

## **EXHIBIT E COVENANT ENFORCEMENT**

### 1. Complaints

Complaints of any violations should be submitted to the Property Management Company in writing.

Please include:

- Date, time, and place of the violation
- A full description of the violation
- The name and address of the violator
- Your name, address and phone number

No action will be taken without a written complaint. Depending on the issue and severity, either the Property Manager and/or the Board of Directors will review the complaint for legitimacy and insure that appropriate action is taken.

### 2. Complaint Process

(a) Complaints shall be investigated by an Investigator such as the Property Manager or a Board Member(s) or committee who has been designated to investigate such complaint (the “Investigator”).

(b) To the extent reasonably and legally possible, reports of complaints will be handled confidentially.

(c) The Investigator shall determine whether or not the complaint shows cause for further proceedings and is empowered to send courtesy letters concerning reported violations and/or warnings of possible sanctions, fines and/or suspension of privileges, and/or issue a “cease and desist” order, to the alleged rule violator. If the offending practice does not cease, the Investigator shall make a formal report to the Board. The Board shall then notify the owner and set the matter for hearing at a later date (the “Notice”).

(d) The Board, or its officers or agents, shall send the Notice by personal delivery, regular mail and/or certified U.S. Mail, return receipt requested, to the owner, and a copy may be sent to the alleged violator (if the name has been furnished to the Association), such as a tenant, contractor, guest or family member of the owner. The Notice shall be deemed received by the owner three (3) days after mailing. The Notice may be sent to the Unit if the owner has failed to register a current mailing address. The Notice may also be sent to the complaining party.

(e) The Notice should advise the owner that if the owner desires a hearing regarding the subject matter of the Notice, the owner must request such hearing, in writing, to the Board, within five (5) days of receipt of the Notice. If a request for hearing is made, the hearing shall take place at the next regularly scheduled meeting of the Board of Directors. The request for hearing or other written response from the owner must describe the basis for challenging the alleged violation or the mitigating circumstances.

(f) At the hearing, the owner has the right to have the matter heard by the Board, except for the Investigator or any Board Member who would receive a greater benefit or detriment from the outcome of a hearing than the general membership of the Association (“Board Member(s) with Conflict”) who will recuse themselves from acting as members of the Board during any hearing. However, it shall be conclusively presumed that all of the Board Members, except the Investigator, are impartial decision makers.

(g) Any written statement from the owner must be received by the Board at least 24 hours before the hearing, and must be served by personal delivery or US Mail, postage prepaid, addressed to the Association in care of its registered agent, or such other address as the parties may be advised of in writing. Any notice personally delivered shall be deemed received on the date of delivery, and any notice mailed shall be deemed received on the fifth day following the date of mailing. If the owner plans to be represented by legal counsel, the owner must give the Board at least five (5) days prior written notice. If the time requirements set forth above conflict or the Board deems appropriate, the hearing may be re-scheduled to the next regularly scheduled meeting of the Board of Directors. Any hearing or request for hearing shall not stay the other enforcement procedures described below, unless otherwise directed by the Board of Directors.

### 3. Hearing

(a) The primary purpose of hearings before the Board is to resolve covenant enforcement matters as early as possible, without the expense of litigation. As a result, any owner or alleged violator who appears at a hearing is encouraged to discuss resolution in lieu of or in addition to the hearing. If the Board believes that the owner/violator is acting in good faith and that there is a realistic chance of resolution, the Board may reschedule the hearing and attempt to use the remainder of the time that was originally scheduled for a hearing for alternative dispute resolution as described in Article XII. However, if at any time the Board, in its sole judgment, believes that delay will harm the interests of the Association, it may proceed with the hearing.

(b) Hearings shall be conducted by Board Members, except the Investigator. As a result, any Board Members with a conflict shall recuse himself/herself from acting as a Board Member during any 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 may appoint an impartial Association member, in good standing, to serve as a voting Member of the Board for that hearing.

(c) Hearings shall be held in executive session because they may involve privacy and/or possible litigation issues. The Board may exclude any person other than the owner or alleged violator and witnesses, when testifying.

(d) At the hearing, the Board may consider any written or oral information produced by the owner, the alleged violator or other interested party. Any legal or statutory rule of evidence or procedure shall not apply to the hearing, and the Board may restrict testimony or proceed in any manner or order which it deems appropriate. The Board may tape record or otherwise transcribe the hearing. The Board may proceed with the hearing even if the owner fails to appear or refuses to participate or to submit information. The owner may be represented by legal counsel so long as the Board is given at least five (5) days prior written notice, in which case the Board's attorney may be present as well. Any participant may question any witnesses and examine any documents presented at the hearing.

(e) After considering any information, witnesses, or documents presented at the hearing, the Board's decision shall be made by majority vote of the Board Members present. If requested by the owner, the Board will furnish a brief summary of the decision and the sanction, if any, which may be sent by regular mail to the owner and, if requested or the Board deems it necessary, to the alleged violator. The Board may also issue and record a Notice of Finding of Violation with the County Clerk and Recorder, and release same upon satisfactory compliance with the Association Documents.

#### 4. Parties to Violations

Owners shall be responsible for violations committed by their contractors, guests, family members, and tenants. The Board may proceed against the owner and the alleged violator, simultaneously or separately, and actions against one shall not bar action against the other. The Board may contact the police, any regulatory or licensing authorities or other third parties regarding the alleged violation, but any action or decision by those parties shall not bar the Board from proceeding.

