

# **SPOASINGLETREE PROPERTY OWNERS ASSOCIATION COVENANT ADMINISTRATION POLICIES, REGULATIONS AND PROCEDURES**

**Introduction:** The Amended Declaration of Covenants, Conditions and Restrictions, recorded at Book 669 Page 377 at the Eagle County Clerk and Recorder's Office (the "Declaration") is binding on all Owners (as defined in the Declaration) and all others conducting activities of any kind on any of the Properties within the boundaries of Berry Creek Ranch Filings Nos. 1-4, which are described in Exhibit A attached to the Declaration. Under the Declaration, the Singletree Property Owners Association (the "Association") was formed to administer and enforce the Declaration. Under Section 22 of Article VI of the Declaration, the Association may adopt rules and regulations to provide for the purposes for which the Declaration is adopted. Also, as may be required by Colorado Statutes, the Policies, Regulations and Procedures herein are intended to be compliant with CRS Sec. 38-33.3-209, and enforceable as provided therein.

"Covenant Administration Policies, Regulations and Procedures" herein repeals and replaces the document entitled Singletree Owners Association Policy and Procedure Enforcement of the Amended and Restated Declaration, Bylaws, Rules and Regulations and Schedule of Fines dated December 18, 2008.

By Resolution of the Board of Directors (the "Board"), of the Association, on December 8, 2016, the Board adopted the following:

## **POLICIES**

**General Statement:** The Declaration was adopted by a collaborative effort of the Owners to insure that Singletree remains as a high-quality residential community and that the appearance, desirability, safety, values and salability of properties therein are established and maintained in Singletree. The covenants, restrictions and regulations are often referred to as protective covenants. The Owners who initially voted to approve the Declaration, and all subsequent Owners, by their purchase, have agreed to mutually protect and respect each other under the terms of the Declaration.

The Association will make appropriate efforts to create an atmosphere of mutual collaboration with the Owners in carrying out the purposes of the Declaration. The Board will provide continuing education including an annual forum to explain and educate Owners about the provisions of the Declaration, the Rules and Regulations and the Design Review Guidelines.

Where violations of the Declaration, Rules and Regulations or the Design Review Guidelines occur the Association will first try to resolve the matter as quickly as possible by discussions and agreement which will, where possible, remain confidential. When a violation has been determined and no agreement for remediation is reached the

Association will in a timely manner pursue the remedies provided under the Declaration, the Rules and Regulations and the Design Guidelines as further stated herein.

It is the policy of the Association to endeavor to administer the Declaration, the Rules and Regulations and the Design Review Guidelines consistently throughout the community and any deviations from this policy may be reported to the Board by Owners and residents of Singletree.

### **Information Submitted by Individuals About Possible Violations**

The Association will attempt to identify, determine and take corrective action for violations of the Declaration, the Rules and Regulations and the Design Review Guidelines. In many cases, because of resources and timing, possible violations may not always be identified by the Association and such may be brought to attention of the Association by individuals in the Singletree Community. The contact person is the Community Manager and the information can be better managed if it is by email or in written form. Pictures indicating the date and time of a possible violation can be submitted, but are not necessary. It is the policy of the Association to keep the identity of information sources confidential. Anonymous reports may be used, but are not encouraged as such are often insufficient to create the basis for a proper investigation.

Information received about possible violations will be used to initiate an independent investigation and determination. The Community Manager is responsible for independently attempting to photograph, have conversations with the person who may have violated the Declaration and otherwise document the circumstances of the possible violation. Whenever possible a determination of a violation will be made without consideration of the information initially provided by individuals. However it is recognized where the possible violation is conduct-based or occurs irregularly the individual reporting may be requested to assist in providing information and photographs regarding the violation which could result in the loss of confidentiality.

After a possible violation has been processed the individual Owner who assisted in bringing the matter to the attention of the Association will be informed as to whether the matter is being pursued as a violation, why it has not been deemed to be a violation or if the matter is to be remediated by agreement and if necessary, the general terms of the agreement. Any information about fining actions or prospective judicial action may not be shared. The sharing of results may not occur when potential neighbor conflicts are perceived to be involved in the process.

Each association Board Member is encouraged to report possible violations of the Declaration to the Community Manager. Design Review Committee Members and the Architectural Consultant is also expected to report violations relating to the projects and other matters approved by the Design Review Committee and any unapproved activities that violate the Design Review Guidelines. Design Review violations will be processed as provided herein.

