

**RESOLUTION
OF THE
MICHIGAN HILL OWNERS 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 uniform procedure to be followed when enforcing covenants and rules to facilitate the efficient operation of the Association.

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

**EFFECTIVE
DATE:** April 15, 2012

RESOLUTION: The Association hereby adopts the following policy which follows closely the draft of Motion 5 presented but not passed at the August 28, 2011 and December 10, 2011 Board meetings.

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, 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 Board of Directors. 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.

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 designated individual or committee. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.

4. Initial Warning Letter. If the violation is a continuous violation, meaning one that continues and is uninterrupted by time, the letter shall advise the Violator that he or she will have 14 days from the date of receipt of the letter to come into compliance without further sanction. For purposes of this policy, an owner is deemed to have receipt of the letter 5 days after such letter is placed in the US Mail. If the violation is not a continuing one, meaning the violation is a one-time discrete violation, such as noise violations, the letter shall contain a statement advising the Violator that any additional similar violations could result in the imposition of a fine after notice and hearing. All notices sent pursuant to this Policy shall be sent by U.S. mail and a copy by certified U.S. mail with a return receipt.

5. Continued Violation After Initial Warning Letter. If the alleged Violator does not come into compliance within 45 days of the warning letter or any subsequent letter, if the violation is a continuous one, such continued violation will be considered a subsequent violation. The Board may, upon review of the specific situation, determine if the violation can be reasonably cured within the 14 days. If the Board determines the violation cannot be reasonably cured within the 14 day period, may extend the cure period up to 90 additional days. In such a case, or if the alleged Violator subsequently violates a covenant or rule previously violated and for which the alleged Violator has received a prior violation letter, a fine letter shall then be sent to the alleged Violator, providing notice and an opportunity for a hearing, and explaining a fine may be imposed pursuant to this Policy. The letter shall further state that the alleged Violator is

entitled to a hearing on the merits if the owner requests a hearing.

6. Notice of Hearing. If a hearing is requested by the alleged Violator, the Board, committee or other person conducting such hearing as may be determined in the sole discretion of the Board, may serve a written notice of the hearing to all parties involved at least 14 days prior to the hearing date.

7. Impartial Decision Maker. Pursuant to Colorado law, the alleged Violator has the right to be heard before an "Impartial Decision Maker". An Impartial Decision Maker is defined under Colorado law as "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 architectural requirements, and other rules and regulations of the association and 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." Unless otherwise disqualified pursuant to the definition of Impartial Decision Maker, the Board may appoint to act as the Impartial Decision Maker the entire Board, specified members of the Board, any other individual or group of individuals.

8. 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 Impartial Decision Maker 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, all hearings shall be open to

attendance by all Owners. After all testimony and other evidence has been presented at a hearing, the Impartial Decision Maker shall, within a reasonable time, not to exceed 10 days, render its written findings and decision, and impose a fine, if applicable. 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.

9. Failure to Timely Request Hearing. If the alleged Violator fails to request a hearing within 14 days of any letter, or fails to appear at any hearing, the Impartial Decision Maker 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.

10. Notification of Decision. The decision of the Impartial Decision Maker shall be in writing and provided to the Violator and Complainant within 30 days of the hearing, or if no hearing is requested, within 30 days of the final decision.

11. Appeals. The Violator may file a written appeal to the Board of Directors (if the Board does not act as the Impartial Decision Maker) of any adverse decision of the hearing committee or individual within 14 days of the decision.

12. Fine Schedule. The following fine schedule has been adopted for all recurring covenant violations:

First violation Warning letter

Second violation
(of same covenant or rule) \$50.00

Third and subsequent violations
(of same covenant or rule) \$100.00

Third and subsequent covenant violations may be turned over to the Association's attorney to take appropriate legal action.

13. Continuous Violations. Continuous violations are defined as violations of Owner obligations that are uninterrupted by time. *For example: the failure to remove an unapproved exterior improvement or the continuous parking in a fire lane.* If an Owner is determined as having a continuous violation, in accordance with the terms of this Policy, such Owner may be subject to a monthly fine of \$100.00 each per month per covenant if not corrected, following a notice and opportunity for a hearing as set forth above.

14. Waiver of Fines. The Board may waive all, or any portion, of the fines if, in its sole discretion, such waiver is appropriate under the circumstances. Additionally, the Board may condition waiver of the entire fine, or any portion thereof, upon the Violator coming into and staying in compliance with the Articles of Incorporation, Declaration of Covenants, 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 of Covenants, 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, words initially capitalized or terms defined in the Declaration of Covenants 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 of Covenants and the law of the State of Colorado governing the Project.

18. Deviations. In the event of emergencies or in the event the Board of Directors, in good faith, fails to fully comply with the above policy, such action taken will not invalidate the policy.

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 Association 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 held on April 14, 2012 and in witness thereof, the undersigned has subscribed his/her name.

MICHIGAN HILL OWNERS ASSOCIATION, INC.

By: *Fred Depenbrock*
Its: President