

PROPOSED
FOUNTAIN GREENS HOMEOWNERS ASSOCIATION, INC.,
POLICY NUMBER 4

**ENFORCEMENT OF ASSOCIATION COVENANTS AND POLICIES; PROCEDURES
FOR RESOLVING DISPUTES BETWEEN THE ASSOCIATION AND ITS MEMBERS**

SUBJECT: This Policy prescribes rules and procedures for enforcing the Covenants, Policies, and rules which govern the Fountain Greens Homeowners Association, Inc. (the “Association”), including how fines may be assessed against Members of the Association. It also prescribes the procedures by which disputes between the Association and any Member will be resolved. It applies to all homes and areas within the Fountain Greens Subdivision (the “Subdivision”).

PURPOSE: To adopt definite and consistent procedures for enforcing the Covenants, Rules, and Policies of the Association, for assessing fines against Members for violations of the Association’s Covenants, Rules and Policies, and for resolving disputes between the Association and its Members.

INTENT: This Policy is intended by the Board to comply with the requirements of Section 38-33.3-209.5 (1)(b) of the Colorado Revised Statutes, which is titled “*Responsible governance policies - due process for imposition of fines -procedure for collection of delinquent accounts – definition*”, and which provides:

“(1) To promote responsible governance, associations shall:

. . .

(b) Adopt policies, procedures, and rules and regulations concerning:

. . .

(IV) Enforcement of covenants and rules, including notice and hearing procedures and the schedule of fines; [and]

. . .

(VIII) Procedures for addressing disputes arising between the association and unit owners...”

AUTHORITY: The laws of the State of Colorado, the Covenants referred to in Paragraph A of Article I, below, as well as the Articles of Incorporation, and Bylaws of the Association (as they have been or may be amended occasionally hereafter), and the Policies of the Association as previously or hereafter adopted by the Board of Directors of the Association.

EFFECTIVE DATE: _____ (which date shall not be earlier than the day

thirty (30) days after the day this Policy was first published in final form on the Association's Website as an approved Policy with the required Policy Notice)

RESOLUTION: The Board of Directors (the "Board") of Fountain Greens Homeowners Association, Inc., hereby adopts the following Policy:

ARTICLE I

Rules for Interpretation of Policy

This Policy Number 4 ("this Policy") has been adopted by the Board to comply with the requirements of Section 38-33.3-209.5 (1)(b) (IV and VIII) of the Colorado Revised Statutes, to protect the value of real estate in the Subdivision and promote harmony among the owners of that real estate (the "Owners"). The Board intends that this Policy be interpreted in a manner consistent with the documents, laws, and principles referred to below.

A. **Governing Documents:** This Policy is subject (and subordinate) to:

1. The Colorado Common Interest Ownership Act ("CCIOA") (C.R.S. Title 38, Article 33.3), the Colorado Revised Uniform Arbitration Act ("CRUAA") (C.R.S. §§ 13-22-201 to 13-22-230), and the common and statutory laws of the State of Colorado that apply to the Association.

2. The "Declaration of Homeowners Association Covenants and Restrictions for Fountain Greens, a Subdivision in Boulder County, Colorado," dated June 12, 1975, and recorded on Film Number 893, reception number 144190, in the office of the Clerk and Recorder of Boulder County, Colorado, as amended by the "First Amendment" thereto recorded November 9, 1977, on Film Number 984, reception number 250929 in records of the office of the Clerk and Recorder of Boulder County, Colorado (hereafter called the "HOA Covenants");

3. The "DECLARATION OF RESTRICTIONS, COVENANTS AND CONDITIONS" recorded November 29, 1977, on Film Number 0986, reception number 253558 in the records of the office of the Clerk and Recorder of Boulder County, Colorado, but only as it applies to Owners of Lots in Block 3 (hereafter called the "Block 3 Covenants");

4. The "DECLARATION OF RESTRICTIONS, COVENANTS AND CONDITIONS" recorded July 26, 1978, on Film Number 1020, reception number 290878 in the records of the office of the Clerk and Recorder of Boulder County, Colorado, but only as it applies to Owners of Lots in Blocks 4 and 8 (hereafter called the "Blocks 4 & 8 Covenants");

5. The “DECLARATION OF RESTRICTIONS, COVENANTS AND CONDITIONS” recorded January 31, 1977, on Film Number 0951, reception number 209069 in the records of the office of the Clerk and Recorder of Boulder County, Colorado, as amended by the First Amendment thereto recorded November 29, 1977, on Film Number 0986, reception number 253660, but only as it applies to Owners of Lots in Blocks 5, 6 and 7 (hereafter called the “Blocks 5, 6 & 7 Covenants”); and

6. The separate covenants and declarations which apply to the six Sub-Associations in the Subdivision, but which are subject to regulation and governance by separate regimes, to wit:

a. Buckingham Green Homeowners Association, Inc. (“Buckingham Green”), a Colorado not-for-profit corporation, which was formed to administer the Buckingham Green neighborhood. It is controlled by residents of those residences within Block 1 of the Subdivision under “protective covenants” recorded in the records of the office of the Clerk and Recorder of Boulder County, Colorado, on June 26, 1992, as Reception number 01197197 on Film number 1742 (hereafter called the “Buckingham Green Covenants”);

b. Ironwood Condominium Association, Inc. (“Ironwood”), a condominium association, which was formed to administer the Ironwood condominiums. It is controlled by residents of those condominium homes within Block 2 of the Subdivision under a condominium declaration recorded in the records of the office of the Clerk and Recorder of Boulder County, Colorado, on May 17, 1984, as Reception Number 621510 on Film Number 1303;

c. Buckingham Ridge Homeowners Association, Inc. (“Buckingham Ridge”), a Colorado not-for-profit corporation, which was formed to administer the Buckingham Ridge neighborhood. It is controlled by residents of those Lots within Block 10 of the Subdivision under “protective covenants” recorded in the records of the office of the Clerk and Recorder of Boulder County, Colorado, on July 17, 1989, as Reception number 0992865 on Film number 1586 (hereafter called the “Buckingham Ridge Covenants”);

d. Country Club Greens Condominium Association, Inc. (“Country Club Greens”), a Colorado not-for-profit corporation, which was formed to administer the Country Club Greens condominium association. It is controlled by residents of those condominium homes within Block 12 of the Subdivision under a condominium declaration recorded in the records of the office of the Clerk and Recorder of Boulder County, Colorado, on May 9, 1995, as Reception Number 1515695 on Film Number 2051;

e. Fountain Greens Condominiums Association, Inc. (“Fountain Greens I”), a Colorado not-for-profit corporation, which was formed to administer the Fountain Greens Condominiums. It is controlled by residents of those condominium homes within the northern part of Block 13 of the Subdivision under a condominium declaration

recorded in the records of the office of the Clerk and Recorder of Boulder County, Colorado, on February 11, 1985, as Reception Number 671444 on Film Number 1340; and

f. Fountain Greens Condominiums II Association, Inc. ("Fountain Greens II"), a Colorado not-for-profit corporation, which was formed to administer the Fountain Greens II Condominiums. It is controlled by residents of those condominium homes within the southern part of Block 13 of the Subdivision under a condominium declaration recorded in the records of the office of the Clerk and Recorder of Boulder County, Colorado, on December 11, 1992, as Reception Number 1248007 on Film Number 1784.

