

**RESOLUTION  
OF THE  
SUNPOINTE AT LAKEWOOD ESTATES II CONDOMINIUM ASSOCIATION, INC.  
REGARDING POLICIES AND PROCEDURES FOR COVENANT AND RULE  
ENFORCEMENT**

**SUBJECT:** Adoption of a policy regarding the enforcement of covenants and rules and procedures for the notice of alleged violations, conduct of hearings and imposition of fines.

**PURPOSE:** To adopt a uniform procedure to be followed when enforcing covenants and rules to facilitate the efficient operation of the Association.

**AUTHORITY:** The Declaration, Articles of Incorporation and Bylaws of the Association, and Colorado law.

**EFFECTIVE  
DATE:**

4-29-2013

**RESOLUTION:** The Association hereby adopts the following procedures to be followed when enforcing the covenants and rules of the Association:

1. Reporting Violations. Complaints regarding alleged violations may be reported by an Owner or resident within the community, a group of Owners or residents, the Association's management company, if any, Board member(s) or committee member(s) by submission of a written complaint.

2. Complaints.

(a) Complaints by Owners or residents shall be in writing and submitted to the Board of Directors. The complaining Owner or resident shall have observed the alleged violation and shall identify the complainant ("Complainant"), the alleged violator ("Violator"), if known, and set forth a statement describing the alleged violation, referencing the specific provisions which are alleged to have been violated, when the violation was observed and any other pertinent information. Non-written complaints or written complaints failing to include any information required by this provision may not be investigated or prosecuted at the discretion of the Association.

(b) Complaints by a member of the Board of Directors, a committee member, or the manager, if any, may be made in writing

or by any other means deemed appropriate by the Board if such violation was observed by the Director or Manager.

3. Investigation. Upon receipt of a complaint by the Association, if additional information is needed, the complaint may be returned to the Complainant or may be investigated further by a Board designated individual or committee. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.

4. Initial Warning Letter. If a violation is found to exist, an initial warning letter shall be sent to the Violator explaining the nature of the violation. The Violator will have 30 days from the date of the letter to come into compliance. The foregoing procedure will not be used, however, in the event the violation is determined by the Board to be a Repetitious Violation as defined in paragraph 14 of this policy. In such event, the procedure outlined in paragraph 14 shall be followed.

5. Continued Violation After Initial Warning Letter. If the alleged Violator does not come into compliance within 30 days of the initial warning letter, this will be considered a second violation for which a fine may be imposed following notice and opportunity for a hearing. A second letter shall then be sent to the alleged Violator, providing notice and an opportunity for a hearing, and explaining if a violation is found to exist, a fine may be imposed pursuant to this Policy. The letter shall further state that the alleged Violator is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing within 10 days of the date on the violation letter. The foregoing procedure will not be used, however, in the event the violation is determined by the Board to be a Repetitious Violation as defined in paragraph 14 of this policy. In such event, the procedure outlined in paragraph 14 shall be followed.

6. Continued Violation After Second Letter. If the alleged Violator does not come into compliance within 10 days of the second letter, this will be considered a third violation for which a fine may be imposed following notice and opportunity for a hearing. A third letter shall then be sent to the alleged Violator, providing notice and an opportunity for a hearing, and explaining if a violation is found to exist, a fine may be imposed pursuant to this Policy. The letter shall further state that the alleged Violator is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing within 10 days of the date on the violation letter. The foregoing procedure will not be used, however, in the



event the violation is determined by the Board to be a Repetitious Violation as defined in paragraph 14 of this policy. In such event, the procedure outlined in paragraph 14 shall be followed.

7. Continued Violation After Third Letter. If the alleged Violator does not come into compliance within 10 days of the third letter, this will be considered a fourth violation for which a fine may be imposed following notice and opportunity for a hearing. A fourth letter shall then be sent to the alleged Violator, providing notice and an opportunity for a hearing, and explaining if a violation is found to exist, a fine may be imposed pursuant to this Policy. The letter shall further state that the alleged Violator is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing within 10 days of the date on the violation letter. The foregoing procedure will not be used, however, in the event the violation is determined by the Board to be a Repetitious Violation as defined in paragraph 14 of this policy. In such event, the procedure outlined in paragraph 14 shall be followed.

8. Notice of Hearing. If a hearing is requested by the alleged Violator, the Board, committee or other person conducting such hearing as may be determined in the sole discretion of the Board, may serve a written notice of the hearing to all parties involved at least 10 days prior to the hearing date.

9. Impartial Decision Maker. Pursuant to Colorado law, the alleged Violator has the right to be heard before an "Impartial Decision Maker". An Impartial Decision Maker is defined under Colorado law as "a person or group of persons who have the authority to make a decision regarding the enforcement of the association's covenants, conditions, and restrictions, including architectural requirements, and other rules and regulations of the association and do not have any direct personal or financial interest in the outcome. A decision maker shall not be deemed to have a direct personal or financial interest in the outcome if the decision maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the association." Unless otherwise disqualified pursuant to the definition of Impartial Decision Maker, the Board may appoint to act as the Impartial Decision Maker the entire Board, specified members of the Board, any other individual or group of individuals.

