

THE BEAVER CREEK LODGE CONDOMINIUM ASSOCIATION, INC.

EXECUTIVE BOARD RESOLUTION

**ENFORCEMENT POLICY AND SCHEDULE OF FINES**

The Executive Board of The Beaver Creek Lodge Condominium Association, Inc., a Colorado nonprofit corporation (the "Association"), hereby approves and adopts the following Resolution:

**RESOLVED**, that the following Policy of the Association is hereby adopted and ratified:

1. Enforcement of Association's Documents. The Executive Board shall have the power and duty to hear and make decisions regarding violations of Project Documents and written complaints filed with the Executive Board and impose Fines or other sanctions pursuant to this Policy. The Executive Board may determine enforcement action on a case by case basis, and take other actions as it may deem necessary and appropriate to assure compliance with the Declaration, Articles of Incorporation, Bylaws, and any Rules and Policies promulgated thereunder (hereafter collectively the "Project Documents"), and to create a safe and harmonious living environment.

a. *Complaint.* A proceeding to determine if the Project Documents have been violated and any enforcement measures and remedies that may apply shall be initiated by the filing of a written complaint with or by the Executive Board. The complaint shall state the specific provision(s) of the Project Documents alleged to have been violated and as many specifics as are available as to time, date, location and persons involved including the name of the complainant.

b. *Board Determinations; Notice Procedure.* Upon the filing of a complaint with or by the Executive Board, the Board shall determine whether the allegations in the complaint are sufficient to constitute a violation of the Project Documents and if action is warranted. If such determinations are made, the Executive Board shall serve a written notice of the hearing to all parties involved at least ten (10) days prior to the hearing date.

c. *Hearing Procedure and Decision.* 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 Executive Board 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 Executive Board, all hearings shall be open to attendance by all Owners. After all testimony and other evidence has been presented at a hearing, the Executive Board shall, within a reasonable time, not to exceed ten (10) days, render its written findings and decision, and impose a fine, if applicable. A decision, either a finding for or against the Owner, shall be by a majority of the Executive Board members present at the hearing. The decision of the Executive Board shall be final. The minutes of the hearing shall contain a written statement of the results of the hearing and sanction, if any, imposed. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the Executive Board's decision absent a showing of denial of due process.

d. *Failure to Timely Request Hearing.* If the alleged violator fails to request a hearing within ten (10) days of any letter, or fails to appear at any hearing in person, or if that is not reasonable, by telephone, Skype or other similar technology, the Executive Board 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.

e. *Decision Maker Impartiality.* Any Executive Board member who has a direct personal or financial interest in the outcome of the decision must recuse him or herself from voting on the matter, but may participate in the discussion. An Executive Board Member shall not be deemed to have a direct personal or financial interest in the outcome of the decision if the Executive Board member will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association.

f. *Notification of Decision.* The decision of the Executive Board shall be in writing and provided to the violator and complainant within ten (10) days of the hearing, or if no hearing is requested, within ten (10) days of the final decision.

g. *Waiver and Modification of Procedure.* The Association has the option and right to continue to evaluate each enforcement issue on a case by case basis. The Association may grant a waiver of any provision herein. Such relief granted to an Owner shall be appropriately documented. In addition, the Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association may determine appropriate under the circumstances. In addition, the Association is hereby authorized to modify any of the procedures contained herein, as the Association may determine appropriate under the circumstances.

2. Schedule of Fines. Any violation of the Project Documents will subject to the Owner to a reasonable Fine imposed by the Association in accordance with this Policy:

a. Notice of Violation: Written warning or posting of notice.

b. Fines shall be determined by the Board for each finding of a violation based on the type, severity, repetition and circumstances of each violation based on the following guidelines:

First time or minor violations	between \$25 and \$75
Repeated minor violations	between \$50 and \$100
Repeated or flagrant violations	between \$100 and \$300

c. The Board may from time to time establish certain violations as minor or flagrant so that Fines are imposed consistently.

d. In the event of a continuing violation, a daily Fine may be levied if, and only if, the Association's agent performs a daily inspection to verify that the violation is continuing.

4. Definitions. Unless otherwise defined in this Policy, initially capitalized or terms defined in the Declaration and Bylaws shall have the same meaning herein.

5. Supplement to Law. The provisions of this Policy shall be in addition to and in supplement of the terms and provisions of the Declaration, Bylaws, and the law of the State of Colorado governing the Project.

6. Deviations. The Executive Board may deviate from the procedures set forth in this Policy if in its sole discretion such deviation is reasonable under the circumstances.

7. Defenses. Failure of the Association to comply with any provision in this Policy shall not be deemed a defense to payment of Assessments or other charges, late charges, return check charges, attorney fees and/or costs otherwise payable to the Association.


### CERTIFICATION

I, the undersigned, do hereby certify:

That I am a duly elected and acting Secretary of The Beaver Creek Lodge Condominium Association, Inc., a Colorado nonprofit corporation; and

That the foregoing Resolution was duly adopted by action of the Executive Board of the Association at its meeting held on November 7<sup>th</sup>, 2013, at which a quorum was present.

Dated: November 11<sup>th</sup>, 2013.

  
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Terry L. Krieger, Secretary