

**Policy of the Wissler Ranch Homeowners Association  
Regarding Policies and Procedures**

**For**

**Covenant, Policy, and Rule Enforcement**

- SUBJECT:** Adoption of a policy regarding the enforcement of the Wissler Ranch Homeowners Association (the Association), Covenants, Conditions and Restrictions (Covenants); policies and rules, and to standardize rules and procedures for the notice of alleged violation, conduct of hearings, impositions of fines, and other action(s) to effect compliance.
- PURPOSE:** To adopt uniform procedures to be followed when enforcing Covenants, policies, and rules to facilitate the efficient operation of the Association. This policy supersedes all previously dated and recorded Covenant enforcement policies and procedures including Penalty and Sanctions Schedules.
- AUTHORITY:** The Covenants, the Articles of Incorporation, Bylaws of the Association, and Colorado Statute
- EFFECTIVE DATE:** August 21, 2022
- RESOLUTION:** The Association hereby adopts the following procedures to be followed when enforcing the Covenants, policies, and rules of the Association:

1. Types of Covenant Violations. The Association defines three types of violations: Public Safety or Health, Well Meter Reporting and Other. Each shall have specified cure periods, applicable enforcement procedures and fines.

- a. Public Health and Safety. Violations that the Association's Covenants Committee Chairman (Chair) or Board of Directors (Board) reasonably determine threatens the public safety, health or well-being of Association members. Time critical issues which pose an immediate threat to the Association members. These violations have a 72-hour Cure Period.

Example: Unleashed pets; motorized vehicles operated in the Common Area; fireworks; open burning of trash, tree, or lawn refuse; bonfires, violations of Red Flag Warnings; National Weather Service Red Flag and high fire danger weather warnings; or county and state-issued restrictions.

- b. **Well Meter Reporting.** Failure to report a property well meter reading to the Water Committee by the day specified by the Association. This directly impacts the Association's responsibilities under the Augmentation Plan to enforce the provisions of Colorado Water Court Decree Division 1 Case 95CW134 and Division 2, Case 95CW148. It is critical to the needs of the Association and the continued ability of the Association's members to draw and use water. This is time-critical to respond to the legal obligations of the Association. These violations have a 72-hour Cure Period.
- c. **Other Violation.** A violation that will not subject the Association or its members to irreparable harm, legal jeopardy, or financial risk. A violation other than one that is a threat to public health and safety or well meter reporting. These violations have a 30-day Cure Period.

Example: Barking dogs, unapproved lot improvements, excessive noise.

2. **Reporting Violations.** Complaints regarding alleged violations may be reported by a member of the Association (Owner) or resident within the Association; a group of Owners or residents; the Association's management company, if any; Board member(s); or committee member(s). Complaints should be in writing and submitted to the Chair or to the Board. The person(s) making the complaint 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. Verbal 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.
3. **Investigation.** Upon receipt of a Complaint, the Chair will review the information provided and the circumstances of the alleged violation and investigate if necessary to determine if the facts support the finding of a Covenant violation. The Chair may in their own discretion issue a Notice of Covenant Violation (Notice). Alternatively, the Chair may consult with the Board, the Design Review Committee (DRC), the Water Committee, or any officer of the Association to determine if there are reasonable grounds to conclude a Covenant violation has taken place or is on-going. 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. Communications and Covenant Violation Notices. Notices and communications regarding Covenant violations, cure period, fines, and other Association actions consist of the following:

- a. Covenant Information Letter. In the case of a property owner who has purchased their property within the 12 months preceding the violation, a Covenant information letter shall be sent to the Owner informing them of the specific Covenant, Design Review Guideline, rule, or policy of which they are in violation and the actions required to come into compliance. The letter will request the Owner bring the violation into compliance within 10 days or contact the Chair with questions in order to resolve it. Owners who have not come into compliance or notified the Chair they are engaged in a resolution within 10 days will be sent a First Written Notice of Violation and First Cure Period.
- b. First Notice of Violation and First Cure Period (First Notice). A written notice of violation shall be sent to the Owner. The letter must explain the nature of the violation, the action or actions required to cure the violation and the length of the applicable cure period. The letter shall provide notice that a fine will be imposed if the violation is not cured within the applicable cure period in accordance with Attachment 1, *Penalty and Sanctions Schedule*. The notice shall further state that the Owner is entitled to a hearing on the merits of the matter in front of an impartial decision maker. The written notice shall be in English and/or in any language that the Owner has indicated a preference for correspondence.