B. **Definitions:** In this Policy, and in addition to the defined terms specified in paragraph A of this Article, the following terms have the following meanings:

1. **Appeal:** A request by a Member that a determination that the Member committed a Violation of a Covenant or Policy be reviewed by the appellate authorities specified in this Policy.

2. **ARC:** An Architectural Review Committee as defined and with the membership of that committee determined as described in Policy Number 12.

3. **Block Specific Covenants:** Collectively, the Block 3 Covenants, the Blocks 4 & 8 Covenants, and the Blocks 5, 6 & 7 Covenants.

4. **Board:** The Board of Directors of Fountain Greens Homeowners Association, Inc.

5. **Business Day:** A day which is not a Sunday or other federal or State of Colorado holiday such that there is no scheduled U.S. Mail delivery on that day.

6. **Compliance Date:** The date specified in a Final Notice of Potential Violation (as described in paragraph A of Article IV) by which a Violation must be corrected, and after which the Member receiving such Notice will be subject to a Fine, additional Fine, or Order.

7. **Covenants:** Collectively, the HOA Covenants, the Block Specific Covenants, and the Sub-Association Covenants.

8. **Determination:** The adoption of a resolution by the Pertinent ARC (or the Board) that a Member committed a Violation which requires correction.

9. **Dispute:** A disagreement between: (i) the Association, a Sub-Association, or Pertinent ARC; and (ii) a Member about: (iii) the application of the Covenants or a Policy to that Member which does not involve a Violation; or (iv) the failure of the Association or a Sub-Association to take some action; or (v) the taking of some action by the Association; and (vi) as a result of which that Member will suffer or has suffered damage to his or her property or interests.

10. **Final Determination:** (i) A Fine imposed upon a Member under this Policy as a punishment; or (ii) an Order to a Member to correct a Violation; or (iii) both a Fine and Order; or (iv) a Determination that a result and punishment other than a Fine or an Order is appropriate under the circumstances; and (v) regarding which all required Hearings have occurred and all Appeals to the Board by the Member from the imposition of such Fine or Order or other Determination have been completed and no further actions are required; and (vi) regarding which the Member has not requested mediation and binding arbitration under Article VII of this Policy.

11. **Final Determination Date:** The day (which must be a Business Day) on which Notice is deemed to have been given to a Member that a Final Determination has been made regarding that Member's Violation(s) and which states the Fine payable or Order with which the Member must comply.

12. **Fine:** An Amount determined under this Policy which is due from a Member to the Association because of a Violation. The current schedule (summary) of Fines is attached to this Policy as "Schedule A."

13. **Fine Payment Date:** The last day for the payment of a Fine after a Member's receipt (or deemed receipt) of a Notice to that Member of a Final Determination. The "Fine Payment Date" is the due date for the payment of a Fine and shall be the tenth (10th) Business day after the Final Determination Date. The failure to pay a Fine by the Fine Payment Date will obligate the Member to pay an additional Fine as specified in Schedule A.

14. **Hearing:** A proceeding before a Pertinent ARC, the Board, or an Arbitration Panel conducted under Article V of this Policy to determine whether a Member committed a Violation of the Covenants or a Policy. The Hearing shall be the location and occasion for determining the facts which support the conclusion that a Violation did occur, and the factors which influence the appropriate Fine or Order to be imposed against a Member because of that Member's Violation.

15. **Manager:** The management firm engaged by the Board to manage the Association and the Association's property and finances, and to assist the Members and the Association in complying with the Covenants, the Policies and the laws of the State of Colorado . A written Response given by a Member to the Manager constitutes Notice to the Association. The Notice Date of that Response is the day the Manager is deemed to have received same as specified in Article IV.

16. **Notice:** A written communication by the Pertinent ARC or the Board to a Member which meets the requirements of Article IV of this Policy and which specifies an action which must be taken, Fine which must be paid, election which must be made, or Violation which must be corrected by that Member by the date specified in said written communication. The Date a Notice is received (or is deemed to have been received) is referred to in this Policy as the "Notice Date."

17. **Order:** A direction or command by (alternatively) the pertinent ARC, Sub-Association, or the Board to a Member concerning an action which must be taken to cure or

correct or to prevent a future Violation and which, if disobeyed, may result in additional Fines payable by the Member.

18. Order Date: The last day for a Member to comply with an Order after a Member's receipt (or deemed receipt) of a Final Determination. The "Order Date" is the later of: (i) the date specified for compliance with the Order in the Final Determination; or (ii) the tenth (10th) Business day after the Final Determination Date. The failure to comply with an Order by the Order Date will obligate the Member to pay an additional Fine as specified in Schedule A.

19. Ordinances: the ordinances of Boulder County or the City of Boulder.

20. Owner or Member: Any person who owns a residential dwelling in the Subdivision and who is a Member of the Association. The term "Owner" and "Member" shall interchangeably apply to all persons who own a sole, joint, or partial interest in any residence in the Association, and otherwise shall have the same meanings as specified in the Covenants.

21. Pertinent ARC: Alternatively: (i) a Sub-Association which has jurisdiction under the Covenants over the Block in which the Member's Residence is located but which lacks any authority under its Sub-Association Covenants to impose a Fine or Order; or (ii) the ARC described in a Block Specific Covenant which has architectural and landscaping jurisdiction over the Block in which the Member's Residence is located; or (iii) the Board in the event of a failure to act by any Sub-Association or ARC as described in subparagraph 4 of Paragraph A of Article IV; or (iv) the Board if the Potential Violation does not involve an architectural or landscaping matter.

22. Petition: A written communication by a Member which satisfies the requirements of Article IX and which is delivered to the Manager as the representative of the Association seeking relief from the Association as the result of a loss or injury suffered by that Member because of any policy, action, undertaking, activity, or decision of the Board and which does not involve a Violation.

23. Policy or Policies: Each of the separate (and effective) Policies of the Association duly adopted or which may hereafter be adopted by the Association's Board under Policy Number 7.

24. Potential Violation: The accusation that a Member has committed a Violation which meets the requirements of Article IV.

25. Repeat Violation: The third (3rd) or subsequent time or instance during any calendar year a Member commits a Violation substantially similar to two (2) previous Violations for which the Member received a First Notice or Final Notice.

26. Response: A written communication by a Member which satisfies the requirements of Article IV and which is delivered to the Pertinent ARC in response to the accusation of a Potential Violation committed by that Member.

