

**Park River West Condominium Association, Inc.**  
**Policy for Enforcement of Declarations, Covenants and Rules,**  
**including Notice and Hearing Procedures and the Schedule of Fines**

Adopted 21 January 2018

The following policies and procedures ("Policy") governing Enforcement of Declarations, Covenants and Rules, including Notice and Hearing Procedures and the Schedule of Fines have been adopted by the Park River West Condominium Association, Inc. ("Association") pursuant to C.R.S. 38-33.3-209.5 at a meeting of the Board of Directors.

1. GENERAL

A. Statutes Superior to All. The provisions of the Declarations and Bylaws of the Association are incorporated in this Policy by reference and govern for all purposes when not in conflict with the Colorado Common Interest Ownership Act ("CCIOA"), as it exists or may be amended, and the Colorado Revised Nonprofit Corporation Act, as it exists or may be amended. This Policy is subordinate to and shall only supplement the Declarations and Bylaws where they are otherwise silent. The provisions of this Policy shall be independent and severable. The declaration of invalidity of any one or more of the Policy provisions by court order or decree shall in no way affect the validity or enforceability of any other provision, which other provisions shall remain in full force and effect.

B. Fairness. This Policy is adopted to ensure a fair and impartial fact-finding process concerning whether the alleged violation actually occurred and whether the Unit Owner should be held responsible for the violation. This process may be informal but shall, at a minimum, guarantee the Unit Owner notice and an opportunity to be heard before an impartial decision maker.

C. Impartiality. The Board acting as a whole shall be the statutory "impartial decision maker" with 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. The mere ownership interest of a Director in a Unit shall not constitute a direct personal or financial interest in the outcome. A Director shall not be deemed to have a direct personal or financial interest in the outcome if the Director will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association. A Director with a greater benefit or detriment is obligated to disclose the impediment to the Board before any hearing, deliberation, or decision; and, the Director shall recuse herself forthwith from such proceedings.

D. Governing Instruments. The provisions of Declaration Sec. 13 and Bylaws Article II Section 9 give the authority to the Board to enforce all covenants, declarations, Bylaws and rules of the Association. Declaration Sec 13 authorizes the Association to collect damages, costs, and attorney fees incurred by the Association for violations of the Declarations, Covenants, Bylaws and Rules. Declaration Sec. 25 provides rules for

notice to an Owner by the Board, and notice to the Board by an owner, as well the time for hearing and decision. The Section 25B hearing is called Mediation. Declaration Section 26 compels the Association and Unit Owners to employ Arbitration after the Section 25B Mediation in disputes between the Association and a Unit Owner. Section 27 sets out the schedule of fines and the procedure giving advance notice of intent to levy the fine and an opportunity to show cause and be heard prior to Board action. Interpretation and application of the foregoing provisions is reserved to the Board as a Policy of the Association and under the general rulemaking authority vested in the Board under Declaration Section 13 and Colorado Revised Nonprofit Corporation Act.

E. Vicarious Responsibility. All Unit Owners are liable and responsible for all acts of themselves, their officers, agents, family, guests, tenants and invitees. All violations of officers, agents, family, guests, tenants and invitees are imputed to the Unit Owner; and, no defense of third party responsibility shall be entertained in such instances.

## 2. DUE PROCESS

A. Complaints. The Association recognizes that complaints arise in any number of contexts, and that the Board as a whole and individual Board members may receive complaints in writing, but most often verbally from Unit Owners or by a Board Member's own observation. Notice of a violation received orally or by observation shall be given the same treatment as one received in writing.

B. Informal Action. The Association policy is to deal with complaints as soon as practicable and in a respectful neighborly fashion without resort to punitive action. Upon initial receipt of a complaint by the Board as a whole or an individual Member, a Board Member or the whole may confer with the President to determine if a violation is occurring immediately. If such is the case, then the President or any other Board Member shall contact the Unit Owner or his/her Agent by any method to inform the Unit Owner of the violation and request that it cease. If the Unit Owner complies and there is no cost of repair, no further action will be taken, but the violation shall be noted so that it might be taken into account if there are repetitive violations.

