



# BUFFALO CREEK

A T W E L L I N G T O N

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**Buffalo Creek HOA  
Notice and Hearing Procedure  
Covenant Enforcement Guidelines**

Approved: June 30, 2003; April 11, 2013; May 14, 2015

**Revised: September 9, 2021**

*(Guidelines subject to change without notice)*

- 1. Complaint** – Action concerning a violation of the Declaration of Protective Covenants, Conditions, and Restrictions for Buffalo Creek ("Declaration"), Rules and Regulations, and other governing documents shall be initiated by a complaint from a Member, the Board of the Buffalo Creek Homeowners Association, Inc. ("Association"), or the Managing Agent. Complaints from Members must be in writing addressed to the Managing Agent and must provide all relevant details of the alleged violation. The Managing Agent shall make all reasonable efforts to verify the alleged violation, as soon as reasonably practicable, following receipt of the complaint.
- 2. Notice of Alleged Violation** – The Managing Agent or the Board shall send notice of an alleged violation of any provision of the Declaration, Rules and regulations, or other governing document to the applicable Member, as soon as reasonably practicable, following review of the

complaint. In addition, the Managing Agent or the Board may provide, at its option, a copy of such notice to any non-owner violator. The notice shall describe the nature of the violation, a date by which the violation shall be remediated, the potential fine, the right to a hearing, and that the Board may seek to protect the Association's right, as specified in the governing documents.

**3. Service of Notices** – Service of all notices required or permitted to be given hereunder shall be made as follows:

- i. If to a Member and/or Lessee** – By personal delivery, which includes email, to the Member and/or Lessee, or by U.S. Mail (postage prepaid), addressed to the last registered address of the Member and/or Lessee as contained in the Association's records.
- ii. If to the Association** – By Managing Agent, personal delivery, email, or U.S. Mail (postage prepaid), addressed to the Association in care of its registered agent and office, as maintained with the Colorado Secretary of State or such other address as the parties may be advised in writing.

**4. Request for Hearing** – If a Member desires a hearing to challenge or contest any alleged violation and possible fine, said Member must request such hearing in writing and shall describe the basis for challenging the alleged violation. In the event a proper and timely request for a hearing is not made within seven (7) days from the date of the notice, the right to a hearing shall be deemed forever waived. If a hearing is not requested within the seven (7) day period, the Board shall determine if a violation has occurred, and if so, assess a reasonable fine as provided within these Notice and Hearing Procedures/Covenant Enforcement Guidelines (hereinafter "Procedures and Guidelines"). The Board may also proceed with any further action it deems necessary to compel compliance. The fine shall be collectable as an assessment in the manner provided in Article VI and VII of the Declaration. The Managing Agent shall give notice of said assessment to the applicable Member as provided in these Procedures and Guidelines.

**5. Board To Conduct Hearing** – The Board shall hear and decide cases set for hearing pursuant to these Procedures and Guidelines. The Board may appoint an officer or other Member to act as the presiding officer in any of the hearings.

**6. Conflicts** – Any Board member who is incapable of objective and disinterested consideration at any hearing shall disclose such to the President of the Board prior to the hearing, if possible, or, if advance notice is not possible, then such disclosure shall be made at the hearing, and the Board member shall be disqualified from all proceedings with regard to the hearing. If disqualification of any Board member(s) results in an even number of remaining Board members eligible to hear a case, the presiding officer of the hearing may appoint a Member, in good standing, to serve as a voting member of the hearing board.

**7. Hearing** – The Board shall inform the Member of the scheduled time, place, and date of the hearing, provided that the presiding officer may grant continuances for good cause. Unless otherwise determined by the Board, all hearings shall be open to attendance by all Members. The Board will provide the Member written notice of its decision.

**8. Fine Schedule** – Unless otherwise provided, any violation of the Declaration, Bylaws, Rules and Regulations, or other governing document shall subject the Member to a reasonable fine. Said fines shall be as follows:

- i. First Notice of Violation** – Written warning letter. No Fine.
- ii. Second Notice of Violation** – (14 days after written warning letter): \$50.00 fine.
- iii. Third Notice of Violation** – (28 days after written warning letter): an additional \$100.00 fine.
- iv. Fourth Notice of Violation** – (42 days after written warning letter): an additional \$200.00 fine and subsequent cumulative \$200.00 fines every 14 days thereafter of noncompliance.

Notwithstanding any provision of this fine schedule or these Procedures and Guidelines, the Board may use any legal means available at any time to enforce the terms of the Declaration, the Bylaws, or any other governing document of the Association, including filing a lawsuit against the Member to compel compliance.

**9. Miscellaneous**

- i.** Failure by the Association, the Board, or any person to enforce any provision of these Procedures and Guidelines shall, in no event be deemed a waiver of the right to do so thereafter.
- ii.** The provisions of these Procedures and Guidelines shall be deemed to be independent and severable, and the invalidation of any one or more of the provisions hereof, or any segment thereof, by judgment or decree of any court of competent jurisdiction, shall in no way affect the validity or enforceability of the remaining provisions, which shall remain in full force and effect.
- iii.** Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular, and the use of any gender shall include all genders.
- iv.** The captions to the sections are inserted herein only as a matter of convenience and for reference and are in no way to be construed so as to define, limit, or otherwise

describe the scope of these Procedures and Guidelines or the intent of any provision thereof.

**IN WITNESS WHEREOF**, the undersigned, as President of the Buffalo Creek Homeowners Association, Inc., certifies that the Executive Board adopted these Notice and Hearing Procedures/Covenant Enforcement Guidelines, on the 9<sup>th</sup> day of September 2021.

*Sally Weisser, President*

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