

BRANDYCHASE RECREATIONAL ASSOCIATION, INC.

**FIRST AMENDMENT
TO
COVENANT AND RULES ENFORCEMENT POLICY AND PROCEDURES**

Effective Date: January 1, 2006
As Amended: November 28, 2022

In compliance with the Colorado Statutes, the Board of Directors ("Board") of the BrandyChase Recreational Association, Inc. ("Association") desires to adopt a uniform and systematic policy to address the enforcement of the covenants and rules of the Association.

The Association hereby adopts the following policies and procedures for covenant and rules enforcement:

1. Communications with Owners, Designated Contacts. For communications made by or on behalf of the Association, the Association or manager shall maintain a record of all contacts, including information regarding the type of communication used to contact the Owner and the date and time that the contact was made. An Owner may identify another person to serve as a designated contact ("Designated Contact") for the Owner. The Owner shall designate the Designated Contact by delivering a written document to the manager which identifies the Owner, the Owner's Unit, and the identity of and contact information for the Designated Contact. The designation may be made by electronic mail. If an Owner identifies a Designated Contact in writing, then on and after receipt of the written designation, the Association shall cause duplicate correspondence, including notices, to be sent to the Owner and the Designated Contact.

2. Preferred Language for Communications. An Owner may notify the Association if the Owner prefers that correspondence and notices from the Association be made in a language other than English. If a preference is not indicated, the Association shall send correspondence and notices in English. Expenses associated with translating communications and notices into the Owner's preferred language may be assessed to the Owner's account as an assessment.

3. Enforcement Procedure. The Board shall not impose fines unless and until the Association has sent or delivered written notice to the Owner and the violator as provided below. However, compliance with the notice and hearing procedure set forth below is not required before imposing late charges on delinquent assessments pursuant to the Collection Policy.

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

B. Fine Notice. Before imposing a fine as identified below, the Association shall send the required letter(s) which shall state that the Owner is entitled to a hearing on the merits of the violation in front of an impartial decision maker, provided that such hearing is requested in writing within ten (14) days of the date on the First Letter. For violations involving Public Safety or Health, since the letter only provides seventy-two (72) hours for cure, the hearing must still be requested in writing within the fourteen (14) day period, however, any fines imposed will not take effect until the hearing, if requested, has been conducted.

C. Violation Which Threatens Public Safety or Health. With respect to any violation of the Declaration, Bylaws, Covenants, or other governing documents of the Association, which the Association reasonably determines threatens the public safety or health ("Public Safety or Health

violation”), the Association shall provide the Owner an initial letter (“First Letter”) of the violation, informing the Owner that the Owner has seventy-two (72) hours to cure the violation or the Association may fine the Owner. Violations that threaten the public safety or health may include, but not be limited to, unreasonable and intrusive lights, noises or odors which negatively impact adjacent persons or properties, harassment and mischief, or the existence of dangerous or offensive conditions at a Unit. The following provisions apply to Public Safety or Health violations:

- (i) Continuing Violation. If, after an inspection of the Unit, the Association determines that the Owner has not cured the violation within seventy-two (72) hours after receiving the First Letter, the Association may impose fines on the Unit Owner every other day or as the Board determines based on the fine schedule, and the Association may take legal action against the Owner for the violation.
- (ii) Violation Cured by Owner. Once the Association determines that an Owner has cured a violation, the Association shall notify the Owner:
 - (a) That the Owner will not be further fined with regard to the specific violation; and
 - (b) Of any outstanding fine balance that the Owner still owes to the Association.

D. Violation Which Does Not Threaten Public Safety or Health. If the Association reasonably determines that there is a violation of the Declaration, Bylaws, Covenants, or other governing documents of the Association, other than a violation that threatens the public safety or health, the Association shall provide an initial letter (“First Letter”) regarding the violation and informing the Owner that the Owner has thirty (30) days to cure the violation. This First Letter shall be sent via certified mail, return receipt requested. The First Letter shall explain the nature of the violation and the action or actions required to cure the violation. Upon expiration of the initial thirty (30) days, the Association, after conducting an inspection and determining that the Owner has not cured the violation, may fine the Owner. The following provisions apply to violations not involving the public safety or health:

- (i) Process to Cure Violation. If an Owner cures the violation within the period to cure afforded the Owner, the Owner may notify the Association of the cure and, if the Owner sends visual evidence that the violation has been cured, the Association shall inspect the Unit as soon as practicable to determine if the violation has been cured.
- (ii) Violation Cured by Owner. Once the Association determines that the Owner has cured the violation, the Association shall notify the Owner:
 - (a) That the Owner will not be further fined with regard to the specific violation, and
 - (b) Of the amount of any outstanding fine balance that the Owner still owes the Association.
- (iii) Failure to Cure Violation. If the Association does not receive notice from the Owner that the violation has been cured, the Association shall inspect the Unit within seven (7) days after the expiration of the thirty (30) day cure period to determine if the violation has been cured. If, after the inspection, the Association determines that the violation has not been cured, the Association may impose another fine and/or commence legal action after notice and opportunity for a hearing. The Association shall send a second letter (“Second Letter”) which Second Letter shall provide

an additional thirty (30) day period to cure and shall also contain the fine notice.