C. Response to Noncompliance – Initial. If after an informal contact concerning the violation the Unit Owner (including the officer, agent, tenant, guest, or permissive occupant of an Owner) refuses to cease the violation or persists in the violation, the President or her designee shall have the authority to take action to immediately rectify the violation where the violation impacts safety, parking, access, noise, violation of law, or protection of the General Common Elements. The expense of remediation of the violation shall be noted and submitted to the Board to institute formal Action.

D. Formal Action. In all cases where a violation persists after informal action or where remediation expense has been incurred to remedy a violation, the matter shall be placed on the agenda of the next succeeding meeting of the Board for consideration. If the Board determines that the collection of remediation expense is appropriate or a fine may be imposed for the violation, then a Hearing before the Board shall be held upon written notice to the Unit Owner in the method dictated by Declaration Sec 25B (hearing in no more than 30, decision no more than 15 days thereafter) and containing the detail

of the alleged violation and prospective fine, together with any other content required by Declaration Sec. 27. The Hearing shall be that provided for in Declaration Sec. 27 (Fines) and no second hearing under that provision shall take place. The Hearing is a meeting of the Board, and other business may be taken up before or after the Hearing.

E. Conduct of Hearing. The President of the Association or her designee shall act as the presiding officer at the Hearing. The President or her designee shall appoint one Board Member (Advocate Member) or a duly licensed Colorado attorney to present the case for a violation when there is no third party advocate complaining, such as a complaining Unit Owner. The Board of Directors, including the President, acting as a whole deliberative body shall first hear the presentation of facts by the Advocate Member, Association Attorney, or third party complainant. Then the alleged Unit Owner violator or her designee shall be entitled to present her case in opposition or mitigation. If an alleged violator Unit Owner shall fail to appear at the time and place of Hearing he/she shall be deemed to have waived the right to present a case and the Hearing shall proceed in his/her absence. The President shall have authority to limit the time allotted to both the advocate for the complaint and the Unit Owner for their respective presentation, including time allotted to the Directors to pose questions to the parties. Each party shall be allotted no less than 10 minutes to present a rebuttal and final argument to the Board after the presentations shall be concluded.

F. Deliberations. Deliberations shall take place within 14 days after the Hearing is concluded. Any Board Member, including the Advocate Member if so appointed, may recuse himself or herself prior to deliberation if he or she feels that he/she cannot act as an impartial decider of fact even if he or she would not otherwise be disqualified by the terms of the CCIOA. The deliberations shall take place in closed session and outside the presence of witnesses or the alleged violator so that the Board may freely and bluntly discuss the facts and potential penalties.

G. Decision. The decision of the Board shall be in writing, made no more than 15 days after the close of the Hearing, and conveyed to the Unit Owner in the manner required by Declaration Sec. 25A. That is, by personal delivery or by regular US First Class Mail, postage prepaid to the Declaration Sec. 20A address provided by the Unit Owner. If no violation is found, then the Decision shall so state. If a violation is found to exist, then the Decision shall set forth the Declaration provision and/or Rule violated, the number of times the Unit Owner has previously been found to be in violation of the Declaration or Rule, the amount of any fine imposed, costs of remediation assessed, and attorney fees incurred and assessed.

H. Schedule of Fines. The Schedule of Fines set out in Declaration Sec. 27 governs, together with the authority of the Association in Declaration Sec 27 and Sec 13 to impose the costs and attorney fees upon a Unit Owner found to be in violation. Generally, a first offense fine is \$25; a second offense, \$50; and, a third offense \$150, plus costs and attorney fees. Declaration Sec 13 empowers the Association to collect the costs of remediation (damages) as well as costs and attorney fees for all violations.

3. ENFORCEMENT

A. No Violation. If the Decision is that no violation has occurred, no penalty or costs shall be imposed on a Unit Owner, whether the alleged violator or a complainer.

B. Violation. Where a violation has occurred, the Decision shall be sent to the Unit Owner/violator in the manner required by Declaration Sec. 25A. The Association is empowered to collect upon the Decision after non-payment 30 days from the date of the Decision, including the imposition of lien upon the offending Unit, but subject to Arbitration.

Park River West Condominium Association, Inc.

By: \_\_\_\_\_  
Judy M. Domina, President

Attest: \_\_\_\_\_  
Mindy Stephens, Secretary

This Meetings Policy was adopted by the Board of Directors at a regular meeting held on the 21st day of January, 2018, and is effective the 21st day of January, 2018, and is attested to by the Secretary of the Park River West Condominium Association, Inc.