

DELMONICO TOWNHOMES ASSOCIATION, INC.
UPDATED: COVENANT AND RULE ENFORCEMENT POLICY

Effective Date: May 24, 2011

In compliance with the Colorado Common Interest Ownership Act, the Board of Directors desires to adopt a uniform and systematic policy to address covenant and rule enforcement.

The Association hereby updates the following policies and procedures for covenant and rule enforcement:

1. **Enforcement Procedure.** The Board shall not impose fines unless and until the Association has sent or delivered written notice to the Owner and/or violator as provided below.

A. **Complaint.** Any Owner within the community may send the Association a formal, written complaint via either electronic mail or regular mail of a covenant or rule violation, with as much information as is known. Complaints may also be initiated by the Manager or any member of the Board of Directors. Complaints that cannot be independently verified by a Board member or the Association's management agent must be in writing. The Board shall have no obligation to consider oral complaints or anonymous complaints. The Board shall have the authority to determine whether a written complaint is justified before continuing with the Notice and Hearing Procedure.

B. **Notice of Alleged Violation.** A Notice of Alleged Violation of any provisions of the Declaration, Bylaws, Rules and Regulations, or Resolutions shall be provided in writing to the applicable Owner as soon as reasonably practicable following the receipt of a complaint or discovery by the Board of such violation. The Board may also, at its option, provide a copy of such notice to any non-Owner violator. The notice shall describe the nature of the violation and the possible fine that may be imposed, the right to request a hearing before the Board to contest the violation or possible fine, and may further state that the Board may seek to protect its rights as they are specified in the governing legal documents. All notices shall be delivered by messenger or sent by regular mail. A copy may also be sent by certified mail.

C. **Request for Hearing.** If an Owner desires a hearing to challenge or contest any alleged violation and possible fine, or to discuss any mitigating circumstances, the Owner must request such hearing, in writing, within 14 days of the date of the Notice of Alleged Violation. In lieu of a request for a hearing, the Owner may submit a written response to the Notice of Alleged Violation for the Board's consideration within 14 days of the date of the Notice. The request for hearing or other written response shall describe the grounds and basis for challenging the alleged violation or the mitigating circumstances. If a hearing is requested, the Board shall notify the Owner of the date, time and place of the hearing by regular and certified mail. In the event a proper and timely request for a hearing is not made as provided herein, the right to a hearing shall be deemed forever waived. If a hearing is not requested within the 14 day period, the Board shall determine if there was a violation based upon the information available to it (including any written response submitted by the Owner), and if so, assess a reasonable fine as set forth in the fine schedule, within a reasonable time after expiration of the 14 day period. The Board of Directors shall give written notice of said fine to the applicable Owner.

D. **Board of Directors to Conduct Hearing.** The Board shall hear and decide cases set for hearing pursuant to the procedures set forth herein. The Board may appoint an officer or other Owner to act as the Presiding Officer at any of the hearings. The Board shall determine whether a violation exists and impose fines.

E. **Conflicts.** Any Board member who is incapable of objective and disinterested consideration on any hearing before the Association shall disclose such to the President of the Association prior to the hearing on the case, if possible, or, if advance notice is not possible, then such disclosure shall be made at the hearing, and the Board member shall be disqualified from all proceedings with regard to the 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 Association member, in good standing, to serve as a voting member of the hearing board.

F. **Hearing.** The Presiding Officer may grant continuances for good cause. At the beginning of each hearing, the Presiding Officer shall establish a quorum, explain the rules, procedures and guidelines by which the hearing shall be conducted and shall introduce the case before the Board. The complaining parties and the Owner shall have the right, but not the obligation to be in attendance at the hearing. Each party may present evidence, testimony, and witnesses. The decision of the Board at each hearing shall be based on the matters set forth in the Notice of Alleged Violation and Hearing, Request for Hearing, and such evidence as may be presented at the hearing. Unless otherwise determined by the Board of Directors in accordance with the terms of the Colorado Common Interest Ownership Act, all hearings shall be open to attendance by all members of the Association. If a complaining party is unable to attend the Hearing, he or she may instead submit a letter to the Board explaining the basis of the complaint.

G. Decision. After all testimony and other evidence have been presented to the Board at a hearing, the Board shall render its written findings and decision, and impose a reasonable fine, if applicable, within 21 days after the hearing. A decision, either a finding for or against the Owner, shall be by a majority vote of the Board of Directors present.

2. Fine Schedule.

A. The following fines are guidelines for violation of the provisions of the Declaration, Bylaws, Rules and Regulations and Resolutions of the Association:

First violation:	Courtesy reminder letter
Second violation:	Warning letter
Third violation:	\$75.00/occurrence
Fourth violation:	\$100.00/occurrence

Continuing violations shall be considered a separate occurrence for each day it continues and a \$25.00 per diem fine may be imposed after the hearing until such time as the violation is remedied.

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. Additionally, upon prior written notice, the Board reserves the right to levy fines in excess of the above referenced schedule, if the fines set forth in this schedule are not likely to provide effective incentives to induce compliance.

The Board may waive all, or any portion, of the fines if, in its reasonable discretion, such waiver is appropriate under the circumstances. Additionally, the Board may condition waiver of the entire fine, or any portion thereof, upon the violator coming into compliance with the Declaration, Bylaws or rules.


B. All fines shall be due and payable upon notice of the fine and will be late if not paid within 15 days of the date that the Owner is notified of the imposition of the fine. An interest charge of 21% shall be invoked, plus a \$20.00 per month late charge. All fines and late charges shall be considered an assessment and may be collected as set forth in the Declaration. Fines shall be in addition to all other remedies available to the Association pursuant to the terms of the Declaration and Colorado law, including the Association's right to collect attorney fees as authorized by Colorado law.


3. Legal Action. The Association, at any time, may pursue legal action against an Owner to enforce the provisions of the Declaration, Bylaws, rules or resolutions without first following the preceding notice and hearing procedures, if the Board determines that such action is in the Association's best interests.

4. Failure to Enforce. Failure of the Association to enforce the Declaration, Bylaws, rules and resolutions will not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any of the above referenced governing documents for the Association.

IN WITNESS WHEREOF, the undersigned certify that this updated Covenant and Rule Enforcement Policy was adopted by the Board of Directors of the Association on this 24th day of May, 2011.

DELMONICO TOWNHOMES ASSOCIATION, INC.,
a Colorado nonprofit corporation,

By: 
Its: President

By: 
Its: Secretary