Where personal disputes among Owners occur it is not the responsibility of the Association or the Community Manager to resolve or be involved in such matters unless such dispute involve violations of the Declaration, the Rules and Regulations or Design Review requirements. Matters such as pet management, party wall disputes for duplexes, trespass, etc. and incidental noise are not matters that the Association will normally address and the Owner is requested to contact the Eagle County Authorities. All criminal activities should be reported to the Eagle County Sherriff and the Association would appreciate being informed of such reports, and the Association may follow up with Eagle County.

## **ADMINISTRATIVE PROCESS**

1. The Community Manager will be responsible for managing Covenant Administration. The Community Manager will also act as the Covenant Administrator. Should the Association hire a Covenant Administrator, the Community Manager will be responsible for managing such person. The Community Manager may delegate the inspection, documentation, contact and record keeping responsibilities to the Covenant Administrator.
2. The Community Manager will develop periodic reports, not less than monthly, that will track the violations investigated, the reasons investigations were initiated, and the disposition of violations. The Community Manager will present a monthly report to the Board that provides a summary of covenant administration activities, including pending violations and tracking any litigation matters. The Board may determine the form and the extent of the reporting.
3. The Covenant Administrator will tour all Properties in Singletree on a regular basis (weekly when time permits) and note all violations of the Declaration and document in writing and, when available, photograph such violations. If the Covenant Administrator is unsure about the application of any provision of the Declaration to a specific situation, such may be reviewed with a member of the Legal Committee.
4. The Covenant Administrator will follow up on all possible violations reported by individuals by having a conversation or an email exchange with the Owner and if appropriate the occupant of the property. If it is determined that the matter reported is not a possible violation then the individual reporting the matter should be informed that no actions will be pursued and why.
5. Potential violations will be investigated and the Covenant Administrator who will fully document the possible violation and, if appropriate, will prepare a proposed determination that a violation has occurred and whether such still exists or will be a continuing violation in the future. This proposed determination will be reviewed by the Community Manager and if necessary, the Legal Committee can be consulted for interpretation and application of the governing documents.

6. The Covenant Administrator will attempt to contact the Owner by telephone or by email to explain the violation and the steps that need to be taken to correct the violation. If the Owner disputes the proposed determination, the reasons given will be considered before issuing a Violation Letter. If the Owner agrees with the determination then the Covenant Administrator will obtain a written agreement that acknowledges the violation, waives rights to a hearing or an appeal and specifies the time that is being allowed to correct the violation and the fine that will be applied if the violation is not corrected. Design Review violations will be handled as set out below. If an agreement is not immediately forthcoming, a Violation Letter may be sent by certified mail to the Owner at the address on file with the Association. For matters that are minor in nature that have been corrected or in the process of being corrected the Community Manager may choose not to require a formal agreement and will note in the Covenant Administrators records the terms of the agreement.
7. If the Owner has failed to register a mailing address with the Association the Violation Letter and other notices or correspondence may be sent the address on file with the Eagle County Assessor's Office. If an Owner is unresponsive or uncooperative the Community Manager may issue the Violation Letter without any additional contact.
8. The Community Manager will oversee preparation of the Violation Letter which will describe the violation and cite the applicable provisions of the Declaration and the Rules and Regulations, if such apply. The letter will include a demand that the Owner cease and desist the violation and indicate the amount of the fine and that additional fines may apply or legal proceedings may be commenced when the determination becomes final. The Violation Letter will also provide that the Owner may file an appeal and request a hearing within **15** days from the postmark date to be heard by the Board at the next scheduled Board meeting. Appeals shall be delivered or mailed by certified mail to the Community Manager.
9. The appeal must be in writing and state the reason(s) for the appeal. The Owner may also provide any facts that will support the appeal. When the appeal is received the Community Manager will schedule the appeal for the next Board Meeting and inform the Owner again of the time and place where the appeal is to be heard. See below for the procedures to be followed by the Board and Owner for the Appeal.
10. If the Owner does not appeal within 15 days or fails to appear before the Board after scheduling a hearing, the proposed determination as set forth in the Violation Letter shall become final and is no longer appealable. Agreements are also treated as a final disposition and, if violated, will be treated as a final determination.
11. In most cases action on the violation will be suspended while the appeal is pending before the Board. However, if the violation involves safety, irreversible consequences or a continuing violation of laws or regulations of a governmental entity the Community Manager may request governmental intervention or may request the Board to authorize expedited legal proceedings. Should the Directors

be unavailable for polling the President of the Association may request the Legal Committee approve expedited legal proceedings.