10. Hearing. At the beginning of each hearing, the presiding officer, shall introduce the case by describing the alleged violation and the procedure to be followed during the hearing. Each party or designated representative, may, but is not required to, make an

opening statement, present evidence and testimony, present witnesses, and make a closing statement. The presiding officer may also impose such other rules of conduct as may be appropriate under the given circumstances. Neither the Complainant nor the alleged Violator are required to be in attendance at the hearing. The Impartial Decision Maker shall base its decision solely on the matters set forth in the Complaint, results of the investigation and such other credible evidence as may be presented at the hearing. Unless otherwise determined by the Board, all hearings shall be open to attendance by all Owners. After all testimony and other evidence has been presented at a hearing, the Impartial Decision Maker shall, within a reasonable time, not to exceed 10 days, render its written findings and decision, and impose a fine, if applicable. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the hearing committee's decision absent a showing of denial of due process.

11. Failure to Timely Request Hearing. If the alleged Violator fails to request a hearing within 10 days of any letter, or fails to appear at any hearing, the Impartial Decision Maker may make a decision with respect to the alleged violation based on the Complaint, results of the investigation, and any other available information without the necessity of holding a formal hearing. If a violation is found to exist, the alleged Violator may be assessed a fine pursuant to these policies and procedures.

12. Notification of Decision. The decision of the Impartial Decision Maker shall be in writing and provided to the Violator and Complainant within 10 days of the hearing, or if no hearing is requested, within 10 days of the final decision.

13. Fine Schedule. The following fine schedule has been adopted for all recurring covenant violations:

First violation	Warning letter
Second violation (of same covenant or rule)	\$20.00
Third violation (of same covenant or rule)	\$50.00
Fourth and subsequent violations	



(of same covenant or rule)

\$100.00

Fourth and subsequent covenant violations may be turned over to the Association's attorney to take appropriate legal action.

14. Repetitious Violations. Repetitious Violations are defined as a series of identical or substantially similar individual violations that occur repeatedly or continuously within a period of time to be determined in the discretion of the Board, with each individual violation separated by a period of no less than 1 day, nor more than 90 days, the result of which is a pattern of violations of the same covenant restriction. In the event of such Repetitious Violation, in the discretion of the Board, each instance of noncompliance may constitute a separate violation, and the Board shall not be required to provide a period of 10 days from each violation for the alleged Violator to come into compliance. A warning letter shall be sent for the first violation in the series. After the warning letter, the Board may cause violation notices to be sent for each violation in the series stating the amount of the fine to be imposed (pursuant to the Fine Schedule in paragraph 13), and giving notice and an opportunity for a hearing. The Board shall individually consider each violation for which a hearing is requested, but is permitted to combine any and all hearings requested for Repetitious Violations on one date.

Examples of Repetitious Violations include, but are not limited to repeatedly or continually parking a restricted recreational vehicle in the community, repeated failure to remove and store a portable basketball hoop. In each one of these examples, the Owner will receive a warning letter on the first instance of the violation. On the second instance of the violation, the owner will receive a \$20 fine letter, and notice and opportunity for a hearing. On the third instance of the violation, the owner will receive a \$50 fine letter and notice and opportunity for a hearing. On the fourth instance of the violation, the owner will receive a \$100 fine letter and notice and opportunity for a hearing. If hearings are requested, the Board may set them all on the same date.

15. Continuous Violations. Continuous violations are defined as violations of Owner obligations that are uninterrupted by time. Each day of noncompliance with such violations constitutes a separate violation.

*For example: the failure to remove an unapproved exterior improvement or the continuous parking in a fire lane.*

If an Owner is determined as having a continuous violation, in accordance with the terms of this Policy, such Owner may be subject to a weekly fine of \$20.00 each week per covenant if not corrected, following a notice and opportunity for a hearing as set forth above.

16. Waiver of Fines. The Board may waive all, or any portion, of the fines if, in its sole 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 and staying in compliance with the Articles, Declaration, Bylaws or Rules.

17. Other Enforcement Means. This fine schedule and enforcement process is adopted in addition to all other enforcement means which are available to the Association through its Declaration, Bylaws, Articles of Incorporation and Colorado law. The use of this process does not preclude the Association from using any other enforcement means.

18. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.

19. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.

20. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.

21. Amendment. This policy may be amended from time to time by the Board of Directors.

**PRESIDENT'S  
CERTIFICATION:**

The undersigned, being the President of the Sunpointe at Lakewood Estates II Condominium Association, Inc., a Colorado nonprofit corporation, certifies that the foregoing Resolution was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on

4-29-2013 and in witness thereof,  
the undersigned has subscribed his/her name.

**SUNPOINTE AT LAKEWOOD ESTATES II  
CONDOMINIUM ASSOCIATION, INC.,**  
a Colorado nonprofit corporation,

By:   
President



(4)

**RESOLUTION  
OF THE  
SUNPOINTE AT LAKEWOOD ESTATES II CONDOMINIUM ASSOCIATION, INC.  
ADOPTING POLICIES AND PROCEDURES  
REGARDING BOARD MEMBER CONFLICTS OF INTEREST**

**SUBJECT:** Adoption of a policy and procedure regarding Director conflicts of interest and a code of ethics.

**PURPOSE:** To adopt a policy and procedure to be followed when a Director has a conflict of interest to ensure proper disclosure of the conflict and voting procedures and to adopt a code of ethics for Directors.

