

**PORTAL ESTATES HOMEOWNERS ASSOCIATION
AMENDED ENFORCEMENT POLICY**

Adopted January 8, 2024

The following amended procedures have been adopted by Portal Estates Homeowners Association (“Association”) pursuant to the provisions of C.R.S. 38-33.3-209.5, at a regular meeting of the Board of Directors.

Purpose: To establish a uniform and systematic procedure for enforcement of covenant violations in the community including assessment of fines and other remedies and to comply with legislative changes effective on or about August 10, 2022.

NOW, THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following amended policies and procedures for the enforcement of the Association’s restrictive covenants and rules:

1. Power. The Board of Directors shall have the power and duty to hear and make decisions regarding violations and written complaints filed with the Board and impose fines or other sanctions, pursuant to this policy. The 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 of Covenants, Conditions, and Restrictions of Portal Estates (“Declaration”), the Association’s Articles of Incorporation, Bylaws, and rules and regulations (collectively the “Documents”) promulgated thereunder, and to create a safe and harmonious living environment.

These enforcement provisions may be in addition to other specific provisions outlined in the Documents, and the Association is not required to follow these enforcement provisions before seeking such other remedies except as may be required by Colorado law. The Association may choose a legal remedy or seek assistance from other enforcement authorities, such as police, fire, or animal control, as it deems appropriate.

2. Complaint. A proceeding to determine if the 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 Association’s management company, if any, Board member(s) or committee member(s). The complaint shall state the specific provision(s) of the Documents alleged to have been violated and as many specifics as are available as to time, date, location and persons involved.

3. Notice of Complaint and Warning Letter. Upon receipt of a complaint, if the Board determines that the allegations in the complaint are sufficient to constitute a violation of the Documents and that action is warranted, the Board may, but shall not be required to, send a warning letter (“Warning Letter”) to the person(s) (the “Respondent”) alleged to have violated the Documents, by e-mail and/or prepaid, first class United States mail addressed to the mailing address of the Respondent appearing on the records of the Association. The Warning Letter shall advise the Respondent of the following: (1) the details of the complaint, or include a copy of the complaint; (2) that the Board has reason to believe that the Respondent has violated the

covenants or rules of the Association; and (3) directing that the Respondent cease the violating activity or that the Respondent will have fourteen (14) days from the date of the Warning Letter, or such other period stated in the Warning Letter, to come into compliance, or that further enforcement action will be taken for enforcement of the covenants and rules of the Association, including the imposition of fines.

4. Continued Violation After Warning Letter and Right to Hearing. If, following the Warning Letter having been sent to the Respondent, the Association receives further complaint(s) of the same or similar violations by the same Respondent or that the Respondent has not corrected the violation within the time permitted or if the Association elects not to send a Warning Letter, the Association shall send a written notice to the Respondent (“Formal Enforcement Letter”) prior to assessing fines and/or filing a lawsuit to compel enforcement as follows:

a. Public Health or Safety Violation. In the event that the Board reasonably determines that the violation concerns one affecting the public health or safety of others, it shall send to the Respondent a written notice, via U.S. regular mail and/or e-mail, providing them with the following: (1) the details of the complaint and the nature of the violation; (2) that the Board has reason to believe that the Respondent has violated the covenants or rules of the Association; and (3) directing that the Respondent cease the violating activity and specifying the action(s) required to cure the alleged violation and that the Respondent will have seventy-two (72) hours from the date of the letter to come into compliance, failing which further enforcement action may be taken to enforce the covenants and rules of the Association, including: (a) the filing of a lawsuit; and/or (b) imposition of fines if an opportunity for a hearing and timeline related thereto is provided in the notice or in subsequent written notices sent to the Respondent.

b. All other Violations. In the event that the Board reasonably determines that the violation does not concern the public safety or health of others, it shall send to the Respondent via certified mail, return receipt requested, a written notice containing the following: (1) the details of the complaint, or include a copy of the complaint; (2) that the Board has reason to believe that the Respondent has violated the covenants or rules of the Association and specifying the action(s) required to cure the alleged violation; and (3) directing that the Respondent cease the violating activity or that the Respondent will have thirty (30) days from the date of the Warning Letter to come into compliance, failing which further enforcement action may be taken for enforcement of the covenants and rules of the Association, including the imposition of fines if an opportunity for a hearing and timeline related thereto is provided in the notice or in subsequent written notices sent to the Respondent. However, no legal action shall be taken against the Respondent unless two (2) consecutive thirty (30) day Formal Enforcement Letters to the Respondent have first expired without compliance.

5. Evidence of Cure of Violations. If a Respondent sends to the Association: (i) visual evidence that a violation has been cured, the violation shall be deemed cured on the date that the Respondent sends such notice; or (ii) non-visual evidence that a violation has been cured, the Association shall conduct an inspection of the alleged violation as soon as practicable to confirm whether the violation has been cured. If the Respondent fails to send to the Association evidence that a violation has been cured or a prior inspection revealed that the violation was not cured, the

association shall, within seven (7) days of expiration of the violation notice, conduct an inspection to determine whether the violation has been cured. No fines may be assessed until the proper inspection(s) has been completed.

6. Procedure following Cure of Violation. Following confirmation by the Association that a violation has been cured, the Association shall send a written notice to the Respondent advising that the violation has been cured, providing the amount of any unpaid fines and advising that no additional fines will be assessed relating to the violation.

