

## **L P P O Association**

### **Enforcement of Covenants and Rules, Including Notice and Hearing Procedures**

The following policy and procedures have been adopted by the Board of Directors of L P P O Association ("Association") pursuant to the provisions of the Colorado Common Interest and Ownership Act (the "Act") C.R.S. § 38-33.3-209.5, and in accordance with the provisions of the Amended Protective Covenants for Unit 1, Lake Purgatory Subdivision, La Plata County, Colorado, recorded in the real property records of La Plata County on September 18, 1991 at Reception No. 616278 (the "Declaration") and the Bylaws of LPPO Association (the "Bylaws") at a meeting of the Board of Directors.

NOW THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following policy:

**Section 1. Abatement and Enjoinment of Violations by Owners.** The Board shall enforce by legal means the provisions of the Act, the Declaration, the Articles of Incorporation, the Bylaws, the Rules and Regulations, and the Policies and Procedures for the Association. The violation or breach of any provision of the Declaration, Bylaws, Policies and Procedures, and Rules and Regulations adopted by the Association, shall give the manager(s), HOA officer or Board Directors the right, after notice and hearing, except in the case of an emergency, to enter the lot and/or building in which the breach is believed to exist.

- a. The reasonable belief by a manager and/or a Board member that an emergency exists on a Lot shall give the manager(s), HOA officer or Board director the right to enter on the Lot which the emergency is believed to exist, without notice or hearing, and to summarily remove or abate any condition, structure or thing that is believed to exist and creating a risk or danger to that Lot or any other Lot or property at Unit 1, Lake Purgatory Subdivision.
- b. The cost of removing or abating the danger or emergency shall be at the expense of the defaulting owner(s), and the managers, the Board, the members of the Board, officers, or agents shall not be deemed liable for any manner of trespass by this action.
- c. The manager(s) or Association agent shall also have the right to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any suspected emergency.

**Section 2. Fine for Violation.** By resolution, following notice and hearing, the Board of Directors may levy fines for a violation of the Declaration, Bylaws, or any rules and regulations of the Association if they persist, but this amount shall not exceed that amount necessary to ensure compliance with the rule or order of the Board, or \$500, whichever is lesser. The Board, in its discretion, may adopt in connection with its Rules and Regulations, or Policies and Procedures, a "schedule of fines" to be applied for particular violations. Said schedule of fines may be amended from time to time pursuant to the procedures for amending rules and regulations. The initial Schedule of Fines hereby adopted by the Board of Directors is attached hereto as Exhibit A and incorporated herein.

**Section 3. Interest on Overdue Assessments.** Interest on overdue assessments or other payments due hereunder shall accrue interest at the rate established by the Board from time to time.

The Board may, by resolution, adopt any such interest rate as it deems appropriate so long as in compliance with Colorado law and does not exceed 8% per annum.

**Section 4. Notice and Hearing.** In compliance with C.R.S. § 38-33.3-209.5 of CCIOA, the following procedures for notice and hearing shall apply in the enforcement of the Declarations, Bylaws, Policies and Procedures and the Rules and Regulations (the “Governing Documents”).

- i. Actions prior to initiation of formal special resolution process. The Board has the authority to request that an Owner or an Owner’s guests or tenants cease or correct any act or omission which appears to be a violation of the Governing Documents. (“Alleged Violation”). Such informal request may be made (and is encouraged) before the formal process (as described herein) is initiated.
- ii. Written statement. If the actions described in 4.1 (i) above prove unsuccessful, the violation procedures process shall be initiated upon filing a written statement by any officer or member of the Board. Such written statement may be acted upon by the President of the Board. The written statement shall set forth in ordinary and concise language the acts or omissions which the author believes occurred and shall include as many specifics as are available as to time, date, location and persons involved, so that the complaint may be investigated and verified.
- iii. Letter to Owner. If it is determined that an Alleged Violation has occurred, the President or manager shall send via certified mail, return receipt requested, a letter to the Owner regarding the nature of the Alleged Violation, the action or actions required to cure the Alleged Violation, and timeline of the fair and impartial fact-finding process as set forth in this Policy. The letter shall require the Alleged Violation cease within such period of time as the President or manager deems reasonable, based upon the nature of the Alleged Violation, but in no event less than thirty (30) days, and if the Alleged Violation is not cured within such time the Owner may be fined. The letter shall be mailed to the last known address of the Owner.

Notwithstanding the foregoing, for an Alleged Violation that is reasonably determined to threaten the public safety or health, the Association shall inform the Owner in the letter that the Alleged Violation must be cured within seventy-two (72) hours or the Association may fine the Owner.