**AUTHORITY:** The Declaration, Articles of Incorporation and Bylaws of the Association and Colorado law.

**EFFECTIVE  
DATE:**

4-29-2013

**RESOLUTION:** The Association hereby adopts the following policy and procedure regarding Director conflicts of interest and code of ethics:

1. General Duty. The Board of Directors shall use its best efforts at all times to make decisions that are consistent with high principles, and to protect and enhance the value of properties of the members and Association. All Directors shall exercise their power and duties in good faith and in the best interest of, and with utmost loyalty to the Association. All Directors shall comply with all lawful provisions of the Declaration and the Association's Articles, Bylaws, and Rules and Regulations.

2. Definition.

(a) "Conflicting interest transaction" means a contract, transaction, or other financial relationship between the Association and a Director, or between the Association and a party related to a Director, or between the Association and an entity in which a Director of the Association is a director or officer or has a financial interest.

(b) "Director" means a member of the Association's Board of Directors.



(c) "Party related to a Director" means a spouse, a descendant, an ancestor, a sibling, the spouse or descendant of a sibling, an estate or trust in which the Director or a party related to a Director has a beneficial interest, or an entity in which a party related to a Director is a director or officer or has a financial interest.

3. Loans. No loans shall be made by the Association to its Directors or officers. Any Director or officer who assents to or participates in the making of any such loan shall be liable to the Association for the amount of the loan until it is repaid.

4. Disclosure of Conflict. Any conflicting interest transaction on the part of any Director or party related to a Director shall be verbally disclosed to the other Directors in open session at the first open meeting of the Board of Directors at which the interested Director is present prior to any discussion or vote on the matter. The interested Director shall not participate in the discussion or vote on the matter. The minutes of the meeting shall reflect the disclosure made, the abstention from voting, the composition of the quorum and record who voted for and against.

5. Enforceability of Conflicting Interest Transaction. No conflicting interest transaction shall be voidable by an Owner or on behalf of the Association if:

(i) The facts about the conflicting interest transaction are disclosed to the Board, and a majority of the disinterested Directors, even if less than a quorum, in good faith approves the conflicting interest transaction;

(ii) The facts about the conflicting interest transaction are disclosed or the Owners entitled to vote on the matter, and the conflicting interest transaction is authorized in good faith by a vote of the Owners entitled to vote on the matter; or

(iii) The conflicting interest transaction is fair to the Association.

6. Code of Ethics. In addition to the above, each Director and the Board as a whole shall adhere to the following Code of Ethics:

(a) No Director shall use his/her position for private gain, including for the purpose of enhancement of his/her financial status through the use of certain contractors or suppliers.

(b) No contributions will be made to any political parties or political candidates by the Association.

(c) No Director shall solicit or accept, directly or indirectly, any gifts, gratuity, favor, entertainment, loan or any other thing of monetary value from a person who is seeking to obtain contractual or other business or financial relations with the Association.

(d) No Director shall accept a gift or favor made with the intent of influencing a decision or action on any official matter.

(e) No Director shall receive any compensation from the Association for acting as a volunteer.

(f) No Director shall willingly misrepresent facts to the members of the community for the sole purpose of advancing a personal cause or influencing the community to place pressure on the Board to advance a personal cause.

(g) No Director shall interfere with a contractor engaged by the Association while a contract is in progress. All communications with Association contractors shall go through the Board President or be in accordance with policy.

(h) No Director shall harass, threaten, or attempt through any means to control or instill fear in any member, Director or agent of the Association.

(i) No promise of anything not approved by the Board as a whole can be made by any Director to any subcontractor, supplier, or contractor during negotiations.

(j) Any Director convicted of a felony shall voluntarily resign from his/her position.

(k) No Director shall knowingly misrepresent any facts to anyone involved in anything with the community which would benefit himself/herself in any way.

(l) Language and decorum at Board meetings will be kept professional. Personal attacks against owners, residents, managers, service providers and Directors are prohibited and are not consistent with the best interest of the community.



7. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
8. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the community.
9. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.
10. Amendment. This policy may be amended from time to time by the Board of Directors.
11. Review of Policy. The Board shall review this Policy and the procedures contained herein periodically to determine whether any revisions or amendments to this Policy are necessary or warranted.

**PRESIDENT'S  
CERTIFICATION:**

The undersigned, being the President of the Sunpointe at Lakewood Estates II Condominium Association, Inc. a Colorado nonprofit corporation, certifies that the foregoing Resolution was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on 4-29-2013 and in witness thereof, the undersigned has subscribed his/her name.

**SUNPOINTE AT LAKEWOOD ESTATES II  
CONDOMINIUM ASSOCIATION, INC.,**  
a Colorado nonprofit corporation,

By:   
President