

SUMMER HILL SUBDIVISION

POLICY REGARDING ENFORCEMENT OF THE DECLARATION, BYLAWS, RULES AND REGULATIONS AND POLICIES

Section 1. Any member of the Association may file a written complaint of any alleged violation of the Declaration, Bylaws, Rules and Regulations or Policies of the Association (hereinafter the "Association's governing documents"), by any other member, **EXCEPT FOR THE FAILURE TO PAY ASSESSMENTS** by providing written notice thereof addressed to the Board of Directors and delivered to any Board member. Said notice shall state the facts upon which the alleged violation is based, and refer to the specific section in the Association's governing documents that allegedly has been violated. The notice shall state the name and address of the member making said complaint and the name and address of the member who has committed the alleged violation.

Section 2. Upon receipt of a notice of an alleged violation by a member, the Board of Directors shall meet in a timely manner, not to exceed 30 days, to determine whether a violation has or may have occurred, based on the facts as alleged in the notice. The Board may request additional information or clarification from the alleging member regarding the issue in question. Thereafter, the Board shall take the following action.

(a) If the Board determines that a violation has not occurred, or that it will take no action notwithstanding that a violation has occurred, it shall so notify the member filing the complaint. It shall also send a notice to the member allegedly in violation that a complaint had been filed with the Board, the nature of the complaint, and that the Board has taken no action on said complaint, and advise such member that the complaining member may still pursue the matter individually. Thereafter, the member may take such action as allowed herein.

(b) If the Board determines that a violation has, or may have occurred, it shall notify the member against whom the complaint has been brought, in writing, of the allegations against such member. Said notice shall contain generally the same information as contained in the notice received by the Board by the complaining member, and include the name and address of the complaining member. Said notice shall be hand delivered, sent via e-mail or first class mail to the member who has allegedly violated the Association's governing documents. A copy of said notice shall also be sent to the complaining member. The Board shall then contact both parties to schedule a hearing to determine the matter. Once the hearing has been scheduled, the Board shall cause written notice to be sent to both parties confirming the date, time and place of the hearing, at which time the member against whom a complaint has been brought may respond to such

allegations. The hearing on such matter shall be set within a reasonable time, depending on the urgency of the matter at issue. Generally, the hearing should occur within 7 to 21 days from the date of the notice. Said notice shall be hand delivered, or sent via first class mail to the member who has allegedly violated the Association's governing documents. A copy of said notice shall also be delivered or mailed to the complaining member. Any party or the Board may request a continuance of the hearing for good cause shown, upon 3 days prior notice to the Board. The Board will make every effort to coordinate an acceptable date for the continued hearing.

(c) At the hearing, at which a majority of the Board must be present, both parties may present their case to the Board, with the complaining party presenting his/her case first. The responding member may then present his/her case, and the complaining party may present rebuttal evidence. The Board shall determine what evidence is to be allowed.

(d) At the conclusion of the hearing the Board shall deliberate, and may announce its decision at such time, or may take the matter under advisement. All decisions by the board shall be by a majority vote of those members in attendance and eligible to vote. The Board shall issue a written order including its findings of fact and conclusions. If the board determines that a violation has occurred, then the Board may establish and enforce appropriate penalties for the violation thereof, including without limitation the levying and collecting of fines for said violation of any of the Association's governing documents. The remedies provided by this article shall be liberally administered to the end that the aggrieved member is put in as good a position as if the violating member had fully performed, and that any fine or penalty is appropriate for the violation, and not arbitrary or capricious. However, consequential, special, or punitive damages may not be awarded except as specifically provided in the Association's governing documents or by other rule of law.

Section 3. Either the complaining member or the member allegedly violating the Association's governing documents may appeal any decision by the Board by filing a civil action in the appropriate court in Mesa County, Colorado against the other member. In any such action the court shall award to the party prevailing on such claim the prevailing party's reasonable collection costs and attorney fees and costs incurred in asserting or defending the claim.

Section 4. Any dispute or claim against the Association for the enforcement of the covenants, conditions, restrictions, easements, reservations, rights-of-way, liens, charges and other provisions contained in this Declaration, the Articles of Incorporation, Bylaws,

Rules and Regulations and Policies of the Association, as amended, shall be by any proceeding at law or in equity in the appropriate court in Mesa County, Colorado.

Section 5. Any member of the Association may file a civil action against any other member for an alleged violation of the governing documents of the Association (EXCEPT FOR THE FAILURE TO PAY ASSESSMENTS), without first filing a complaint with the Board of Directors. However, if such member has filed a complaint with the Board, such member shall be precluded from filing such action: (a) until after receiving notice that the Board is not taking any action on said alleged violation; or (b) through an appeal of a decision by the Board under Section 3. Such action shall be filed in the appropriate court in Mesa County, Colorado.

Section 6. Any controversy between the Association and a member or between two members arising out of the provisions of this article may be submitted to mediation by either party to the controversy prior to the commencement of any legal proceeding. The mediation agreement, if one is reached, may be presented to the court as a stipulation. Either party to the mediation may terminate the mediation process without prejudice. If either party subsequently violates the stipulation, the other party may apply immediately to the court for relief.

Section 7. In addition to the individual members, the Board may enforce the provisions of the Association's governing documents. Only the Board may enforce the collection of fines, penalties and/or assessments against any member by first sending a written notice thereof demanding payment thereof from any member within 20 days from personal service of said notice or 30 days after written notice is mailed to such member. If the member has not paid by the deadline in said notice, or the Board acts to enforce other provisions of the Association's governing documents then the Board shall follow the provisions contained in Section 2. Under such circumstances, the Board shall act as the complaining party and the member shall respond thereto. If the Board votes to uphold the assessment, fine or penalty, or any portion thereof, or to enforce any other provision of the Association's governing documents, the member may appeal such decision in accordance with the provisions of Sections 3 and 4.

Section 8. In any civil action brought under the provisions herein, to enforce or defend the provisions of the Declaration, Bylaws, Articles or rules and regulations, whether such action is between two members, or a member and the Association, the court shall award the prevailing party its reasonable attorneys' fees, costs and costs of collection. If such action is between the Association and a member, and the member prevails because the court finds that the member did not commit the alleged violation, the Association shall be precluded from allocating to such member's account with the Association, any of the Association's costs or attorneys fees incurred in asserting or defending the claim. Such member shall not be deemed to have confessed judgment to such attorneys' fees or collection costs.

Section 9. If the Board assesses a member and no appeal is filed, or the decision of the Board is upheld in a civil action on appeal, the Board may record a notice of assessment against such member with the Mesa County Clerk and Recorder, which shall be a lien on such member's lot in the subdivision until paid.

Section 10. Nothing contained herein shall prevent the Board from using any other means to resolve disputes between the Association and a member or between two members before conducting a hearing or before litigation, such as mediation or informal discussions between the Board and a member or members.

Section 11. Notwithstanding any law to the contrary, no action shall be commenced or maintained to enforce the terms of any building restriction contained in the provisions of the Declaration, Bylaws, Articles, or rules and regulations or to compel the removal of any building or improvement because of the non compliance of the terms of any such building restriction unless the action is commenced within one year from the date from which the person commencing the action knew or in the exercise of reasonable diligence should have known of the non compliance for which the action is sought to be brought or maintained.

Adopted on _____

Secretary