#### 5. Fines and Sanctions

(a) A **First Offense** shall result in a written warning. The owner will be given the opportunity to remedy the violation.

The **Second Offense** shall result in written notification, and a \$50.00 fine.

The **Third Offense** shall result in written notification, possible legal action, and an additional \$100.00 fine.

The **Fourth (and subsequent Offense(s))** shall result in the initiation of legal action. The Board has the authority to assess additional fines not to exceed \$200.00 for each subsequent offense.

(b) This schedule is not intended to cover all possible violations and there are instances where the amount of fines may vary depending on the circumstances. The amount of the fines are intended to bear a reasonable relationship to the actual harm that is being caused; the potential risk of loss to the Association if compliance does not take place; the costs of investigative demand letters and hearings to ensure compliance; and the cost of remedial measures (if used).

(c) Repeat offenses and/or repeat offenders will justify higher fines. Fines should also be commensurate with the time and effort of Property Manager and/or Board Members in investigating and gathering evidence of violations, sending demand letters and conducting hearings. The above schedule is an attempt to ensure uniformity for routine violations.

(d) Fines will be due and payable within thirty (30) days of the date of the imposed fine, and shall be considered delinquent after the due date. A delinquent fine will result in a lien being filed on the property for nonpayment and will bear interest at eighteen percent (18%) per annum, calculated from the date of the fine, as well as late fees and legal fees.

(e) Any fine shall be both a personal obligation of the owner or the violator or both and shall also be an assessment creating a lien which may be recorded against the unit and may be foreclosed as provided in the Declaration.

(f) Any violation shall entitle the Board to recover from the owner or violator or both, its reasonable attorneys fees, court costs, interest, and any other collection expenses, regardless of whether litigation is instituted or is successfully concluded. The Board may seek to recover such fees and costs by all legal remedies, including without limitation, charging such fees and costs to the owner's account with the Association.

(g) The Board, in its discretion, may "adjust" fines and/or costs as more specifically defined above if such adjustment is appropriate under the circumstances. Additionally, the Board may condition adjustment of the entire fine, or any portion thereof, upon the violator coming into compliance with the Declaration, Bylaws or rules.

(h) The Board reserves the right to fine for first violations of rules that involve health and safety issues and other violations where a warning may not be deemed necessary by the Board in its reasonable discretion.

(i) Payment of an assessed fine does not relieve the violator from the responsibility of correcting the violation.

(j) Each incident or each day of a continuing violation shall be considered a separate violation for which any maximum fine may be imposed. For example, each day during which a pet or a sign is permitted to remain is a separate violation. The Board may in its discretion impose increased fines for repeated or intentional violations.

#### 6. Other Enforcement Actions

If the actions described above do not cure the default, or in the event of emergency, health or safety reasons, the Association may undertake whatever actions are reasonably necessary to remedy such violation, including:

(a) The right to enter any portion of a Unit for the purpose of correcting the default, in which case neither the party performing such action nor the Association shall be liable for any losses, costs or damages to any Unit on account of its performance of such action except for any such loss, cost or damage caused by the party's gross negligence or willful misconduct. Said right of entry shall include, but is not limited to, the right to make repairs, perform maintenance, remove any nuisance or otherwise undertake action to cure the breach or otherwise bring the Unit into compliance; and/or

(b) The right to file an action in any court of competent jurisdiction to evict any tenant in violation of these covenants or to obtain injunctive relief against any owner or tenant, any of their agents, contractors or assigns, enjoining any activity which is in violation of the Covenant. If any such action is brought by the Association, it shall not be required to post any bond as a condition to the granting of any injunctive relief (including a preliminary injunction or temporary restraining order), nor shall the Association's right to such injunctive relief be affected by an arbitration provisions in any contract executed by such owner, tenant or their agents.

#### 7. Other Remedies for Failure to Pay Fines/Charges

In the event the Association elects to make repairs, perform maintenance or take other action pursuant to Sections 3 through 6 above, the Association will submit all charges incurred for same to the owner or persons responsible for the property upon which or for whose benefit such costs were incurred.

#### 8. Responsibility

Owner(s) shall be responsible for violations committed by their guests, contractors, family members, agents or tenants. The Board may proceed against

the owner, the individual violating the Covenants, or both, and may suspend the rights of said owner(s) for so long as a violation continues or the fines or costs assessed pursuant to this Rule or the Association Documents remain unpaid.

9. Rights Are Cumulative

All rights and remedies set forth hereinabove shall be in addition to, and not in lieu of, any other rights and remedies which any owner may have to personally enforce the Covenants. All such rights and remedies shall be cumulative, and the exercise of any one or more of such rights and remedies shall not be deemed an election precluding the exercise of any of the others.

10. Substantial Compliance

Technical irregularities or defects in the complaint, Notice or other compliance with this Rule shall not invalidate the proceedings or any fine or sanction imposed. This Rule shall be liberally construed to accomplish prompt, effective enforcement of the Association's Documents.

11. Board Resolves Questions of Construction

If any doubt or questions shall arise concerning the true intent or meaning of any of the Covenants or these Rules, the Board shall determine the proper construction of the provision in question, and shall set forth in a written statement the meaning, effect and application of the provision. These determinations will thereafter be binding on all parties so long as it is not arbitrary or capricious, and they may be filed for record with the Clerk and Recorder of Huerfano and Las Animas Counties.

Adopted by the Board, this 28<sup>th</sup> day of June, 2014, effective immediately.