In the case of "Other" Covenant violations, the notice must be sent by certified U.S. mail return receipt requested.

If the Owner's email is on file with the Association, an electronic copy will be emailed.

- c. Second Notice of Violation and Second Cure Period (Second Notice). In the case of "Other" violations, if the violation is not resolved within the first 30-day cure period, a second written notice shall then be sent to the Owner informing them of the continued Covenant violation, the action or actions required to cure the violation and the length of the cure period. The letter shall provide a Fine Notice that the uncured violation has incurred a fine and that an additional fine will be imposed if the violation is not cured within the second cure period in accordance with Attachment 1, *Penalty and Sanctions Schedule*. The written notice shall be in English and/or in any language that the Owner has indicated a preference for correspondence.

In the case of "Other" Covenant violations, the notice must be sent by certified U.S. mail return receipt requested.

If the Owner's email is on file with the Association, an electronic copy will be emailed.

**Fine Notice.** In the event a cure period expires without a cure, a fine will be imposed and notice of the fine sent to the Owner (Attachment 1, Penalty and Sanctions Schedule). An Owner may request a hearing on the merits of the matter in front of an impartial decision maker provided that such hearing is requested in writing within ten (10) days of the date on first or second notice.

On a Public Safety or Health or Well Meter Reporting violation, since the notice provides a 72-hour cure period, any request for a hearing may be after that period expires. However, if a hearing is requested, the hearing will be prior to any fines being imposed.

## 5. Notification and Cure Process.

- a. **Violations Which Threaten Public Safety or Health.** With respect to any violation of the Declaration, By-laws, Covenants, policies, rules or other Governing Documents of the Association that the Board reasonably determines threatens the public safety or health.
  - i. The Association shall provide the Owner with a First Notice informing them of the violation and that they must cure the violation within 72 hours or the Association may fine the Owner and, in addition, may take legal action to compel compliance and to prevent reoccurrence.
  - ii. If, after an inspection of the property or the Common Area, the Association determines the Owner has not cured the violation within 72 hours after receiving the notice, the Association will impose fines and or sanctions on the Owner every other day in an amount not exceeding the legal maximum and may proceed with taking legal action against the owner for the violation (Attachment 1, Penalty and Sanctions Schedule).
  - iii. Once the Association determines that an Owner has cured a violation, the Association shall notify the Owner that they are in compliance and that they will not be further subject to further fines on the violation. The Owner will be notified of any outstanding fine, fees or costs balance that the Owner still owes the Association.

- iv. Any new violation that occurs after an Owner reports to the Chair or Board that the violation has been cured, and the Chair or Board verifies that the violation has been cured or the cure period has expired, is a new violation.
- v. In the event an Owner cures a violation but then continues to violate the Covenants, Design Guidelines, rules, or policies at a later date, and has had multiple First Notices, the Association will continue to impose fines and/or sanctions in accordance with Attachment 1, *Penalty and Sanctions Schedule*, and pursue legal action to compel compliance and prevent reoccurrence.

For example, if after a First Notice and 72-hour cure period regarding setting off fireworks or a pet off leash in the Common Area, an Owner subsequently sets off fireworks or has a pet off leash in the Common Area, the Association may pursue legal action to compel compliance and prevent future violations.

b. Well Meter Reporting.

- i. When the Water Committee does not receive a well meter reading for a property by the date specified by the Association, the Water Committee will notify the Covenant Committee Chair and the Board, and the Association will provide the Owner with First Notice informing the Owner that they have 72 hours to cure the violation or the Owner will be fined and the Association may take legal action to compel compliance.
- ii. If, after 72 hours, the report still has not been received, the Water Committee Chair will notify the Covenant Committee Chair and Board, and the Association will impose fines on the Owner every-other-day in accordance with Attachment 1, *Penalty and Sanctions Schedule*, and may take legal action against the Owner for the violation.
- iii. In the event an Owner cures a violation but in the next or subsequent years fails to report the well meter reading on the specified date and has had more than one First Notice, the Association may pursue legal action to compel compliance and prevent reoccurrence and may continue to impose fines and/or sanctions in accordance with Attachment 1, *Penalty and Sanctions Schedule*.

