

PILGRIM DOWNS HOMEOWNERS ASSOCIATION, INC.  
BOARD OF MANAGERS  
RESOLUTION

**AMENDED AND RESTATED POLICY FOR ENFORCEMENT OF COVENANTS AND RULES**

The Board of Managers (also known as the Board of Directors) of Pilgrim Downs Homeowners Association, Inc., a Colorado nonprofit corporation (the "Association"), hereby approves and adopts the following Resolution:

RESOLVED, that the following Amended and Restated Policy for Enforcement of Covenants and Rules (this "Policy") is hereby adopted and ratified to be effective as of August 9, 2022, in compliance with provisions of the Colorado Common Interest Ownership Act (the "Act") which became effective on the same day, and replaces in its entirety any policy governing the enforcement of covenants and rules that was previously adopted by the Association. Capitalized terms used herein shall have the meanings as defined in the Declaration of Protective Covenants for Pilgrim Downs Subdivision, as amended (the "Declaration"), unless separately defined in this Policy:

1) Reporting Violations. Complaints regarding alleged violations of the Declaration, Bylaws, Articles of Incorporation, policies, any rules and regulations adopted by the Association, or other governing documents of the Association may be reported by an Owner or resident within Pilgrim Downs, a group of Owners or residents, the Association's manager, the Board of Managers or member(s) thereof, or committee member(s) by submission of a written complaint as provided for below.

2) Complaints.

(a) Complaints by Owners or residents shall be in writing and submitted to the Board of Managers through the Association's manager or directly to an officer of the Association. The complaining Owner or resident shall have observed the alleged violation and shall identify the complainant ("Complainant"), the alleged violator ("Respondent"), 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. If a complaint is not in writing or fails to include any information required by this provision, such complaint may be investigated and prosecuted or not investigated or prosecuted at the discretion of the Board of Managers.

(b) Complaints by a member of the Board of Managers, a committee member, or the Association's manager, if any, may be made in writing or by any other means deemed appropriate by the Board of Managers if such violation was observed by a member of the Board of Managers or Association manager.

3) Owner's Designated Contact and Preferred Language. An Owner may, by written notice in the form attached to the Association's Policy for Collection of Unpaid Assessments and Other Charges as Exhibit A (the "Owner's Designation"), identify the Owner's preferred language for correspondence and notices from the Association, if other than English, and/or identify another person to serve as a Designated Contact for the Owner, to be contacted on the Owner's behalf for purposes of collection of unpaid assessments and other charges including, but not limited to, fines assessed pursuant to this Policy for Enforcement of Covenants and Rules. Any Owner's Designation provided pursuant to the Association's Policy for Collection of Unpaid Assessments and Other Charges shall also apply for the purpose of this Policy for Enforcement of Covenants and Rules.

4) Investigation and Determination of Threat to Public Safety or Health. 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 the Association's manager. If the Board of Managers finds that the allegations in the complaint are sufficient to constitute a violation of the Association's covenants or rules, the Board of Managers shall determine whether the alleged violation threatens the public safety or health (a "Health and Safety Violation") or does not threaten the public safety or health (a "Governance Violation"). Health and Safety Violations and Governance Violations are both generally referred to in this Policy for Enforcement of Covenants and Rules as "violations".

5) Notice of Violation. If the Board of Managers finds that the allegations in the complaint are sufficient to constitute a violation, a notice (the "Notice of Violation") shall be sent to the Respondent, and Designated Contact, if any, in English and any other language for which the Respondent has indicated a preference in an Owner's Designation duly delivered to and received by the Association or its manager in advance of the date on which the Notice of Violation is sent. The Notice of Violation shall advise the Respondent of the following:

