

**Tablers Estates Homeowners Association
P.O. Box 1164 Inwood, WV 25428**

**ARCHITECTURAL REVIEW COMMITTEE PROCEDURAL
GUIDELINES FOR ENFORCEMENT OF COVENANTS**

The Architectural Review Committee is appointed by the Board of directors and is composed of three (3) or more representatives.

I. Preamble and Authority

The authority for this Architectural Review Committee Procedures for Enforcement is derived from the Declaration of Covenants for Tablers Estates dated April 28, 1995, as recorded in the Office of the Clerk of the County Commission (County Council) of Berkeley County, West Virginia in Deed Book 546, at page 571, and by Supplemental Declaration dated January 25, 1999, recorded in said Clerk's Office in Deed Book 615, at page 519. The Declaration provides, in Article IX, Paragraph 22, that "[t]he Board of Directors of the Association may establish reasonable rules and regulations governing . . . any other matters reasonably within the scope of this Declaration." The authority to levy fines for Covenant, Association Guideline, and Association Rule violations can be found in both Article VI, Section 10 and Article XIII, Section 3 of said Declaration.

By assignment dated the 18th day of September, 2013, as recorded in the Office of the Clerk of the County Commission (County Council) of Berkeley County, West Virginia in Deed Book 1050, at page 203, the Declarant/Developer of Tablers Estates formally executed an assignment of the Architectural Review function to the Association, ratifying and confirming that the Association is to fulfill "all architectural review functions set forth in Article VIII, Section 1 of the said Declaration, and as set forth in any Amended and Supplemental Declarations recorded subsequently thereto, including the Supplemental Declaration recorded in the Office of the Clerk of the Berkeley County Commission (County Council) in Deed Book 615 at page 519, together with the right of the Association to adopt rules, regulations, and procedures for the implementation of said architectural review.

Nothing in these Architectural Review Committee Procedures for Enforcement is intended to

limit, modify, or amend the recorded Declaration of Tablers Estates. In the event of any conflicting language between the Declaration and these Architectural Review Committee Procedures for Enforcement, the terms and provisions of the Declaration will prevail. The Board of Directors may amend and further develop these guidelines from time to time.

These Guidelines are intended to provide an advisory outline for the Architectural Review Committee (ARC) and the Board of Directors to follow in the enforcement of the Covenants. However, it is not intended that strict adherence to these procedures is mandated in every situation that confronts the Board of Directors or its ARC.

Nothing in these Guidelines is intended to require that the ARC take action in each and every case in which a violation of the covenants, however, slight, may occur. The Association's resources are not unlimited. Each member of the Association is vested, under the Declaration, with concurrent authority to enforce the Covenants. [To the limited extent expressly set forth in these Procedural Guidelines, the ARC is delegated the authority to enforce all of the use covenants as set forth in the Declaration together with all Rules adopted by the Board of Directors pursuant thereto.]

II. Notice of Covenant Violation.

The intent of this section is to resolve covenant violations in an amicable and neighborly manner whenever it is possible to do so.

a) Informal Notice

After determining a covenant violation(s) validity received from the Architectural Review Committee ("ARC"), members of the community, or individual Board Member(s), the Chairperson or designee of ARC may first give verbal notice through informal means, such as a telephone call unless exigent circumstances require otherwise. If such informal verbal notice does not resolve the violation, the ARC may then provide an informal written notice to the lot owner(s) in question, informing the lot owner of the violation and a deadline in which to bring the subject lot into compliance. Such informal notice is discretionary and intended to provide for neighborly resolution. The ARC may use its reasonable discretion to determine if such informal

notice will prove fruitless. [Exigent circumstances will typically involve matters of a non-structural nature that can be readily remedied. The ARC will consult with the Chairman of the Board of Directors or his/her designee when circumstances are deemed exigent and require immediate correction. Nothing in these Rules shall be construed to prohibit immediate action by the Board, including Court Action, to correct matters, which in the Board's sole discretion, require immediate attention to protect the welfare of the community.]

b) *Formal Notice*

Except in cases of exigent circumstances if informal written notice fails to resolve the violation, formal notice will be given to the owner by the ARC. Any formal notice must be dated on or about the date on which the notice is either hand delivered or deposited for mailing. Such formal written notice will inform the lot owner(s) of the specific provisions of the Declaration being violated, the time in which compliance must be achieved, and of the right to appeal the terms of the formal notice pursuant to Section III below. The notice should provide that fines will be assessed after the time for compliance has expired. Exigent circumstances, as used in this paragraph, shall mean matters that substantially endanger the health welfare or safety of the community.

The lot owner will have twenty (20) days to appeal the violation by noticing any member of the ARC in writing, by personal delivery or mail to his/her address. The Board will hear the appeal in a timely manner following receipt of the lot owner's notice of appeal. Any fine levied by the Association regarding the alleged violation will be stayed until the appeal is heard and decided by the Board, pursuant to Section III below.

Notice will be presumed complete upon the Association's mailing of the Formal Notice to the owner's address on record with the Association. It is the duty of all owners to keep the Association updated with a designated mailing address.

III. Appeals Meetings to Determine Violations

All appeals determinations will be made pursuant to this section.

a) Notice of Appeal

Upon receiving the notice of appeal from the Appellant, the ARC member in receipt of the notice of appeal shall give notice of the appeal to all other Members of the Board of Directors, who shall set a date for consideration of the appeal. Such notice must be given at least three (3) day prior to the appeals meeting. The Board of Directors may informally discuss the most appropriate time and place to hold the appeals meeting and the President, or his/her designee, will attempt to coordinate the time of the hearing with the Appellant. All appeals meetings must be held within the confines of Tablers Estates, unless waived by all Board of Directors and the appellant.

Notice to the General Membership is not required for an appeals meeting. Members of the community will not be permitted to voice their input at the hearing unless such a Member is a party or witness to the proceeding (i.e. a complainant or a witness called by the Appellant or the ARC).

b) Quorum

A quorum of the Board of Directors is required for any appeals meeting in accord with the Bylaws of the Association, specifically Article X, which dictates the procedures for meetings of the Board of Directors.

c) Hearing Procedure

At any meeting properly noticed for the purpose of an appeal from an alleged Covenant violation, the Order of Business will be as follows:

- A. Call to Order and Roll Call;
- B. Presentation of violation by the ARC or its designated representative;

- C. Any response offered by the Appellant
- E. Board may retire to closed session to deliberate
- F. Board resumes open meeting and presents its decision in the presence of the Appellant.

Such a decision must be decided by a majority vote of a quorum of the Board. The Board will provide the lot owner(s) with a written decision containing the reasons for the decision within fifteen (15) days of the date of the meeting.

IV. Fines for Covenant Violations

The owners of the lot in violation will be subject to a fine of \$5 for each day the violation exists once formal notice of the imposition of the fine has been given. In its decision incident to any appeal, the Board may, in its discretion, grant a further stay of the imposition of any fine if the Board determines that additional time is necessary in order to correct the subject violation(s), and the owner of the lot in violation shows a good faith intent to remedy the violation.

The Board of Directors may direct legal counsel to file an action for the collection of fines due and owing together with legal fees and expenses incurred.

Nothing contained herein will prevent the Board or any individual Member from seeking an immediate remedy at law or in equity to enjoin a violation of the covenants.

Adoption Date: 2/19/19

Secretary to the Board of Director