12. Abatement, in full or in part, of the fine proposed in the Violation Letter may be considered by the Community Manager during the appeal period or when an appeal is pending or within 30 days from the date of Violation Letter provided the violation has been corrected or the Owners has agreed in writing to the violation and has agreed to correct the violation in a manner and time frame that is acceptable to the Community Manager. Abatements need not be considered where the violation is a repeat of a previous violation or the Owner has violated a previous agreement to sure such violation. All abatements will be reported to the Board.
13. Fines may be enforced 30 days after the determination has become final.

### **Procedures for Design Review Violations**

1. Failure by an Owner to seek approval from the Design Review Committee for property improvements as required by Article IV of the Declaration is a violation of the Declaration. When such a violation is identified, the Owner, and the person in charge on site (if available), will be contacted by the Covenant Administrator and be asked to cease and desist all construction activity on the Lot until such is approved by the Design Review Committee. The Owner will be informed that if Design Review approval is not received the Owner may be required to remove all unapproved improvements. If the matter is not scheduled for consideration at the next available Design Review Committee meeting a Violation Letter is to be sent by Certified Mail which will advise the amount of the fine for this violation and the possibility of legal action to enjoin the construction activity. The violation will be documented including photographs and processed as violation of the Declaration.
2. The Design Review Committee will be responsible for the approval of all matters stated in Article IV of the Declaration, obtaining all the deposits and fees and all of the agreements required by the Design Guidelines. The Design Review Committee and its Architectural Consultant are responsible for monitoring the projects and other matters it has approved to insure that such are being completed as approved and otherwise managed in conformity with the Design Guidelines. The Community Manager will also inform the Chairman of the Design Review Committee of any possible Design Review violations that have been reported for evaluation and action. The violations mentioned above will be included in the monthly report to the Board.
3. Where the violation has been confirmed and has not been resolved by Design Review after contacting the Owner or their representative the violation will be forwarded to the Community Manager with appropriate documentation and where applicable photographs for the determination of the violation. The referral will also indicate the amount of deposit held by the Association and what amount should be considered for forfeiture and the amount of a possible fine, if any. If the Covenant Administrator, after reviewing the information and findings, supports a determination

that there is a violation then the Community Manager will prepare the Violation Letter. The Violation Letter will indicate the amount of the proposed deposit forfeiture and the fine to be proposed if any. The recommendations of the Design Review Committee will be considered in determining the amount of the fine or deposit forfeiture.

**Procedures for Appeals:** The appeal process as herein stated will apply for appeals for covenant violations, deposit forfeitures and for appeals from Design Review Committee determinations.

1. The Board for the Association will hear the appeal at the next Board Meeting and the Board will appoint a Director to be Presiding Director to preside over the appeal. The Presiding Director will set aside time for the appeal at the Board Meeting or may set a special meeting for the appeal that may be as soon as possible either before or after the next regular meeting time. A quorum of the Board must be present for any special compliance meeting set by the Presiding Director.
2. If any Board Member has a conflict of interest, such is to be disclosed, and the Board Member may be excused by the Presiding Director. If a quorum cannot be obtained because of possible conflicts of interest the Owner and the Presiding Director may agree to the retention of the Director, or the Presiding Director may request an Owner to sit in place of the Director to insure impartiality of the proceeding.
3. The appeal proceedings will be informal and all relevant statements and materials that are submitted by the Owner and/or their representatives will be considered. The order of presentation of evidence will be first by the Community Manager and/or the Covenant Administrator and then by the Owner or their representative, if any. For an Appeal from a Design Review decision a Design Review Committee representative will make the initial presentation describing the project and the reasons such was rejected or the reasons for the conditions that were imposed and the Owner or their representative will present a response.
4. Should the Presiding Director determine that the information available is insufficient to make a proper decision the hearing may be reset to a future date to be determined by the Presiding Director. This date may not be later than the next scheduled meeting of the Board.
5. For appeals involving violations of the Declaration, the Rules and Regulations and Violations of the Design Review Process involving fines or forfeitures of deposits there will be no presumption of correctness for either the Covenant Administrator or the Owner.
6. For an appeal from the rejection of design plans for lots or the conditions imposed by the Design Review Committee, the presumption of correctness will be the same standard used for administrative proceedings. The matter before the Board is

whether the evidence can establish that the Design Review Committee was arbitrary and capricious in making their decisions.

7. Once the evidence has been presented the Board will make a decision which may confirm the proposed determination by the Community Manager for the violations considered, overturn in whole or in part the proposed determination and set aside all or a part of the fines or may modify the proposed determination including granting additional time for compliance.

### **Enforcement by Legal Proceedings Article VIII, Section 1 of the Declaration**

Under the Declaration, it is provided that the Association has the right to enforce by any proceeding in law or in equity the restriction, conditions, covenants, reservations, liens and charges imposed by the Declaration.

1. The Community Manager may request the Board to initiate legal action to enforce the Declaration and the Rules and Regulations after consultation with the Legal Committee, which may request a review by the Association's attorney.
2. The Board must approve all litigation commenced on behalf of the Association. The Board may, but is not required, to ask the Owner to respond in writing or appear before the Board, if the matter was not otherwise previously considered in an appeal proceeding by the Board. All discussions with the Legal Committee and the Board regarding the violation and legal processes will be conducted in executive session.
3. As an interim measure the Community Manager may, after consultation with the Legal Committee, request the Association's attorney to prepare a letter asking the Owner to cease and desist the violation and indicate that the Association is considering legal action.
4. Once litigation is commenced the Legal Committee and the Community Manager will monitor the litigation and report to the Board on the progress, costs and settlement proposals.
5. All proposed settlements of litigation will be communicated to the Board and all settlements must be approved by the Board.
6. In most cases the Owner will be given a 30 day notice by certified mail, which notice may be contained in the Violation Letter or may be contained in a letter issued by the Association's attorney, before litigation will be commenced. In situations where the Violation may involve safety, irreversible consequences, material threats to nearby Properties or Owners or unapproved construction that is material and difficult to correct, the 30 day notice noted herein may be waived by the Board and the Association may pursue any and all available remedies to correct the problem.

## **OTHER PROVISIONS**

1. Failure by the Association to enforce any provisions of this document, the Declaration, Rules and Regulations and the requirements for Design Review shall in no event be a waiver the right to do so thereafter.
2. Declaring a fine for a violation and collecting such a fine is not an election of remedies and if the violation continues or reoccurs, the Association may pursue additional fines and may also seek recourse by filing for legal proceedings as provided in the Declaration.
3. If any provision in this policy is found to be defective or unenforceable, the remaining provisions will survive and be enforceable in all respects.
4. Nothing contained herein will limit the right of an Owner to pursue the remedies provided under the Declaration.

## **OWNER EDUCATION PLAN FOR THE DECLARATION, RULES AND REGULATIONS AND DESIGN REVIEW**

New Owners will also be provided with a welcome letter that will detail where information about the Declaration, Rules and Regulations and Design Review may be found on the Association's website. The Association will provide ongoing information to Owners via Singletree publications and via email. The Association will provide an annual forum for Owner education, to review and explain the Declaration, the Rules and Regulations, and the Design Review Process.

## **SCHEDULE OF FINES AND COLLECTION POLICY**

### **COLLECTION POLICY**

All fines shown in the schedule below are not exclusive remedies. Where Design Review approval is required by the Declaration, the Rules and Regulations or the Design Guidelines imposition or payment of a fine will not restrict or eliminate the requirement for approvals or any other requirements of the Association. Likewise the imposition or payment of a fine provided hereunder will not restrict the Association from enforcing the Declaration, the Rules and Regulations or Design Guidelines by any proceeding in law or equity.

30 days after becoming final, fines may be collected and enforced as assessments as provided by the Singletree Property Owners Association Collection Policy and Procedure dated July 16, 2015, and as by CRS 38-33.3-101.