- (a) the details of the complaint or include a copy of the complaint;
- (b) the Board of Managers' determination of whether the alleged violation threatens the public safety or health;
- (c) the action or actions that are required to cure the alleged violation and the timeframe within which cure must occur;
  - i) With respect to any alleged Health and Safety Violation, the Notice of Violation shall be sent by any reasonable means including First-Class Mail; text message to a cellular number provided to the Association by the Owner; or email to an email address provided to the Association by the Owner and shall provide the Respondent with seventy-two (72) hours from the date and time of the Association's delivery of the Notice of Violation to come into compliance.
  - ii) With respect to any alleged Governance Violation, the Notice of Violation shall be sent to the Respondent by Certified Mail, return receipt requested and shall provide the Respondent will have thirty (30) calendar days from the date of the Association's delivery of the Notice of Violation to come into compliance.
- (d) that action may be taken against the Respondent if the violation is not timely cured;
- (e) the Respondent's right to be heard, orally or in writing, on the merits of the alleged violation, provided that such hearing is requested in writing within the time allotted according to the type of alleged violation, and the timeline for the hearing process as follows:
  - i) With respect to any alleged Health and Safety Violation, the Respondent must request a hearing within twenty-four (24) hours of delivery of the Notice of Violation. If requested, a hearing on an alleged Health and Safety Violation must be held within forty-eight (48) hours of delivery of the Notice of Violation.
  - ii) With respect to any alleged Governance Violation, the Respondent must request a hearing within five (5) calendar days of delivery of the Notice of Violation. If requested, a hearing on an alleged Governance Violation must be held within fifteen (15) calendar days of delivery of the Notice of Violation.

(f) that if the Respondent does not timely request a hearing, he or she will be deemed to have waived any and all rights to a hearing with respect to the alleged violation and admitted the facts of the violation; and

(g) that the Board of Managers may proceed with or without a hearing, at its discretion, to make its determination of the allegations contained in the complaint based on all relevant facts and circumstances, if the Respondent fails to appear at the specified date and time or submit a written response to the complaint in advance of the hearing.

Notwithstanding the foregoing provisions of this Section 5, if the Board of Managers determines that the alleged violation is a Governance Violation, the Board of Managers may, in its sole discretion, elect to proceed by way of a written warning letter to the Respondent in lieu of immediate delivery of the Notice of Violation. No fine may be assessed to the Respondent except following delivery of a Notice of Violation as provided for above. If the alleged violation is not cured within a reasonable time after delivery of the warning letter, and the Board of Managers determines that action is warranted, the Board of Managers shall proceed to deliver a Notice of Violation in accordance with the procedures set forth in this Section above.

6) Notice of Cure. If the Owner cures a violation within the period to cure afforded the Owner in the Notice of Violation, the Owner may notify the Association of the cure (“Cure Notice”) and, if the Owner sends with the Cure Notice visual evidence sufficient to show, that the violation has been cured, the violation is deemed cured on the date that the Owner sends the Cure Notice.

7) Inspection. If the Association does not receive a Cure Notice from the Owner, or if the Cure Notice does not include visual evidence sufficient to show that the violation has been cured, and for any violation that is not continuing in nature and does not require allowance of time for cure (e.g. a noise violation), the Association is authorized to and shall inspect the Lot as soon as practicable and, in the case of a Governance Violation, within seven (7) calendar days of the expiration of the thirty-day cure period, to determine if the violation has been cured. The Respondent shall provide the Association with reasonable access to the Respondent’s Lot for the purpose of conducting timely inspections.

(a) If, after inspection, the Association determines that a Health and Safety Violation has not been cured, the Association may impose fines on the Owner every other day, and may take legal action against the Owner not including foreclosure.

(b) If, after inspection, the Association determines that a Governance Violation has not been cured, a second consecutive thirty-day period to cure shall immediately commence if only one thirty-day period to cure has elapsed. If, after expiration of the second thirty-day period to cure, the Association determines that the Governance Violation has not been cured, the Association may impose fines on the Owner every other day, subject to the limitations set forth below, and may take legal action against the Owner not including foreclosure.

8) Schedule of Fines; Limitations. Except as otherwise provided in relation to Construction Violations, discussed below, fines shall be imposed as follows and all fines shall be due and payable to the Association on the date of their imposition and shall be deemed delinquent if not timely paid.

(a) Except where a specific fine has been established in the Declaration, Bylaws, Articles of Incorporation, rules and regulations, policies, or other governing documents of the Association, any violation that is continuing in nature and uncured within the time provided in a Notice of Violation, after the Association’s inspection of the Lot, shall result in a fine of \$100.00 every other day, until the Board of Managers in its sole discretion determines that the violation has been cured, provided that the total amount of fines imposed for any Governance Violation shall not exceed \$500.

