

**RESOLUTION 2011-07
OF THE
LOWRY COMMUNITY MASTER ASSOCIATION, INC.
REGARDING POLICIES AND PROCEDURES FOR COVENANT AND RULE
ENFORCEMENT**

- SUBJECT:** Adoption of an amended policy regarding the enforcement of covenants and rules and procedures for the notice of alleged violations, conduct of hearings and imposition of fines.
- PURPOSE:** To amend the Associations Policies and Procedures for Covenant and Rule Enforcement to comply with Colorado law in relation to Impartial Decision Makers.
- AUTHORITY:** The Declaration, Bylaws, Articles of the Association, and Colorado law, including, but not limited to, C.R.S. 38-33.3-209.5.
- EFFECTIVE DATE:** _____
- RESOLUTION:** The Association hereby adopts the following amended procedures to be followed when enforcing the covenants and rules of the Association:
1. Reporting Violations. Complaints regarding alleged violations may be reported by an owner or resident within the community, a group of owners or residents, the Association's management company, if any, Board member(s) or committee member(s) by submission of a complaint.
 2. Complaints. Complaints by Owners, residents, Board members or committee members shall be in writing and submitted to the Board of Directors in care of the Association's management company. The complaining party 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. 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 by the Association, if additional information is needed, the complaint may be returned to the Complainant or may be investigated further by a

Board designated individual or committee. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.

4. Courtesy Letter. If the violation is a continuous violation, meaning one that continues and is uninterrupted by time, such as a failure to maintain the lawn of the Unit, the letter shall advise the Violator that he or she will have 10 days from the date of the letter to come into compliance without further sanction. If the violation is not a continuing one, meaning the violation is a one-time discrete violation, such as noise violations, the letter shall contain a statement advising the Violator that any additional similar violations could result in the imposition of a fine after notice and hearing.

5. Continued Violation After Courtesy Letter. If the alleged Violator does not come into compliance within 10 days of the courtesy letter or any subsequent letter, if the violation is a continuous one, such continued violation will be considered a subsequent violation. Likewise, if the Violator again violates a covenant or rule previously violated and for which the alleged Violator has received a prior courtesy or violation letter, if the violation is not a continuing violation, such a repeated violation will be considered a subsequent violation. In either case, a fine letter shall then be sent to the alleged Violator, providing notice and an opportunity for a hearing, and explaining a fine may be imposed pursuant to this Policy. The letter shall further state that the alleged Violator is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing within 10 days of the date on the fine letter.

6. Notice of Hearing. If a hearing is requested by the alleged Violator, the Board, committee or other person conducting such hearing as may be determined in the sole discretion of the Board as provided in Paragraph 7 below, 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, conditions, and restrictions, including architectural requirements, and other rules and regulations of the association and do not have any direct personal or financial interest in the outcome. A decision maker shall not be deemed to have a

direct personal or financial interest in the outcome if the decision maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the association." Unless otherwise disqualified pursuant to the definition of Impartial Decision Maker, the Board may appoint to act as the Impartial Decision Maker the entire Board, specified members of the Board, any other individual or group of individuals.

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

9. Failure to Timely Request Hearing. If the alleged Violator fails to request a hearing within 10 days of the date of any letter providing the Violator with the opportunity for a hearing, the Violator shall be deemed to have waived his or her right to a hearing and the Association may impose a fine pursuant to this Policy without the necessity of holding a hearing. If the alleged Violator requests a hearing but then fails to appear at the hearing, the Impartial Decision Maker may make a decision with respect to the alleged violation based on the Complaint, results of the investigation, and any other available information without the necessity of holding a formal hearing. If a violation is found to exist, the alleged Violator may be assessed a fine pursuant to these policies and procedures.

10. Notification of Decision. If a hearing is requested by the alleged Violator pursuant to this policy, the decision of the Impartial Decision Maker shall be in writing and provided to the Violator and

Complainant within 10 days of the hearing. If no hearing is requested by the alleged Violator pursuant to this policy, the fine will be imposed and added to the Violator's account without any further notice from the Association required.

11. Residential Fine Schedule. The following fine schedule has been adopted for all recurring, non-continuous residential covenant violations:

First violation	Courtesy letter
Second violation (of same covenant or rule within two years of the first violation)	\$100.00
Third violation (of same covenant or rule within two years of the first violation)	\$200.00
Fourth and subsequent Violations (of same covenant or rule within two years of the first violation)	\$300.00

12. Commercial Fine Schedule. Due to the greater impact commercial violations have on the community as a whole, the following fine schedule has been adopted for all recurring, non-continuous commercial covenant violations:

First violation	Courtesy letter
Second violation (of same covenant or rule within two years of the first violation)	\$500.00
Third violation (of same covenant or rule within two years of the first violation)	\$750.00
Fourth and subsequent violations	

(of same covenant or rule
within two years of the
first violation) \$1,000.00

13. Continuous Violations. If an Owner is determined as having a continuous violation, in accordance with the terms of this Policy, such Owner may be subject to escalating fines as described above or may be subject to a daily fine as provided below for each day that the violation remains uncured, following a notice and opportunity for a hearing as set forth above.

Residential violations \$50/day

Commercial violations \$100/day

14. Subsequent Violations. Fourth and subsequent covenant violations may be turned over to the Association's attorney to take appropriate legal action. Any Owner committing three or more violations in a two year period (whether such violations are of the same covenant or different covenants) may be immediately turned over to the Association's attorney for appropriate legal action.

15. Waiver of Fines. The Board may waive all, or any portion, of the fines if, in its sole discretion, such waiver is appropriate under the circumstances. Additionally, the Board may condition waiver of the entire fine, or any portion thereof, upon the Violator coming into and staying in compliance with the Articles, Declaration, Bylaws or Rules.

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

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

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

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

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 the Lowry Community Master Association, Inc., a Colorado nonprofit corporation, certifies that the foregoing Resolution was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on _____ and in witness thereof, the undersigned has subscribed his/her name.

**LOWRY COMMUNITY MASTER
ASSOCIATION, INC.,**
a Colorado nonprofit corporation

By: _____
President