E. Request for Hearing. If an Owner desires a hearing to challenge or contest any alleged violation and possible fine, or to discuss any mitigating circumstances, the Owner must request such hearing, in writing, within 14 days of the date of the letter advising that fines are being imposed. The request for hearing shall describe the grounds and basis for challenging the alleged violation or the mitigating circumstances. In the event a proper and timely request for a hearing is not made as provided herein, the right to a hearing shall be deemed forever waived. If a hearing is not requested within the 14 day period, the Board shall determine if there was a violation based upon the information available to it, and if so, assess a reasonable fine as set forth in the fine schedule, within 30 days of the expiration of the 14 day period. The Board of Directors shall give written notice of said fine to the Unit Owner.

F. Board of Directors to Conduct Hearing. The Board shall hear and decide cases set for hearing pursuant to the procedures set forth herein unless some or all of the Board is disqualified to act because it is determined that some or all of the Board members are not impartial decision makers. Any Board member who is incapable of objective and disinterested consideration on any hearing before the Association shall disclose such to the President of the Association prior to the hearing on the case, if possible, or, if advance notice is not possible, then such disclosure shall be made at the hearing, and the Board member shall be disqualified from all proceedings with regard to the hearing. The Board may appoint an officer or other Owner to act as the impartial decision maker and Presiding Officer at any of the hearings. The Board or its designee shall determine whether a violation exists and impose fines.

G. Hearing. The Board shall inform the Owner of the scheduled time, place and date of the requested hearing by first class mail, postage prepaid or email if the Owner has provided an email address to the Association or manager. The Presiding Officer may grant continuances for good cause. At the beginning of each hearing, the Presiding Officer shall establish a quorum, explain the rules, procedures and guidelines by which the hearing shall be conducted and shall introduce the case before the Board. The complaining parties and the Owner shall have the right, but not the obligation to be in attendance at the hearing. Each party may present evidence, testimony, and witnesses. The decision of the Board or its designee at each hearing shall be based on the matters set forth in the First Letter, the Second Letter, any information received by the Association, any information received from the Owner, and such evidence as may be presented at the hearing. Unless otherwise determined by the Board of Directors, all hearings shall be conducted in executive. If a complaining party is unable to attend the hearing, he or she may instead submit a letter to the Board explaining the basis of the complaint.

H. Decision. After all testimony and other evidence have been presented to the Board or designee at a hearing, the Board or designee shall render its written findings and decision, and impose a reasonable fine, if applicable, within 30 days after the hearing. A decision, either a finding for or against the Owner, shall be by a majority vote of the Board of Directors or designee. The Board may also issue and record with the Clerk and Recorder, a Notice of Violation. Upon notice of satisfactory compliance with the Association's governing documents, the Notice of Violation may be released by the Association issuing and recording a Release of Notice of Violation.

4. Fine Schedule.

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

Fines Applicable to Public Safety or Health Violations:

First Fine:	\$ 500.00
Second Fine:	\$ 750.00
Third Fine:	\$1,000.00
Fourth and Subsequent violations:	Remedies as available, including legal action

For violations that threaten Public Safety or Health, where the Owner has failed to cure the violation within seventy-two (72) hours of being provided written notice of such violation, the Association may fine the Owner as set forth above, or may impose fines of fifty dollars (\$50.00) per every other day until the violation is cured. Only one hearing shall be available for a Public Safety or Health violation; and, following the seventy-two (72) hour cure period, the Unit may be turned over to an attorney to file suit or pursue other available remedies.

Fines Applicable to Non-Public Safety or Health Violations:

First Fine:	\$100.00
Second Fine:	\$150.00
Third Fine:	\$250.00
Fourth and Subsequent violations:	Remedies as available, including legal action

The Board reserves the right to fine for first violations of rules that involve Public Safety or Health issues and other violations where a warning may not be deemed necessary by the Board in its reasonable discretion.

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

B. All fines shall be due and payable in accordance with the Association's Collection Policy. Fines shall be in addition to all other remedies available to the Association pursuant to the terms of the Declaration and Colorado law, including the Association's right to collect attorney fees as authorized by the governing documents and Colorado law.

5. Additional Enforcement Rights

A. Legal Action. The Association, at any time, may pursue legal action against an Owner to enforce the provisions of the Declaration, Bylaws, rules or resolutions, if the Board determines that such action is in the Association's best interests.

B. Suspension of Rights to use the Common Elements. The rights of an Owner to use the recreational facilities or other facilities shall be automatically suspended if the Owner is delinquent in payment of assessments. The Association may also suspend rights of an Owner to use any recreational facilities or other facilities for an Owner's infraction of any rule or regulation of the Association, or the infraction by any Owner's tenant, any member of such Owner's or tenant's family or such Owner's or tenant's guests, licenses or invitees.

C. Suspension of Right to Vote. The right of an Owner to vote shall be automatically suspended if the Owner is delinquent in payment of any assessment, fee, fine or other charge.

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

IN WITNESS WHEREOF, the undersigned certify that this First Amendment to Covenant and Rules Enforcement Policy and Procedures was adopted by resolution of the Board of Directors of the Association on this 28th day of November, 2022.

BRANDYCHASE RECREATIONAL ASSOCIATION, INC.
a Colorado nonprofit corporation,

By: _____
Its: President

ATTEST:

By: