed.**

### Notice of Hearing

This notice is to advise you of the date, time, and location of the hearing before the Board of Directors in the matter of the alleged violation(s) documented in the Notice of Complaint dated the \_\_\_\_\_ Day of \_\_\_\_\_ 2008.

Date set for Hearing: \_\_\_\_\_ Time set for hearing: \_\_\_\_\_

Location set for hearing: \_\_\_\_\_

#### The hearing procedures shall be as follows:

1. The Board, through its chair, shall direct the proceedings at the hearing. The person charged or the person's representative or other Members or residents may speak only after being recognized by the chair.
2. The chair will describe the specific provision of the declaration or rule or regulation, which is said to have been violated, including the date and place, or read the written complaint to the person charged.
3. The person charged shall be asked to admit or deny the charge. The person charged may speak for himself or may be represented by counsel throughout the hearing. Failure to respond or attend the hearing may be construed as an admission of the alleged violation.
4. If the charge is denied, the complaining witness or other witnesses having personal knowledge of the facts supporting the alleged violation shall be asked to describe the details and circumstances giving rise to the perceived violation of the Governing Documents.
5. The person charged shall have the opportunity to confront each witness who testifies against him, and offer a defense to the actions or omissions giving rise to the alleged violation of the Governing Documents.
6. When all complaining witnesses have been heard, the person charged may make statements in rebuttal, and provide witnesses in support of that position. The chair may ask questions of each witness in turn.
7. The Board shall have the opportunity to question any witness or involved parties if it so desires.
8. At the conclusion of the hearing, the Board shall discuss the statements and vote whether or not the person charged violated the provisions of the Association's Governing Documents. A majority vote shall control. The result of the vote shall be in the minutes of the meeting, and announced to the person charged and the party or parties who filed the complaint.
9. If the Board does levy a fine, the Board shall provide written notice to the Owner of the fine and date payment of the fine is due. In the event the Owner fails to pay the fine consistent with the notification, appropriate legal action may be initiated by the Board of Directors to collect the fine.
10. The Board of Directors must use reasonable discretion in levying fines in accordance with the severity of the violation. The following is a schedule of the presumptive fine range for ordinary violations of the Governing Documents.

First Violation	fine up to \$50
Second Violation	fine up to \$50
Subsequent Violation	fine up to \$100