27. Sub-Association: Any of the six entities described above in subparagraph 6 of paragraph A of this Article which: (i) does not have the power to impose a Fine as the result of a Member's Violation of that Sub-Association's Covenants; or (ii) which otherwise lacks the power to order a Member to comply with that Sub-Association's Covenants; and (iii) which has requested that the Board to enforce those Sub-Association Covenants by fine or Order is hereafter called a "Sub-Association." The term "Sub-Association" shall not apply to the Sub-Associations described in subparagraph 6 of paragraph A of this Article which have the power to enforce (by a Fine or Order) their own Sub-Association Covenants.

28. Sub-Association Covenants: The separate covenants or declarations to which the Sub-Associations are subject as described above in subparagraph 6 of paragraph A of this Article are collectively called the "Sub-Association Covenants" and any of them as a "Sub-Association Covenant."

29. Violation: A Member's failure to comply with a Covenant or Policy of the Association and which is punishable by a Fine or Order under this Policy.

C. Incorporation of Policies Numbers 1 through 12 by Reference: Policy Number 1 (Collections of Unpaid Assessments by Fountain Greens Homeowners Association, Inc.), effective on June 28, 2018, and which prescribes how Unpaid Assessments will become liens against a Member's (Owner's) residence and may be collected by the Association, and all other Policies adopted by the Board before the Effective Date of this Policy or which may hereafter be adopted, and all said Policies hereafter amended or restated, are incorporated in this Policy by reference as fully as though set out herein verbatim.

D. Revocation of Previous Policies: This Policy #4 supersedes and replaces the previous policy titled "Notice and Hearing and Enforcement Policy and Procedures" adopted January 19, 2006, and the previous policy titled "Policy Regarding Dispute Resolution" dated February 21, 2007. Said previous policies are hereby revoked.

E. Payment of Association's Attorneys' Fees if Policy is Disregarded: If: (i) a Member ignores the procedures specified in this Policy; and (ii) seeks to avoid either punishment (Fines or Orders) or the requirements for seeking relief from the Association's actions or inactions in the manner permitted or prescribed by this Policy for the resolution of Disputes; and (iii) instead files a lawsuit against the Association or any of its officers, directors, or committee members which seeks either monetary damages, equitable relief, or to avoid the requirements of the Association's Covenants or Policies; and (iv) the Association is required to or, in the reasonable judgment of the Board, believes it necessary to engage one or more attorneys to defend against that Member's lawsuit or judicial proceeding; then (v) that Member shall reimburse the Association for its attorneys' fees, court costs, and litigation expenses incurred in defending against said lawsuit.

ARTICLE II

Overview

The procedures in this Policy are intended by the Association to create a framework whereby disputes between the Association and a Member can be resolved and Violations can be punished. Punishments for a Violation may include written warnings, Fines, and Orders. This Policy also establishes how Disputes between the Association and any Member will be resolved. Fines which are Final, and which remain unpaid after the time for the payment of same has expired will become Assessments as that term is defined in Policy Number 1. Such Assessments may be collected in the same manner as any unpaid Assessment described in Policy Number 1. A Fine against a Member will become a lien subject to collection under Policy Number 1 if the procedures prescribed by this Policy are properly observed and the time for appeals by the Member of that Fine have expired (i.e., the Fine or Order has become “Final”). If a Member appeals a punishment for a Violation, but all such appeals have been resolved against the Member, then the Fine or Order appealed by the Member will be “Final” and may be enforced under Policy Number 1. Final Orders to correct a Violation of the Covenants which are ignored or disobeyed may be punished by both additional Fines and by enforcement through equitable (judicial) orders imposed by a court of competent jurisdiction. Once a Fine has become Final under this Policy and remains unpaid it may be collected under the procedures specified in Policy Number 1.

ARTICLE III

Informal Methods of Resolving Violations

A. Informal Resolutions of Violations and Disputes Preferred Although Not Mandatory: Each ARC, Sub-Association, and the Board may utilize any reasonable and informal methods of resolving a dispute between a Member on one hand and the Pertinent ARC, Sub-Association or Board on the other hand, including (but not limited to) those described in paragraph B of this Article. However, there shall be no requirement that any particular informal method be used or that any informal method be used at all. Instead, any informal approach taken to resolve a Dispute or to deal with a Violation shall be at the discretion and election of the Pertinent ARC, the Manager, the Sub-Association, or the Board in each situation.

B. Alternative Informal Dispute Resolution Methods: The following methods of informally resolving a Dispute or a Violation may be utilized before invoking the procedures specified in Article IV, of this Policy, to wit:

- a verbal warning or discussion;
- a written warning or communication describing the issues involved;
- a meeting between the Member and representatives of the Pertinent ARC, Sub-Association, or the Board which, if not concluded in a manner satisfactory to the parties, does not prejudice or affect the timing or nature of the procedures and proceedings described in Article IV.

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ARTICLE IV

Formal Proceedings: Notices of Violations, Disputed Violations, Requests for Hearings, Preliminary and Final Determinations

If a Violation exists and remains uncorrected after any attempts to obtain the correction thereof through informal means, then the following procedures shall be applicable:

A. **First Notice of Possible Violation:** A First Notice concerning one or more potential Violations which a Member is alleged to have committed shall be given to that Member and shall be labelled as a "Courtesy Notice" or a reasonable equivalent (such as "First Notice" or "Preliminary Notice," etc.). This initial Notice is referred to in this Policy as a "First Notice". Furthermore:

1. If the Member who receives a First Notice thereafter corrects such Violation(s) within ten (10) days of the Notice Date of the First Notice, no Fine or other punishment shall be imposed on that Member unless that First Notice relates to a Repeat Violation. If the Member receiving said First Notice does not correct said Violation or file a Response to said First Notice within ten (10) Business Days after the Notice Date of the First Notice for a Fine or Order to be imposed, a Final Notice of Possible Violation(s) ("Final Notice") shall be given to that Member, which shall conform to the requirements of paragraph B, below.

2. Each First Notice shall be in writing and shall inform the Member of the Violation the Member is believed to have committed. The First Notice need not satisfy the other requirements of subparagraph 3 of Paragraph B of this Article.

3. No First Notice shall be issued to a Member unless it is authorized by (alternatively): (i) the Manager; (ii) a majority of the members of the pertinent ARC; or (iii) the Board. The Association's Manager may sign and deliver a First Notice of Potential Violation to a Member on behalf of the Pertinent ARC or the Board. Alternatively, the Chair or Vice-Chair of the Pertinent ARC or the Board may sign and deliver a First Notice of Potential Violation to the Member.

4. The "Notice Date" of a First Notice shall be determined in the manner specified in subparagraph 2 of paragraph B of this Article.

5. Any Violation of the Covenants or a Policy which does **not** relate to an Architectural or Landscaping matter also must be the subject of a First and a Final Notice if a Fine or Order against a Member is to be imposed. Such non-architectural or non-landscaping Notices of a Potential Violation may be signed only by the Manager or by the President or Vice-President of the Board to a Member. Any Fine or Order against a Member because of the non-architectural or non-landscaping Violation shall be considered only by the Board and shall not be

addressed by any ARC or Sub-Association.