(b) For violations that are not continuing in nature and do not require allowance of time for cure (e.g. a noise violation), the Respondent shall be fined \$100 for the first violation, \$150 for the second violation, and \$250 for the third violation, at which time the Association may also take legal action against the Owner for the violation.

9) Construction Violations. Violation of any provision of the Pilgrim Downs Construction Rules and Regulations (a “Construction Violation”) is hereby deemed a Health and Safety Violation due to the potential of any Construction Activity (as such term is defined in the Pilgrim Downs Construction Rules and Regulations) conducted within Pilgrim Downs to affect accessibility to Pilgrim Downs and the health and safety of other Owners and their guests.

Each Owner who is the subject of a Construction Violation, shall be afforded a single Notice of Violation. Following an initial Notice of Violation, any subsequent Construction Violation of the same type by an Owner is hereby deemed a failure to cure the initial Construction Violation. Having once issued a Notice of Violation for a Construction Violation, affording an opportunity to cure the Construction Violation within 72 hours or to request a hearing within 24 hours, upon receipt of a subsequent complaint of the same type of Construction Violation, the Association is authorized to inspect the subject Lot as soon as practicable to determine if the Construction Violation has been cured. If, after inspection, the Association determines that a Construction Violation has not been cured, the Association may impose fines on the Owner in accordance with the fine schedule set forth in the Pilgrim Downs Construction Rules and Regulations and may take legal action against the Owner including but not limited to filing of a claim for injunctive relief and damages. Notwithstanding any provision of the Pilgrim Downs Construction Rules and Regulations permitting daily fines, the Association may fine an Owner only every other day. The Association shall also have all other rights and remedies available to it by law or in equity. All rights and remedies of the Association shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right or remedy.

10) Confirmation of Cure; Outstanding Balance. Once an Owner cures a violation, the Association shall notify the Owner in English and any other language for which the Owner has indicated a preference in an Owner’s Designation, (a) that the Owner will not be further fined with regard to the violation; and (b) of any outstanding fine balance that the Owner still owes the Association, in accordance with the Association’s Policy for Collection of Unpaid Assessments and Other Charges.

11) Notice of Hearing. If a hearing is requested by the Respondent, the Board of Managers, committee or other impartial decision maker, as such term is defined in C.R.S. 38-33.3-209.5(2)(b)(II), conducting such hearing as may be determined in the sole discretion of the Board of Managers (the “Hearing Panel”), shall serve a written notice of the hearing to all parties involved as follows:

i) With respect to any alleged Health and Safety Violation, the hearing will be convened as soon as reasonably possible within the time allotted upon immediate written notice.

ii) With respect to any alleged Governance Violation, the hearing will be convened within the time allotted upon not less than three (3) calendar days’ written notice.

12) Hearing; Written Decision. 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. Complainant and Respondent or their designated representatives, may, but are not required to, make an opening statement, present evidence and testimony, present witnesses, and make a closing statement. Neither the Complainant nor the Respondent is required to attend the hearing, and any party

may appear orally or in writing. If the Respondent does not appear at any hearing and does not submit a written response to the complaint to the Hearing Panel in advance of the hearing, the Hearing Panel 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. The Hearing Panel shall base its decision solely on the matters set forth in the complaint, written comments of Complainant and Respondent, results of the investigation and such other credible evidence as may be presented at the hearing. Unless otherwise determined by the Hearing Panel, all hearings shall be open to attendance by all Owners. The presiding officer may also impose such other rules of conduct as may be appropriate under the circumstances.

After all testimony and other evidence has been presented at a hearing, the Hearing Panel shall render a decision at the conclusion of the hearing. Within a reasonable time following the conclusion of the hearing, the Hearing Panel shall render any written findings and provide copies to the Respondent and Complainant. A decision, either for or against the Respondent, shall be by a majority of the Hearing Panel members present at the hearing. The decision of the Hearing Panel so rendered shall be final and not subject to appeal. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the hearing committee's decision absent a showing of denial of due process.

13) Failure to Timely Request Hearing. If the Respondent fails to request a hearing in writing within the time allotted, the Board of Managers may determine that such failure constitutes the Respondent's waiver of the right to a hearing and a no contest plea to the complaint and impose fines and/or pursue other legal remedies as provided for in this Policy for Enforcement of Covenants and Rules.