7. Hearing. Respondent must request a hearing before the board to contest a violation no later than fifteen (15) days from the date of the Formal Enforcement Notice or such other date specified in the Notice. Upon receipt of the request, unless the information was provided in the Formal Enforcement Notice, the Board shall send a follow-up notice to the Respondent, via e-mail or regular U.S. mail, of the date and time of the hearing, which hearing must be held no earlier than upon expiration of the violation letter and time period for the Association to inspect, and stating the Board's right to proceed with or without a hearing, at its discretion, to make its determination of the allegations contained in the Complaint based on all relevant facts and circumstances, if the Respondent fails to appear at the specified date and time or otherwise respond to the Complaint. Each hearing shall be held at the scheduled time, place and date, unless the Respondent has failed to respond or appear at the hearing. The Board may grant continuances for good cause. Each hearing shall be held by the members of the Board, who do not have any direct personal or financial interest in the outcome of the hearing. A person is deemed not to have a direct personal or financial interest if he/she will not receive any greater benefit or detriment from the outcome than will the general membership of the Association. The Board may: (a) exercise its discretion as to the specific manner in which a hearing shall be conducted; (b) question witnesses and review evidence; and (c) act as it may deem appropriate or desirable to permit it to reach a just decision. Neither the Complainant nor the Respondent must be in attendance at the hearing, but both are encouraged to attend. Any party may elect not to present evidence at the hearing. Any decision by the Board shall be fair and reasonable taking into consideration all of the relevant facts and circumstances. Each hearing shall be conducted in executive session.

8. Decision. If the Respondent does not appear but a written response is filed, the Board shall render its decision based on the information contained in the Complaint and the written response, considering all of the relevant facts and circumstances. If neither an appearance nor a written response is made, the Board need not conduct a hearing or make any further findings except that it may determine that the Respondent's failure to appear or respond constitutes a waiver of the right to a hearing, and a no contest plea to the Complaint, and impose the sanctions provided for herein. If an appearance is made, after all testimony and other evidence has been presented to the Board at a hearing, the Board shall render its decision(s), taking into consideration all of the relevant facts and circumstances. Except as provided herein, the Board's decision shall have an effective date no sooner than five (5) days after the hearing. If the Board does not inform the Respondent of its decision at the time of the hearing, or if no hearing is held, the Board will provide a written notice of the decision to the Respondent's address of record via regular U.S. mail within five (5) days after the decision is made. The Board's decision will inform the Respondent if the violation is considered a continuing violation;

in such event, the decision will inform the Respondent of the interval by which fines may be imposed if the violation continues.

9. Enforcement. The Association shall be entitled to reimbursement of all reasonable attorney's fees and costs incurred by the Association in connection with any enforcement action, including any proceeding under this policy. Without limiting the Association's remedies under the Documents, the Board may assess fines, suspend membership privileges, and impose other sanctions in accordance with this policy. If the violation involves damage to Association property, the violator shall also pay the costs of repair or replacement. The Board may revoke or suspend the violator's privileges for a period of time equal to the duration of the violation and for up to sixty (60) days thereafter, unless such violation is a continuing violation, in which case such suspension may continue for so long as such violation continues and for up to sixty (60) days thereafter.

10. Fines. Fines, not to exceed five-hundred (\$500.00) cumulatively per specific covenant violation unless the violation concerns one affecting the public health or safety of others, may be levied by the Board for violations of the Documents as follows:

<u>Number of Violations in 12 Month Period</u>	<u>Fine Amount</u>
First violation	\$100.00
Second violation	\$150.00
Third violation	\$250.00

11. Habitual Offenders and Continuing Violations. A Member who accumulates more than three (3) violations within a twelve (12) month period will be deemed to be a habitual offender. For habitual offenders, continuing violations, or violations which have an indefinite commencement or termination date, the Board may impose on a weekly basis such additional fines as are deemed reasonable by the Board without regard to the schedule set forth above but shall not fine more than \$500.00 total per specific covenant violation unless the violation concerns one affecting the public health or safety of others.

12. Willful and Wanton Violations. In the event of a determination by the Board of a willful, wanton or flagrant disregard for the provisions of the Documents, or based on the severity of the violation, the Board may impose such additional fines as are deemed reasonable by the Board on a weekly basis without regard to the schedule set forth above but not exceeding \$500.00 total per specific covenant violation unless the violation concerns one affecting the public health or safety of others.

13. Responsibility for Actions of Tenant or Guest. Members shall at all times be responsible for the actions of their tenants and guests. In the event that a Member's tenant or guest violates the Documents and a fine is imposed, the fine shall be assessed against that Member.

14. Miscellaneous.

14.1 Failure by the Association to enforce any provision of this policy shall in no event be deemed to be a waiver of the right to do so thereafter.

14.2 Fines imposed pursuant to this policy shall become a lien imposed against the record Owner's real estate and enforceable as provided in the Declaration.

14.3 A homeowner may send written notice to the Association, via certified mail, return receipt requested, of their request to have all notices required hereunder sent to a designated contact of their choice. In the event that proper notice of the designated contact is received, the Association shall send all future delinquency notices to both the owner and designated contact in the manner(s) prescribed above.

14.4 All notices required herein shall be written in English and in any language that the unit owner has indicated a preference for correspondence and notices. An owner may send a written notice to the association requesting that future notices be sent in a designated language.

14.5 The provisions of this policy shall be independent and severable. The invalidity of any one or more of the provisions hereof by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which other provisions shall remain in full force and effect.

14.6 The provisions of this amended policy shall replace and supersede any other rules or regulations of the Association addressing the enforcement of the Association's Documents and also supersede any prior Enforcement Policies.

Portal Estates Homeowners Association,
Inc.

By: *Joel Groebner*
Joel Groebner (Jan 7, 2024 07:30 MST)
President

This Amended Enforcement Policy was adopted by the Board of Directors on the 8 day of January, 2024, effective the 8 day of January, 2024, and is attested to by the Secretary of Portal Estates Homeowners Association.

Dinah McKay
Dinah McKay (Jan 7, 2024 21:57 MST)
Secretary