## **SCHEDULE OF FINES**

Violation of provisions of the Declarations, Rules and Regulations or the Design Guidelines may result in fines as listed below:

### **Schedule of Fines**

#### **Section 1 - Maintenance of Structures and Grounds**

##### **Rules 1 - 4 and 9 & 10**

1 <sup>st</sup> Violation	A fine of up to \$100 may be imposed
2 <sup>nd</sup> Violation	A fine of up to \$250 may be imposed
3 <sup>rd</sup> Violation	A fine of up to \$1,000 may be imposed for each violation thereafter

##### **Rules 5 - 8**

2 <sup>nd</sup> Violation	A fine of \$100 may be imposed
3 <sup>rd</sup> Violation	A fine of up to \$1,000 may be imposed for each violation thereafter

#### **Section 2 - Machinery, Implements, Construction Materials and Other Items Placed on Lot. The placing, storing, maintaining or allowing to be placed motor operated construction equipment, scaffolding, forms or building materials on a lot where such are not presently in use for the construction or maintenance of the lot.**

1 <sup>st</sup> Violation	A fine of up to \$200 may be imposed
2 <sup>nd</sup> Violation	A fine of up to \$500 may be imposed
3 <sup>rd</sup> Violation	A fine of up to \$1,000 may be imposed for each violation thereafter

#### **Section 3 - Commercial Vehicles and Parking**

1 <sup>st</sup> Violation	A fine of up to \$100 may be imposed
2 <sup>nd</sup> Violation	A fine of up to \$200 may be imposed
3 <sup>rd</sup> Violation	A fine of up to \$500 may be imposed

The fine may be imposed per vehicle found to be in violation of the Rules and Regulations

#### **Section 4 - Lot Maintenance - Use and Placement of Trash and Containers**

1 <sup>st</sup> Violation	A fine of up to \$100 may be imposed
2 <sup>nd</sup> Violation	A fine of up to \$200 may be imposed
3 <sup>rd</sup> Violation	A fine of up to \$300 may be imposed

**Section 5 – Use and Occupancy –  
Violations not involving the rental of dwellings**

1<sup>st</sup> Violation A fine of up to \$100 may be imposed

2<sup>nd</sup> Violation A fine of up to \$200 may be imposed

3<sup>rd</sup> Violation A fine of up to \$500 may be imposed

**Violation of Rental or Commercial Uses**

1<sup>st</sup> Violation A fine of up to \$500 may be imposed

2<sup>nd</sup> Violation A fine of up to \$1,000 may be imposed  
A fine of up to \$1,000 or up to the amount  
being charged or paid by tenant, whichever is  
greater may be imposed

3<sup>rd</sup> Violation

**Violation of Article VI, Section 8 of the Declaration – No Hazardous Activities**

1<sup>st</sup> Violation A fine of \$250 may be imposed

Failure to terminate the Hazardous Activity after notice, verbal or written, by the Community Manager or any officer of the Association including Directors thereof, a fine of \$1,000 and \$1,000 for each notification after the Owner has failed to cease the Hazardous Activity. For purposes of clarification use of fireworks on any of the Properties or streets is deemed to be hazardous.

**Other Violations – Fines for violations under Article VI of the Declaration, the Rules and Regulations and the Design Guidelines that are not otherwise contained in the foregoing Schedule of Fines shall be as follows:**

1<sup>st</sup> Violation A fine of up to \$200 may be imposed  
A fine of up to \$350 may be imposed for  
each of the same violations if the violation  
continues or is repeated within 30 days after  
the mailing date of the Violation Letter.

2<sup>nd</sup> Violation

**Section 5 of the Rules and  
Regulations Violation**

The repeating fine may be as often as daily.

**Design Review Fines**

1. Commencing construction, including site preparation, for new dwelling units without final approval by the DRC or prior to paying required compliance deposits.

A fine of up to \$1,000 may be imposed.

2. Continuing unapproved construction after notification by the Community Manager

A fine of up to \$2,500 may be imposed.

3. Commencing an addition, alteration or change or exterior existing dwellings without DRC approval.

A fine of \$250 to \$1,000 depending on the extent of the remodel.

Continuing remodel work after notification by the Community Manager may result in a fine up to \$2,500.

4. Failure to obtain DRC approval for exterior modifications required by the Declaration, the Rules and Regulations and Design Guidelines

A fine of \$250 to \$1,000 depending on the extent of the remodel.

Continuing remodel work after notification by the Community Manager may result in a fine up to \$2,500.

5. Fines for Design Guideline violations may be reduced or abated by the Community Manager, with the concurrence of the DRC Chairperson, provided the Owner's violation was not an intentional violation, and the Owner has submitted a timely complete DRC application for the work and the work has been reviewed and/or corrective action has been approved within the timeframe required by the DRC.