- c. Other Violations (Violations Which Do Not Threaten Public Safety or Health). With respect to all Other Covenant violations.
- i. The Association shall provide the Owner with a First Notice informing them of the violation and that they must cure the violation within 30 days or the Association may fine the Owner.
    1. If an Owner cures the violation within the 30-day cure period, the Owner may notify the Association of the cure and if the Owner sends visual evidence that the violation has been cured, the violation is deemed cured on the day that the Owner sends notice. If the Owner does not send visual evidence that the violation has been cured, the Association shall inspect the property as soon as practical to determine if the violation has been cured.
    2. Once the Association determines that an Owner has cured a violation, the Association shall notify the Owner that the Owner will not be further fined with regard to the violation and notified of any outstanding fine, fee or cost balance that the Owner still owes the Association.
    3. If the Association does not receive notice of a cure from the Owner, the Association shall inspect the property within seven days after the expiration of the first 30-day cure period to determine whether or not the violation still exists. If after inspection, the Association determines that the violation has not been cured, the Association may impose a fine not to exceed the legal maximum in accordance with Attachment 1, *Penalty and Sanctions Schedule*.
  - ii. If the Association determines the violation still exists, a Second Notice will be sent to the Owner stating the violation has not been cured, that a second 30-day cure period has commenced, and the amount of the fine assessed for not curing the violation within the first 30-day cure period.
    1. If an Owner cures the violation within the second 30-day cure period, the Owner may notify the Association of the cure and, if the Owner sends visual evidence that the violation has been cured, the violation is deemed cured on the day that the Owner sends notice. If the Owner does not send visual evidence that the violation has been cured, the Association shall inspect the property as soon as practical to determine if the violation has been cured.

2. Once the Association determines that an Owner has cured a violation, the Association shall notify the Owner that the Owner will not be further fined with regard to the violation and notified of any outstanding fine, fee, or cost balance that the Owner still owes the Association.
  3. If the Association does not receive notice of a cure from the Owner, the Association shall inspect the property within seven days after the expiration of the second 30-day cure period to determine whether or not the violation still exists. If after inspection, the Association determines that the violation has not been cured, the Association may impose a second fine not to exceed the legal maximum in accordance with Attachment 1, *Penalty and Sanctions Schedule*. In addition, the Association may take legal action to compel compliance and prevent future violations.
- iii. In the event an Owner cures a violation but then continues to violate the same Covenant, Design Guideline, rule, or policy, and has had multiple First Notices on the same or similar violation, the Association may pursue legal action to compel compliance and prevent reoccurrence and may continue to impose fines and sanctions period in accordance with Attachment 1, *Penalty and Sanctions Schedule*. For example, if after a First Notice and 30-day cure period expires, an RV returns to the property and parks in excess of seven days or a dog continues to be permitted to bark.
6. Notice of Hearing. If a hearing is requested by the Owner, 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.
  7. 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, including architectural requirements, and other policies, rules, and regulations of the Association and does 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 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, and/or any other individual or group of individuals.

8. 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. Neither the Complainant nor the Owner or alleged Violator are required to attend 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. Hearings will be held in executive session pursuant to C.R.S. 38-33.3-308(4)(e). The Impartial Decision Maker shall, within a reasonable time, not to exceed fifteen (15) days, render its written findings and decision, and impose a fine, if applicable. Covenant hearings take place in Executive Session to protect the privacy of the Owner. The Owner is entitled to present facts; however, the Board may limit deliberations and any vote to Board members only. After any vote, the Owner is entitled to know the results of that vote.
9. Failure to Timely Request Hearing. If the Owner fails to request a hearing pursuant to Paragraph 9, 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 Owner may be assessed a fine pursuant to these policies and procedures.
10. Notification of Decision. The decision of the Impartial Decision Maker shall be in writing and provided to the Owner within 15 days of the hearing or if no hearing is requested, within 15 days of the final decision.
11. Waiver of Fines. The Board may waive all or any portion of the fines if, in its sole discretion, such a waiver is appropriate under the circumstances. In addition, the Board may conditionally waive the entire fine or any portion thereof, upon the violation being resolved and staying in compliance with the Articles, Declaration, By-laws, rules, and policies.
12. Extent of Violations:
  - a. Each incident or each day of a continuing violation within the established Cure Period shall be considered one violation for which any maximum fine allowed by law may be imposed. For example, each day during which a camper, trailer, or sign is permitted to remain on an Owner's property during the cure period is one violation.
  - b. Any violation that occurs after an Owner reports to the Chair or Board that the violation has been cured, the Chair or Board verifies the violation has