6. If the Pertinent ARC (including any Sub-Association) for any reason does not wish to give a First Notice of Potential Violation to a Member even though it is alleged that said Member has committed a Potential Violation relating to an architectural or landscaping matter, the Pertinent ARC or Sub-Association may refer the matter to the Board by delivering to the Board the information in the Pertinent ARC's possession concerning a Member's Potential Violation together with a Notice to the Board that the Pertinent ARC does not intend to take any action regarding said Potential Violation. As soon as reasonably possible after such referral by the Pertinent ARC to the Board, the Board, either at its next regularly scheduled meeting or at any earlier meeting, shall determine what action to take concerning the Potential Violation. In the discretion of the Board, the Board may resolve to give a First Notice to the Member involved and thereafter to address the Potential Violation in the place and stead of the Pertinent ARC as hereafter prescribed. Alternatively, the Board, in its discretion, may resolve to not give such Notice and to consider such Potential Violation as inconsequential or as having been corrected without the need for any action under this Policy.

B. Final Notice of Possible Violation: If a Member who received a First Notice: (i) does not correct the Violation described in that First Notice; and (ii) does not file a Response to said First Notice; and (iii) more than ten (10) Business Days elapse after the Notice Date of the First Notice without such correction or a Response; then (iv) a Final Notice of Possible Violation(s) ("Final Notice") may be given to that Member. A Final Notice must conform to the requirements of this paragraph B, to wit:

1. Architectural and Landscaping Violations: No Final Notice shall be issued to a Member unless it is authorized by (alternatively): (i) the Manager; (ii) a majority of the members of the pertinent ARC; or (iii) the Board. The Association's Manager may sign and deliver a Final Notice to a Member on behalf of the Pertinent ARC or the Board. Alternatively, the Chair or Vice-Chair of the Pertinent ARC or the President or Vice-President of the Board may sign and deliver a Final Notice to the Member. Only a Final Notice to the Member authorized by the Manager, Pertinent ARC, or the Board shall create any obligation by the Member involved to file a Response or to correct the Potential Violation or pay any Fine.

2. Notices to be in Writing and Deemed Received When: All Notices, demands, requests, and other communications required or permitted by this Policy between: (i) the Manager, the Board, the Pertinent ARC; and (ii) a Member must be in writing to be effective. Furthermore:

a. All Notices, demands, requests and other communications (and copies thereof) shall be deemed to have been received by the Member to whom it is addressed (or shall be deemed received by the Association if sent by a Member to the Association):

(i) on the date such Notice or other communication is sent by telecopier/facsimile machine ("fax"), upon electronic or telephonic confirmation of receipt from the receiving telecopier; or

(ii) on the first Business Day following the date such Notice or other communication is delivered to a reputable overnight courier (e.g., Federal Express) by the sender, with the direction that such communication be eligible for next business day delivery (and whether or not actually received by the addressee on said next business day or not); or

(iii) on the second (2nd) Business Day after the day such written communication is deposited in a regularly maintained receptacle for the United States mail, postage prepaid in the proper amount, and whether or not actually received by the addressee on the second business day or not.

b. Each such Notice, demand, request, or other communication shall be addressed:

- If to the Association: Fountain Greens Homeowners Association, Inc.

c/o [Name and Address of Association's Manager]

- If to an ARC: [Name of Pertinent ARC]

c/o [Name and Address of Association's Manager]

With a Copy to: [Name and Address of Chair of Pertinent ARC]

- If to a Member: [Name and Address of Member]

- If to a

Sub-Association: [Name and Address of manager of Sub-Association]

With a Copy to: [Name and Address of Chair of Sub-Association]

c. A current listing of the names and addresses of each Sub-Association, each ARC, and the Association's Manager shall be maintained by the Association on the Association's website, i.e., <https://www.fountaingreenshoa.com/>.

d. A Member may give a Notice which meets the above requirements to the Association's Manager specifying a different address other than that Member's Residence for receipt by that Member of Notices (e.g., the name and address of the Member's attorney), in which event the Association or Pertinent ARC shall utilize said substituted address for future Notices to that Member, unless said Member changes that address by a separate Notice which also satisfies the above requirements.

e. The date the Member, the Pertinent ARC or the Association receives (or is deemed to have received) a Notice or other communication pursuant to the foregoing is hereafter called the "Notice Date" regarding such communication.

f. Unless the provisions of paragraph C of this Article IV apply, the Board, in its discretion (and in addition to a Notice which satisfies the other requirements of this

Article), may make a good faith effort to simultaneously send an E-Mail to the Member involved with a copy of any Notice to that Member, but only if that Member previously has furnished the Association or the Association's Manager with a currently valid E-Mail address for that Member. Attached to that E-Mail shall be a copy of any communication otherwise sent to the Member in the manner specified above in this paragraph

B. However, and regardless of the reason for the failure of the Member to receive said E-Mail (and/or the attached copies of the Notice of Potential Violation or other communication attached to said E-Mail), such failure shall not invalidate the Notice or communication to which said E-Mail relates or change the Notice Date applicable thereto if such communication also has been sent by one of the means described above in subparagraph a of this paragraph 2.

g. Notwithstanding the foregoing, if: (i) a Member is ill and hospitalized; or (ii) is traveling and away from Boulder County for an extended period of time; and (iii) said Member can establish to the satisfaction of the Manager, the Pertinent ARC, or the Board that the Member did not receive the First Notice described above, then the Notice Date for that Member's First Notice shall be the date the Manager, the Pertinent ARC, or the Board reasonably believes was day on which the Member actually received the First Notice, and that date shall become the Notice Date for the Notice.

3. Required Contents of a Final Notice of Potential Violation: Any Final Notice of Potential Violation, in order to create a Member's obligation to pay a Fine or obey an Order, must satisfy the following requirements:

- a. Be in writing;
- b. State it is a "Final Notice of Potential Violation Pursuant to Policy Number 4 of the Fountain Greens Homeowners Association";
- c. Describe the alleged Potential Violation by reference to the specific Covenant or Policy and the facts which have caused the sender of the Notice (i.e., the Manager, Pertinent ARC or the Association) to conclude that the Member has violated the Covenant or Policy specified in the Notice;
- d. State that the Potential Violation must be corrected before the Compliance Date (which shall be as soon as reasonably possible and not later than ten (10) Business Days after the Notice Date of the Final Notice;
- e. State that further information about the Association's Covenants and Policies can be found on the Association's website: <https://www.fountaingreenshoa.com/>;
- f. State that a failure by the Member to correct the Potential Violation by the Compliance Date will cause the Member to be subject to additional Fines and Orders under this Policy;
- g. State that the failure by the Member to correct the Potential Violation within ten (10) Business Days after receiving the First Notice requires that the Member pay the minimum Fine specified in Schedule A;
- h. State that if the Member believes that the Member has not committed a

Violation, the Member may file a Response under paragraph E of this Article, but such Response must be received by the Pertinent ARC (or, if applicable, the Board) by the tenth (10th) Business Day after the Notice Date of the Final Notice;

j. State that if the Member files a timely Response denying committing a Violation, the time during which the Member must correct the alleged Violation will be tolled (suspended) until a Final Determination is made regarding the matters raised in the Member's Response; and

k. [For Notices relating to architectural and landscaping Violations:] State that Appeals from any Final Determination adverse to the Member by an ARC may be filed with the Board as specified in Policy Number 12, and that any denial by the Board of a Member's Appeal from a Determination by an ARC will entitle the Member to arbitrate such denial under Article VII of this Policy; or

l. [For Notices not involving an architectural or landscaping Violation:] State that Appeals from any denial by the Board of the Member's Appeal regarding a Violation that does not involve an Architectural or Landscaping matter shall entitle the Member to request arbitration of such denial under Article VII of this Policy.