- iv. Cure Determination. If the Owner cures the Alleged Violation within the period to cure afforded to the Owner, the Owner may notify the Association of the cure, and if the Owner sends with the notice visual evidence that the violation has been cured, then the violation is deemed cured on the date that the Owner sends the notice. If the Owner does not send visual evidence that the violation has been cured, then the Association shall inspect the Property as soon as practical to determine if the violation has been cured.

If the Association does not receive notice from the Owner that the violation was cured, then the Association shall inspect the Property within seven (7) days after the expiration

of the thirty-day cure period to determine if the violation has been cured. If, after an inspection the Association determines that the violation has not been cured, then a second thirty-day period to cure shall commence. If after the second thirty-day period lapses, and the Alleged Violation has not been cured, then the Association may take legal action.

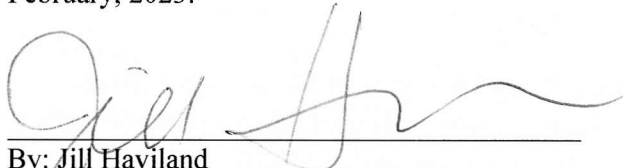
Notwithstanding the foregoing, if the Association reasonably determined that the Alleged Violation threatens the public safety or health, and after inspection the Association determines that the Owner has not cured the violation within seventy-two hours, the Association may fine the Owner every other day and may take legal action against the Owner.

- v. Cure. If the Owner cures the Alleged Violation, the Association shall notify the Owner that the Owner will not be further fined for the Alleged Violation and of any outstanding balance the Owner still owes the Association.
- vi. Imposition of Fine. If the Alleged Violation has not ceased within the manner and period of time set forth in the letter to the Owner, the Association may proceed to levy a fine, charge attorney fees or take such other actions as authorized by the Governing Documents.
- vii. Dispute by Owner. In the event an Owner disputes the Alleged Violation, the Owner may request a hearing from the Board within fifteen (15) days of the date of the letter to Owner. Such request for hearing shall be in writing and addressed to the President. The President shall send a second letter to the Owner then informing the Owner of the time and place at which the Board will hear the matter; that the Owner has an opportunity to attend (in person or by telephone) and be heard at such meeting; and that the Board has the authority, upon determination that a Violation has occurred, to levy fines, charges, attorney's fees and other monies, and to take such other action as is authorized by the Association's Governing Documents and Colorado law.
- viii. Constraints on the Board. It shall be incumbent upon each member of the Board to make a determination as to whether he or she is able to function at the hearing in a disinterested fashion. If such member is incapable of objective consideration in the case, he or she shall disclose such to the board and remove himself or herself from the proceedings and have it so recorded in the minutes.
- ix. Hearing. The hearing will not be conducted according to technical rules relating to evidence and witnesses. Generally, any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Decisions of the Board may be made "Under advisement," i.e. at a later date and time but not to exceed 7 days from the date of the hearing. All decision of the Board are effective

three days after written notice is sent to the Owner via regular mail, email or otherwise hand-delivered.

- x. Failure to Attend. If the accusing party fails to attend the hearing (in person or by telephone), the violation shall be deemed to have occurred and the Board shall be authorized to impose the fine, charges and/or attorney's fees.
- xi. Joint and Several Liability. If there are multiple Owners, each shall be jointly and severally liable for any fine or other monetary penalty imposed pursuant to the enforcement of the Governing Documents, including, but not limited to, all attorney's fees, expert witness fees and costs incurred by the Association resulting from or in any way related to the violation or the collection of fines.
- xii. Remedy. Each remedy set forth herein shall be in addition to all other remedies, whether available at law or in equity, and all such remedies, whether or not set forth in the Governing Documents, shall be cumulative and nonexclusive.

Approved by an affirmative vote of a majority of the Board of Directors and effective on the 27th day of February, 2023.



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By: Jill Haviland  
Its: President of the Board of Directors

## **EXHIBIT A**

The standard fine levied for violations of the Declaration, Bylaws, Policies and Procedures, and Rules and Regulations shall begin at \$50.00 per day for each day the violation persists. The following schedule of fines shall apply to specific violations:

- Lost mailbox key and replacement request - \$50
- Burning an outdoor fire during a ban or in a non-compliant enclosure - \$300
- Parking in front of/blocking the dumpster - \$200
- Failure to notify board of submission of building permit application within 3 business days - \$150
- Failure to build proper culvert connecting driveway to an LPPO maintained road - \$500
- Completed construction that does not comply with association covenants – Forfeiture of construction deposit and possible legal action