in fact been cured, or the applicable Cure Period(s) has (have) expired, is a new violation.

- c. Repeated or subsequent violation of the same Covenant may be subject to the Association pursuing legal remedies to compel compliance. For example, if after the 72-hour cure period, a pet is observed unleashed in the Common Area and the Owner has stated the violation has been cured. Likewise, a recreational vehicle moved within a 30-day cure period is returned to the Owner's premises after the conclusion of the cure period.

**13. Fines and Sanctions.** Any fine shall be both a personal obligation of the owner or violator or both and an assessment creating a lien which will be recorded against the property and may be subject to collections. The Board may notify any lender and credit agency of such obligation and lien. Additionally, the Board may bring legal action to enforce the violated provision and to recover the fine.

**14. Costs.** All costs associated with enforcing Covenants will be assessed against the Owner in violation. In the event action is required to compel payment of a fine or compliance with a Covenant, the Association will request reimbursement for all costs including its reasonable attorney fees, court costs, interest, and any other collection expenses, regardless of whether litigation is instituted or is successfully concluded.

**15. Records.** The Chair shall maintain a record of all Covenant violations reported to the Association by property including disposition. Documentation will include the facts of the violation including day, time, specific Covenant, guideline, rule or policy, property, Owner, Notices, and disposition. All communications with the Owner will be documented.

**16. Parties to Violations.** Owners shall be responsible for violations committed by their agents or tenants, for example, pets kept by tenants or signs placed by real estate agents. The Board may proceed against both the Owner and the agent or tenant, simultaneously or separately, and actions against one shall not bar action against the other. The Board may contact the police, any regulatory or licensing authorities or other third parties regarding the alleged violation, but any action or decision by those parties shall not bar the Board from proceeding

**17. Other Enforcement Means.** This Penalty and Sanctions 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 Policy, initially capitalized or terms defined in the Declaration shall have the same meaning herein.

- 19. Supplement to Law. The provisions of this Policy 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.
- 20. Amendment. This Policy may be amended from time to time by the Board of Directors

**PRESIDENT'S CERTIFICATION**: The undersigned, being the President of Wissler Ranch Homeowners Association, a Colorado nonprofit corporation, certifies that the foregoing Policy was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on 9-27-2023 and in witness thereof, the undersigned has subscribed their name.

Wissler Ranch Homeowners Association, a Colorado nonprofit corporation

By:  \_\_\_\_\_  
Its: President

Attachment 1. Penalty and Sanctions Schedule

1. Public Health and Safety Violations

<b>Penalty and Sanctions - Public Health and Safety Violations</b>	
<b>72-Hour Cure Period Violation Not Cured</b>	<b>72-Hour Cure Period Violation Not Cured Every 48 Hours After Cure Period Expiration</b>
\$300 fine assessed at 73rd hour (fourth day)	\$200 fine assessed on 121st hour (sixth day)
Suspend right to vote in Association business until violation cured and all fines, fees and costs paid in full	Right to vote in Association business stays suspended until violation cured and all fines, fees and costs paid in full
	Suspend right to hold Association office until violation cured and all fines, fees and costs paid in full