C. Optional E-Mail Notice: Instead of the Notice procedures described in sub-paragraph 2 of paragraph B, above, the Member and the Pertinent ARC, Sub-Association, or Board may agree to use E-Mail as the exclusive method of providing Notices and Responses under this Policy, to wit:

1. A Member may give a Notice which meets the requirements of sub-paragraph 2 of paragraph B to the Association's Manager specifying an E-Mail address for the Member and electing to use E-Mail Notices as the exclusive means of notifying the Member. Unless the Member elects to use E-Mail as the exclusive means of providing a Notice to the Member, the Association shall not utilize E-Mail for Notice purposes under this Policy.

2. If a Member agrees to E-Mail as the exclusive means of providing Notice to that Member, then a written communication shall be deemed received by the Member on the date said E-Mail is transmitted to the Member by the Association.

3. Similarly, the Association or the Pertinent ARC may inform a Member that the exclusive means of providing a Notice or other communication to the Association or Pertinent ARC is with E-Mail, in which event a written communication shall be deemed received by the Association or Pertinent ARC on the date said E-Mail is transmitted by the Member to the Pertinent ARC or the Association.

D. Effect of Receipt of Final Notice of Potential Violation by a Member: Unless a Member who receives a Final Notice of Potential Violation files a Response to that Notice within the time allowed for same (as specified in paragraph E, below), the Final Notice of Potential Violation shall be a Final Determination that the Violation occurred. Thereafter, and within ten

(10) Business Days of the Final Notice Date, the Member shall correct said Violation. However (and furthermore):

1. If the Violation cannot reasonably be corrected within the ten (10) Business Day period, then the Member shall begin the correction thereof within said 10-day period and use good faith and conscientious efforts to complete the correction of the Violation as soon as reasonably possible thereafter.

2. A failure to correct the Violation within the period allowed for same shall constitute an additional Violation, and shall obligate the Member failing to make such correction to pay an additional Fine as specified in Schedule A.

3. If a Member contests a Final Notice of Potential Violation promptly (as specified in paragraph E of this Article), the time to correct a Potential Violation shall be extended until the date which is ten (10) Business Days after the date of the Final Determination of same as specified in Articles V and VI.

4. If a Member promptly corrects a Violation following receipt of a First Notice, no Fine shall be imposed on or payable by that Member unless the Violation is a Repeat Violation. Even though a Member promptly corrects a Repeat Violation following receipt of a Final Notice which the Member does not contest, that Member shall nevertheless be obligated to obey any Order and to pay the Fine specified in Schedule A for any Repeat Violations.

5. A Member who contests a Violation or who Appeals from a Determination, but who promptly corrects a Violation following a Hearing and Final Determination that a Violation occurred, shall nevertheless be obligated to pay the Fine (and obey any Order) specified in the Determination once that Determination becomes a Final Determination.

6. Notwithstanding the foregoing, if: (i) a Member is ill and hospitalized; or (ii) is traveling and away from Boulder County for an extended period of time; and (iii) said Member can establish to the satisfaction of the Manager, the Pertinent ARC, or the Board that the Member did not receive the Final Notice described above, then the Notice Date for that Member's Final Notice shall be the date the Manager, the Pertinent ARC, or the Board reasonably believes was day on which the Member actually received the Final Notice, and that date shall become the Notice Date for the Notice.

E. Requirements for and Effect of Timely Response to Notice of Potential Violation:

A Member may elect to contest whether that Member has committed the Violation(s) charged in a First or Final Notice. However, to do so the Member must file a Response which complies with this paragraph E and in a timely manner, to wit:

1. Responses to be in Writing and Deemed Received When: All Responses and

other communications required or permitted by this Policy between: (i) the Member filing such Response; and (ii) the Manager, the Board, or the Pertinent ARC must be in writing to be effective. Furthermore:

a. All Responses and other communications (and copies thereof) ~~shall be deemed to have been received by~~ the entity (Manager, Pertinent ARC, or Board) to whom it is addressed and shall be deemed received by that entity if sent by a Member to the Association:

(i) on the date such Response or other communication is personally delivered to the Association's Manager; or

(ii) on the date such Response or other communication is sent by telecopier to the Manager, upon electronic or telephonic confirmation of receipt from the receiving telecopier; or

(iii) on the first Business Day following the date such Response or other communication is delivered to a reputable overnight courier (e.g., Federal Express) by the sender, with the direction that such communication be eligible for next business day delivery (and whether or not actually received by the Manager, Pertinent ARC, or Board on said next business day or not); or

(iv) on the second (2nd) Business Day after the day such Response or written communication is deposited in a regularly maintained receptacle for the United States mail, registered or certified, postage prepaid in the proper amount (whether or not actually received by the Manager, Pertinent ARC, or Board on the second business day or not).

b. Each such Response, demand, request, or other communication shall be addressed:

- If to the Association: Fountain Greens Homeowners Association, Inc.

c/o [Name and Address of Association's Manager]

- If to an ARC: [Name of Pertinent ARC]

c/o [Name and Address of Association's Manager]

With a Copy to: [Name and Address of Chair of Pertinent ARC]

- If to a Sub-Association: [Name and Address of manager of Sub-Association]

With a Copy to: [Name and Address of Chair of Sub-Association].

c. The date the Manager, Pertinent ARC, or the Board receives (or is deemed to have received) a Response which complies with this paragraph is hereafter called the "Response Date". The Response Date must be by the tenth (10th) Business Day after the Notice Date of the Final Notice to the Member, or it will not be considered as timely.

3. Required Contents of a Response to a Final Notice of Potential Violation: Any Response to a Final Notice of Potential Violation, in order to create an obligation on the part of a

Pertinent ARC or the Board to schedule and hold a Hearing in connection with said Response, must satisfy the following requirements:

- a. Be in writing;
- b. State it is a “Response to a Final Notice of Potential Violation Pursuant to Policy Number 4 of the Fountain Greens Homeowners Association”;
- c. Attach a copy of the Final Notice of Potential Violation;
- d. State that the Member objects to and disputes the allegation that a Potential Violation occurred or there is good and sufficient reason to not require that the Member correct such Potential Violation;
- e. State in reasonable detail the facts and circumstances which justify the Member to believe that no Violation occurred or that the Member should not be subject to a Fine or Order regarding such alleged Violation;
- f. State whether the Member requests that a Hearing under Article V of this Policy be held to determine if the alleged Violation occurred and whether the Member should be subject to Fine or Order as a result.