14) Waiver of Fines. The Board of Managers may waive all, or any portion, of the fines if, in its sole discretion, such waiver is appropriate under the circumstances. Additionally, the Board of Managers may condition waiver of the entire fine, or any portion thereof, upon the Respondent coming into and staying in compliance with the Articles, Declaration, Bylaws, policies, rules and regulations, and other governing documents of the Association.

15) Small Claims and Injunctive Relief. The Association may file a claim in small claims court pursuant to Section 13-6-403(1)(b)(I), C.R.S., to enforce rights and responsibilities arising under the Declaration, Bylaws, Articles, policies, any rules and regulations adopted by the Association, or other governing documents of the Association in relation to disputes arising from assessments, fines, or fees owed to the Association and for which the amount at issue does not exceed seven thousand five hundred dollars, exclusive of interest and costs. The Association may also seek injunctive relief to compel compliance with the Declaration, Bylaws, Articles, policies, any rules and regulations adopted by the Association, or other governing documents of the Association.

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, Policies, rules and regulations, and Colorado law including, but not limited to, commencement of a lawsuit to force compliance or seeking injunctive relief or damages. The use of this process does not preclude the Association from using any other enforcement means. Without limiting the generality of the foregoing, the Board of Managers may provide a written Notice of Violation (with a right of the Respondent to request a hearing) pursuant to the procedures above stating the Board of Managers' intention to suspend the Respondent's right to vote on Association matters, to suspend any services provided by the Association and/or to impose other sanctions authorized in the Declaration or the Act, and (b) the Association may seek assistance from other enforcement authorities, such as police, zoning, fire, or animal control, as it deems appropriate. Any provision of any Association governing document that permits the restriction of any Owner from using any portion of the Common Area shall not be enforceable except as provided for in Section 38-33.3-302.5, C.R.S.

## ENFORCEMENT

17) Responsibility for Actions of Tenant or Guest. Owners shall at all times be responsible for the actions of their tenants and guests. In the event that an Owner's tenant or guest violates the Declaration, Bylaws, Articles of Incorporation, policies, any rules and regulations adopted by the Association, or other governing documents of the Association and a fine is imposed, the fine shall be assessed against that Owner.

18) Architectural and Design Violations. To the extent that separate, alternative or additional procedures and fines not in conflict with this Policy for Enforcement of Covenants and Rules are provided or adopted in the Architectural Design Guidelines of the Association or by the Architectural Control Committee, said procedures and fines shall be applied in applicable matters to the extent that such procedures and fines do not conflict with the provisions of this Policy for Enforcement of Covenants and Rules. In addressing architectural or design review matters, the Association and the Architectural Control Committee shall follow the processes contained in this Policy for Enforcement of Covenants and Rules in connection with enforcement rights and obligations.

19) No Waiver. Failure by the Association to enforce any provision of this policy shall in no event be deemed to be a waiver of the right to do so thereafter. The Association is hereby authorized to modify the procedures contained herein, as the Board of Managers shall determine appropriate under the circumstances.

20) Defenses. Except as expressly provided by applicable law, failure of the Association to comply with any provision in this Policy shall not be deemed a defense to payment of Association fines or other charges, attorney fees and/or costs as described by or available pursuant to this Policy.

21) Supplement to Law. The provisions of this Policy shall be in addition to and in supplement of the terms and provisions of the Declaration, Bylaws, and the law of the State of Colorado governing the Association.

22) Severability. The provisions of this Policy shall be independent and severable. The invalidity of any one or more of the provisions hereof by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which other provisions shall remain in full force and effect.


23) Deviations. The Board of Managers may deviate from any procedures set forth in this Policy if in its sole discretion such deviation is reasonable under the circumstances.

### CERTIFICATION OF ADOPTION

I, the undersigned, do hereby certify:

That I am a duly elected and acting President of the Pilgrim Downs Homeowners Association, Inc., a Colorado nonprofit corporation; and

That the foregoing Resolution, which constitutes a portion of the Responsible Governance Policies of the Association, was duly ratified, approved and adopted by action of the Board of Managers of the Association to be effective as of August 9, 2022.

  
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ADAM QUINTON, President

Date: 8/20/23