2. Failure to Report Well Meter Reading Timely

<b>Penalty and Sanctions - Failure to Report Meter Reading Timely</b>	
<b>72-Hour Cure Period Violation Not Cured</b>	<b>72-Hour Cure Period Violation Not Cured Every 48 Hours After Cure Period Expiration</b>
\$100 fine assessed at 73rd hour (fourth day)	\$200 fine assessed on 121st hour (sixth day)
Suspend right to vote in Association business until violation cured and all fines, fees and costs paid in full	Right to vote in Association business stays suspended until violation cured and all fines, fees and costs paid in
	Suspend right to hold Association office until violation cured and all fines,

Attachment 1, Penalty and Sanctions Schedule

3. Other Violations (not Public Health or Safety)

<b>Penalty and Sanctions - Other Violations</b>	
<b>First 30-Day Cure Period Violation Not Cured</b>	<b>Second 30-Day Cure Period Violation Not Cured</b>
\$100 Fine	\$300 Fine
Suspend right to vote in Association business until violation cured and all fines, fees and costs paid in full	Right to vote in Association business stays suspended until violation cured and all fines, fees and costs paid in full
	Suspend right to hold Association office until violation cured and all fines, fees and costs paid in full

4. Other – Water Allocation Overuse

<b>Penalty and Sanctions - Water Allocation OverUse</b>		
<b>First 30-Day Cure Period Violation Not Cured</b>	<b>Second 30-Day Cure Period Violation Not Cured</b>	<b>Repeat of a Previous 30-Day Cure Period Violation Not Cured</b>
\$300 fine		\$500 fine
		Suspend right to vote in Association business for one year until compliance with water allocation and until violation cured and all fines, fees and costs paid in full
		Suspend right to hold Association office for one year until compliance with water allocation and until violation cured and all fines, fees and costs paid in full

## Attachment 2 Action Matrix –

## 1. Public Safety or Health and Failure to Report Well Meter Reading Timely

Type of Covenant Violation	Action		
	72-Hour Cure Period Notice	72-Hour Cure Period Violation Not Cured	Repeat of a Previous 72-Hour Cure Violation
<b>Public Safety or Health</b>	Written notice of 72 hours to cure include consequences of non compliance and action required to cure	Fine every other day up to \$500	Repeat 72-hours to cure process
		Suspend right to vote in Association business	
		Suspend right to hold Association office or Board position on sixth day	
		Vote to attorney for legal action	Vote to refer to attorney for legal action to compel future compliance
In addition to above for:			
Dog off leash in Common Area		Report to El Paso County Animal Law Enforcement	
Dog not restrained on property		Report to El Paso County Animal Law Enforcement	
Open burning of trash, refuse, yard waste		Report to fire protection district	
Red Flag Warning Restrictions Violated		Report to fire protection district	
Motorized Vehicle in Common Area		Report to sheriff as trespass	
<b>Well Meter Reading</b>	Written notice of 72 hours to cure include consequences of non compliance and action required to cure	Fine every other day up to \$500	Repeat 72 hours to cure process
		Suspend right to vote in Association business	
		Suspend right to hold Association office or Board position on sixth day	
		Report to Colorado Division of Ground Water	Vote to refer to attorney for legal action to compel future compliance

Attachment 2, Action Matrix

## 2. Other Covenant (not public health or safety) Violations

Type of Covenant Violation	Action			
	30-Day Cure Period	30-Day Cure Period Violation Not Cured	2nd 30-Cure Period Violation Not Cured	Repeat of a Previous 30-Day Cure Period Violation
<b>Other Covenant Violation</b>	First written notice of 30 days to cure by certified mail, first class mail, email, text include consequences of non compliance	Must grant second 30 day cure period. Second written notice sent.		Repeat First 30-day to cure process and include that this is a repeat violation
		One fine up to \$500	Second fine. Both fines can't exceed \$500	
		Suspend right to vote in Association business	Right to vote in Association business remains suspended	
			Suspend right to hold Association office or Board position	
				Vote to refer to attorney for legal action to compel future compliance
<b>Other Covenant Violation Water Allocation Overuse</b>		One fine up to \$500		
		Report overage to Colorado Division of Ground Water Engineers		Request Colorado Division of Ground Water Engineers institute monthly Owner reporting requirement
				Suspend right to vote in Association business
				Suspend right to hold Association office or Board position
				Vote to refer to attorney for legal action to compel future compliance