A Hearing concerning a Response shall be convened under Article V, below, only if that Response complies with the foregoing requirements

ARTICLE V

Requirements for Hearings and Determinations

Upon receipt of a Response to a First or Final Notice of Potential Violation which complies with paragraph E of Article IV, the Pertinent ARC (or the Board, if applicable) shall promptly schedule and hold a Hearing in accordance with the following:

A. Date and Place of Hearings: The date and place of the Hearing held regarding a Response shall be within thirty (30) calendar days of the date the Response (or Petition, as applicable) is filed, and at a location within the Subdivision reasonably suitable for the presentation of evidence and the privacy of the persons involved. The time of day for the Hearing shall reasonably accommodate the needs of the persons who wish to present evidence to the Pertinent ARC (or Board, as the case may be) which relates to the Determination.

B. Persons Conducting Hearing to be Impartial and without Conflicts of Interest: The persons who serve on the Pertinent ARC (or the Board, as the case may be) shall be impartial, not have any animus or prejudice towards the Appellant, and not have any Conflict of Interest as described in Policy Number 2 (the provisions of which are incorporated herein by reference). The Pertinent ARC (or the Board, as applicable) shall carefully consider any challenge to a member of the ARC (or Board) participating in the Hearing if the Member/Appellant challenges that person’s continued participation in the Hearing based on a lack of impartiality. No person shall participate in any Hearing as a member of the ARC (or Board, if applicable) who has any direct personal or financial interest in the outcome of the proceedings, or who, because of the

outcome, might receive any greater benefit or detriment than will the general membership of the Association.

C. Procedure at Hearings: At any Hearing scheduled to resolve a dispute raised by a Response (or Petition, as applicable), the following procedure shall be used:

1. The Manager shall state the evidence and the nature and extent of any Violation(s) of which the Member is accused and shall function as the equivalent of the prosecutor. The Manager shall provide the Pertinent ARC (or Board) with copies of relevant documents, photographs, and the like, and the members of the ARC (or Board) may adjourn from the place of the Hearing to visually inspect the site of the alleged Violation if a majority of said members believe it would be helpful to do so in order to better understand the issues.

2. If the dispute is based upon a Petition filed by a Member which does not involve a Violation, then the Manager shall state the nature of the dispute, the allegations made in the Member's Petition, the evidence the Manager considers to be relevant to a determination of whether the Member is entitled to relief based upon that evidence, and shall provide the Board with copies of relevant documents, photographs, and the like. Thereafter the members of the Board may adjourn from the place of the Hearing to visually inspect the site of the alleged event or occurrence if a majority of said members believe it would help to do so to better understand the issues.

3. The Member/Appellant/Petitioner shall have the right to make such presentation as he or she desires in response to the Manager's presentation, may call witnesses, may introduce into evidence such documents and other materials as the Appellant/Petitioner believes are relevant to the issues, and may challenge any opinions or conclusions presented by the Manager at the Hearing.

4. Following the conclusion of the presentations of the Manager and the Appellant, the members of the ARC (or Board) shall adjourn to a place of reasonable privacy and shall discuss and vote upon the issues. The ARC (or Board, as applicable) shall endeavor to decide the issues and make a Determination with respect to the issues presented as soon as reasonably possible, and no later than 30 calendar days later than the date of the Hearing.

5. Any Determination by the ARC (or Board, as applicable) shall be in writing, shall state the facts and principles relied upon by the ARC (or Board) in making its Determination, and shall be communicated to the Applicant as soon as reasonably possible after the Determination is reached.

D. Decision of ARC or Board Following Hearing; Right to Appeal: The Determination made by the Pertinent ARC (or Board) shall be a Final Determination unless appealed by the Member/Appellant under Article VI of this Policy (in the case of an Appeal from a Determination made by an ARC) or under Article VII of this Policy (in the case of an Appeal from a Determination made by the Board).

ARTICLE VI

Appeals from Determinations by a Sub-Association or ARC to the Board

After an ARC or Sub-Association has conducted a Hearing which complies with Article V and determined that a Fine should be paid by a Member or an Order to correct a Violation involving an architectural or landscaping matter should be entered against a Member, the Member (the “Appellant”) shall have the right to Appeal the adverse Determination by the Pertinent ARC (file an “Appeal”) pursuant to the following procedure:

A. Appeals Must Be Heard by Board: Any Appeal by a Member from a Determination by the Pertinent ARC involving a Violation committed by that Member must be filed with and heard by the Board. Any Final Determination by the Board regarding such Appeal shall be final unless the Member elects to demand arbitration under Article VII of this Policy. Unless a demand for arbitration is made by the Member, no further Appeals from a Final Determination by the Board shall be permitted.

B. Time Limit for Appeal to Board: Any Appeal from a Determination of a Violation by an ARC must be filed by the Appellant no later than thirty (30) calendar days after the day of the Determination by the ARC. Such written Appeal must be filed with the Manager of the Association. Delivery of the Appeal to said Manager shall be deemed to be notice to the Association.

C. Required Contents of Appeal: Any Appeal from a Determination by an ARC must be in writing, and must include:

1. A copy of the ARC’s Determination and all attachments thereto;
2. A copy of any information furnished to the ARC by the Appellant at the Hearing conducted by the ARC before making its Determination; and
3. A statement by the Appellant stating that he/she Appeals from the decision made by the ARC together with a brief statement as to why the Appellant believes the determination by the ARC was erroneous or improper.

D. Hearing Upon Appeal: Upon receipt of a timely Appeal to the Board by an Appellant, the Board shall schedule a Hearing concerning the Appeal as soon as reasonably possible thereafter, and no later than Forty (40) days after the date on which said Appeal was filed. The Association shall notify Appellant of the date, time, and place of such hearing. Furthermore:

1. The Appellant may be represented by an attorney or other spokesperson at the Hearing.
2. The Board shall consider all relevant evidence and shall determine the facts and applicable principles de novo and shall not be bound by the record of evidence originally presented to or considered by the ARC or Sub-Association from which the Appellant has appealed.
3. The Hearing on Appeal shall otherwise conform to the requirements of

Article V of this Policy.

4. The Hearing shall be held in some building or suitable structure within the Subdivision. The Time of the Hearing shall be reasonably convenient to all persons who may have relevant evidence to present. The Hearing may be adjourned in order to accommodate schedules of witnesses and parties.

E. **Final Determination Following Hearing:** The Board may make such Final Determination regarding the Appeal as the Board, in its reasonable discretion, determines. The Board shall have the right to: (i) instruct the pertinent ARC as to how it should proceed under the circumstances; (ii) grant the Appeal and exonerate or modify the Fine or Order imposed by the pertinent ARC or otherwise grant relief as requested by the Appellant; (iii) deny the Appeal and affirm the Determination of the ARC; or (iv) continue the date for resolution of the Appeal until a date certain (date specified), but in no event shall the time for the Board to make a Final Determination regarding an Appeal be later than one-hundred and twenty (120) calendar days after the date the Appellant filed his or her notice of Appeal.

ARTICLE VII

Binding Arbitration of Disputes and Appeals

Fines and Orders against a Member because of a Violation or Determinations concerning a Petition filed by a Member following a Hearing by the Board may be appealed by the affected Member under this Article. Any such appeal shall be subject first to mediation and then to Binding Arbitration pursuant to the Colorado Revised Uniform Arbitration Act (CRUAA) (C.R.S. §§ 13-22-201 to 13-22-230), and the following procedures, to-wit:

A. **Appeal by Member from Final Determination by Board:** If a Member believes that the Final Determination of the Board regarding either a Violation or regarding a Petition filed by that Member is erroneous, the Member may appeal that Determination and demand Mediation and then Binding Arbitration under this Article. In this regard:

1. **Time Limit for Appeal:** Any Appeal from a Final Determination of a Violation or Determination regarding a Petition by the Board must be filed by the Member (Appellant) no later than thirty (30) calendar days after the day of the Final Determination by the Board. Such written Appeal must be filed with the Manager of the Association in the manner specified in paragraph B, 2, of Article IV. Delivery of the Appeal to said Manager shall be deemed to be Notice to the Association of the Member's Appeal and demand for Mediation and then Arbitration.

2. **Required Contents of Appeal:** Any Appeal from a Final Determination by the Board must be in writing, and must include:

1. A copy of the Board's Determination and all attachments thereto;
2. A copy of any information furnished to the Board by the Appellant at the Hearing conducted by the Board before making its Determination; and

3. A statement by the Appellant stating that he/she Appeals from the decision made by the Board together with a brief statement as to why the Appellant believes the determination by the Board was erroneous or improper.

B. Mediation: Before any dispute between a Member and the Board ("the Parties") is referred to an arbitrator or arbitration panel for resolution, the Parties shall use reasonable and good faith efforts to resolve said dispute on an informal basis or through a mediator mutually agreeable to both Parties.

1. The mediator selected for this purpose shall have no power to render a binding decree or to make a Final Determination binding upon the Parties, but instead said mediator shall be selected to achieve a consensus and agreement between the Parties with respect to the issue or issues in dispute.

2. In the event either Party believes an issue has not been resolved to said Party's satisfaction and that said dispute may be the subject of arbitration if not resolved, said Party shall have the right to demand that said issue be presented to a mediator for mediation and conciliation. In such event, said Party desiring such mediation (the "Member") shall give notice to the other Party (the "Board") as to the Member's desire to refer said issue to a mediator for resolution. Said written notice to the Board shall specify the names of at least three (3) persons who would be acceptable to the Member as a mediator for this purpose. The Board may agree to any of the three (3) persons so named to serve as mediator or may reject all said persons named and suggest three (3) prospective mediators in return.

4. If both Parties cannot agree as to the name of a mediator who will serve as such in connection with settlement proceedings within thirty (30) days of the date the Member first gives notice to the Board in this regard, then the issue involved shall not be required to be mediated, but instead may be the subject of arbitration under the provisions hereafter specified below. If the Parties can agree as to a person who can serve as mediator, then the parties shall meet with the mediator and attempt to resolve that issue to their mutual satisfaction. If the parties cannot resolve the issue through the mediation proceeding, then the Member/Appellant may thereafter invoke the arbitration proceedings hereafter specified.

C. Arbitration Procedures: If the Member and the Board (the "Parties") cannot resolve an issue or issues about which they disagree through the mediation process described above, then the Member may require the binding arbitration of such issue by demanding that said issue be arbitrated. In such event, the Parties shall proceed as follows:

1. The Member desiring arbitration (the "Electing Party") shall give written notice to the Board (the "Notice Party") as to the Member's election to invoke the binding arbitration provisions of this paragraph. Said written notice shall identify the issue or issues about which the Parties disagree, the fact of the Member's desire that said issues be arbitrated pursuant to this Agreement, and the name of the two (2) arbitrators which the Member has selected to arbitrate said dispute.

2. The Board shall have ten (10) days following receipt of the above-described

written notice concerning the Member's decision to demand arbitration in which to select two arbitrators to serve as such and who are acceptable to the Board for this purpose. The arbitrators selected by the Member and the arbitrators selected by the Board shall thereafter meet within five (5) days of the date the Board indicates to the Member the name of the Board's arbitrators and shall attempt to agree upon a fifth arbitrator who shall be selected by the four (4) previously named arbitrators. In the event said four (4) previously named arbitrators cannot agree upon a fifth arbitrator (by the consent of three of the four said previously named arbitrators), then either Party may communicate this fact to the American Arbitration Association ("AAA"), 1101 Laurel Oak Road, Suite 100 Voorhees, NJ 08043, which shall thereupon name and select the fifth arbitrator.

3. Any arbitrator selected by a Party must be independent of the Party who has selected said arbitrator, i.e., said arbitrator may not be an employee of the Member or the Manager, may not be related within the third degree of consanguinity to the Member or any person who is a member of the Board of Directors of the Association, or have any material financial relationship to the Member or any Board Member .

4. Any arbitrator selected must declare any prejudice, conflict of interest, or other matter which, if known before the inception of any arbitration would cause either Party to regard said arbitrator as biased and prejudiced and not sufficiently independent and neutral to resolve any issue presented to said arbitrator for resolution.

5. Any arbitrator selected for the foregoing purposes must agree in writing to base said arbitrator's decision on the principles hereafter set forth in paragraph C of this Article.

6. The Parties shall thereafter submit their issues and disputes to the arbitrators selected in the foregoing manner and shall thereafter be bound by any decision reached by at least three of the arbitrators (so long as the decision is reached and determined in accordance with the principles hereafter set forth in paragraph C of this Article).

7. In lieu of the foregoing procedures, if the Parties can agree on a single person to serve as sole arbitrator of the issue or issues involved, then the Parties may submit the issues involved to said single arbitrator who shall have the power to make a decision in the case which is binding upon both Parties.

C. Governing Principles Applicable to Arbitration Proceedings. In any arbitration proceeding conducted pursuant to the foregoing provisions of this Article, the Arbitrators shall be bound and governed by the following principles:

1. The arbitration proceedings shall be stayed for a reasonable period during which the Parties shall be permitted to conduct such discovery (including depositions, interrogatories, requests for admissions, and the like) in the same manner as if the issue or issues involved were pending before the District Court of Boulder County, Colorado, and under the Colorado Rules of Civil Procedure then in effect.

2. Following said period of discovery, the issues shall be presented to the arbitrator or arbitrators. However, in presenting such issues and such evidence as may be involved, the arbitrator shall be bound and obligated to apply the rules of evidence which are then in effect with respect to District Courts in Boulder County, Colorado, and shall be governed by the rules of evidence regarding the admissibility of evidence in the Colorado courts in the same manner as if said issues were then being tried to a District Judge in the District Court of Boulder County, Colorado. The arbitrators may not consider (and shall not consider) evidence which would not be admissible before the District Court of Boulder County, Colorado, were the issues being tried to said District Court in said case.

3. Any decision rendered by the arbitrators must be a decision which could be entered by the District Court of Boulder County, Colorado, under the same or similar circumstances. In this regard, the arbitration panel shall have such equitable authority and powers as the District Court of Boulder County, Colorado, would have under the same or similar circumstances, but shall not have the ability to fashion any relief or decision which would be beyond the authority of the District Court of Boulder County, Colorado, to render under the same or similar circumstances (assuming personal jurisdiction over both Parties).

4. In the event no member of the arbitration panel is an attorney licensed to practice law in Colorado, then the arbitration panel shall have the authority to retain the services of an attorney licensed to practice law in Colorado, and who has no conflict of interest regarding the Parties to advise the arbitration panel about the legal issues coming before the arbitration panel. However, because of the need for the arbitration panel to be familiar with legal principles under the laws of Colorado, the arbitration panelists selected by the Parties (and by the arbitrators) shall include at least one practicing attorney in Colorado or a Judge or former Judge of the courts of the state of Colorado.

5. The award rendered by the arbitrators (or arbitrator) shall be final and judgment may be entered on it under the laws of Colorado.

6. The arbitrators must use the rules of evidence as the same are in effect in the courts of Colorado and which govern whether evidence is competent, admissible, and subject to limitations on admissibility.

7. The Board, in its discretion, may hire an attorney to represent its interests in the arbitration proceedings. The attorney for the Board may make such presentations on the Board's behalf as the Board determines and instructs.

8. The arbitrators, in their discretion, may award attorneys' fees and costs by requiring either the Appellant or the Board to pay all or some portion of the other Party's attorney's fees and costs attributable to the arbitration proceeding based upon the evidence, the reasonableness of the respective positions on the issues, and the amounts thereof.

9. Any judgment or award entered by the arbitrators must include detailed findings

of fact and conclusions of law deemed material by the arbitrators in entering said decision, and the findings of fact and conclusions of law shall be subject to review by the courts of Colorado in the same manner as findings of fact and conclusions of law are subject to review by the appellate courts of the state of Colorado regarding findings of fact and conclusions of law entered by trial courts in the state of Colorado.

D. AAA Consumer Arbitration Rules: Except as set forth above in this Agreement, all other matters pertaining to the manner in which arbitration of disputes shall be resolved by reference to the "Consumer Arbitration Rules" as promulgated by the American Arbitration Association, 1101 Laurel Oak Road, Suite 100 Voorhees, NJ 08043, which "Consumer Arbitration Rules" as amended and in effect September 1, 2014 (and as the same were amended in 2018 and may be amended hereafter), are hereby incorporated herein by reference, the same as though set out herein verbatim.

E. Enforcement: The foregoing obligation to arbitrate shall be specifically enforceable under the laws of the State of Colorado. Any order or award by the arbitrator(s) shall be enforceable under the laws of the state of Colorado.

ARTICLE VIII

Schedule of Fines

Fines imposed upon and payable by a Member pursuant to this Policy shall be assessed according to Schedule A, which is attached hereto and incorporated by reference. Schedule A may be amended by the Board from time to time hereafter in accordance with Policy Number 7.

ARTICLE IX

Other Disputes Between Members and the Association

If any Member believes he or she has been injured or suffered a loss because of any policy, action, undertaking, activity, or decision of the Board and which does not involve a Violation, that Member may file an objection to same and seek relief from the Association by filing a Petition and proceeding in the manner specified in this Article, to wit:

A. Required Contents of a Petition: Any Petition seeking relief from the Association which does not concern or involve a Violation, in order to create an obligation on the part of the Board to schedule and hold a Hearing in connection with said Petition, must satisfy the following requirements:

- a. Be in writing;
- b. State it is a "Petition for Relief from Actions of the Fountain Greens Homeowners Association";
- c. State that the Member objects to and disputes the fairness, propriety, or lawfulness of an action taken or to be taken by the Association, and that there is good and sufficient reason for the Association to reverse, rescind, or refrain from taking an action

which will be injurious to the Member;

d. State in reasonable detail the facts and circumstances which justify the Member to believe that the action complained of is improper and will cause the Member injury, and that the Petition does not arise out of or seek to nullify a fine or order imposed upon the Member as the result of a Violation by the Member; and

e. State whether the Member requests that a Hearing under Article V of this Policy be held in order to determine if the action complained of occurred or will occur, whether there is good and sufficient reason to believe that the Association should not have taken or should not take such action, and whether the Member has been or will be damaged

A Hearing concerning a Response shall be convened pursuant to Article V, above, only if that Petition complies with the foregoing requirements. However, if the Petition satisfies the foregoing requirement, then the Board shall schedule and hold a Hearing regarding the Petition in accordance with the procedures in Article V.

B. Determination Concerning Petition Following Hearing: The Board may make such Determination with respect to the Member's Petition as the Board, in its reasonable discretion, determines. The Board shall have the right to: (i) grant the relief requested by the Member; (ii) deny the Member's Petition and requested relief; or (iv) continue the date for resolution of the Petition until a date certain (date specified), but in no event shall the time for the Board to make a Determination with respect to the Member's Petition be later than one-hundred and twenty (120) calendar days after the date the Member filed his or her Petition.

C. Appeal by Member from Determination by Board: If a Member believes that the Determination of the Board regarding that Member's Petition is erroneous, the Member may appeal that Determination and demand Mediation and then Binding Arbitration pursuant to the provisions of Article VII.

ARTICLE X

Amendment

This Policy may be amended from time to time by the Board, but only in accordance with the provisions of Policy Number 7.

PRESIDENT'S CERTIFICATION: The undersigned, being the President of Fountain Greens Homeowners Association Inc., certifies that the foregoing Policy was approved and adopted by the Board of ARC of the Association, at a duly called and held meeting of the Board of the Association on _____ and in witness thereof, the undersigned has subscribed her name.

Fountain Greens Homeowners Association, Inc., a Colorado nonprofit corporation

By: _____ Its: President

SCHEDULE A TO POLICY NUMBER 4

Fines Payable

Nature of Violation	Fine Payable
First Violation Not Otherwise Described Below	\$50.00
Second (substantially identical) Violation to First Violation	\$100.00
Third and Subsequent Violations (Repeat Violations)	\$200.00
Failure to Pay a Fine by the Fine Payment Date	\$100.00 plus \$100.00 for each calendar month (or portion thereof) subsequent to the calendar month in which the Fine Payment Date occurs until (but including) the calendar month in which payment of the Fine is made.
Failure to Obey Order by the Order Date	\$100.00 plus \$500.00 for each calendar month (or portion thereof) subsequent to the calendar month in which the Order Date occurs until (but including) the calendar month in which compliance with the Order occurs.