

**RESOLUTION  
OF THE  
BATTLEMENT MESA SERVICE ASSOCIATION  
REGARDING POLICIES AND PROCEDURES FOR COVENANT AND RULE  
ENFORCEMENT**

**SUBJECT:** Adoption of a 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 adopt a uniform procedure to be followed when enforcing covenants and rules to facilitate the efficient operation of the Association.

**AUTHORITY:** The Declaration, Bylaws, Articles of the Association, and Colorado law.

**EFFECTIVE  
DATE:** January 1, 2006

**REVISED:** January 1, 2007

**RESOLUTION:** The Association hereby adopts the following 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 written complaint.
2. Complaints. (a) Complaints by Owners or residents shall be in writing and submitted to the Covenant Control Committee. The complaining Owner or resident 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. Non-written complaints, or written complaints failing to include any information required by this provision, may not be investigated or prosecuted at the discretion of the Covenant Control Committee. (b) Complaints by a member of the Board of Directors, a committee member, or the manager, if any, may be made in writing or by any other means deemed appropriate by the Board if such violation was observed by the Director, committee member, or manager.

3. Investigation. Upon receipt of a complaint by the Covenant Control Committee, if additional information is needed, the complaint may be returned to the Complainant or may be investigated further by the Covenant Control Committee.

4. Initial Letter of Non-Compliance. If a violation is found to exist, a letter of non-compliance shall be sent to the Violator explaining the nature of the violation. The Violator will have 5 days from the date of the letter to come into compliance.

5. Continued Violation After Initial Letter of Non-Compliance. If the alleged Violator does not come into compliance within 5 days of the first letter of non-compliance, this will be considered a second violation for which a fine may be imposed following notice and opportunity for a hearing. A second letter shall then be sent to the alleged Violator, providing notice and an opportunity for a hearing, and explaining if a violation is found to exist, 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 second letter of non-compliance.

6. Continued Violation After Second Letter. If the alleged Violator has not come into compliance after receipt of the second letter, this will be considered a third violation for which a fine may be imposed following notice and a hearing may be scheduled by the Board of Directors. 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 third letter of non-compliance.

7. Continued Violation After Third Letter. 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 six month 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.

8. Repeated Violations. Violators who experience repeated violations of the same covenant within a six (6) month period will be subject to the following: The Violator who commits a second violation of the same covenant within a six (6) month period will not be sent an initial letter of violation as per Paragraph 4 of this resolution, but will be advanced to Paragraph 5. A third violation of the same covenant within a six (6) month period will subject the Violator to skipping Paragraphs 4 & 5 of this resolution and advancing directly to Paragraph 6. Additional violations of the same covenant occurring within a six (6) month period will advance the Violator directly to Paragraph 7.

9. Notice of Hearing. If a hearing is requested by the alleged Violator or has been set by the Board of Directors, the Board of Directors will serve a written notice of the hearing to all parties involved at least 10 days prior to the hearing date.

10. 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 Board of Directors 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 of Directors, all hearings shall be open to attendance by all Owners. After all testimony and other evidence has been presented at a hearing, the Board of Directors shall, within a reasonable time, not to exceed 10 days, render its written findings and decision, and impose a fine, if applicable. A decision, either a finding for or against the Owner, shall be by a majority of the Board of Directors present at the hearing. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the Board of Directors decision absent a showing of denial of due process.

11. Failure to Timely Request Hearing. If the alleged Violator fails to request a hearing within 10 days of the second or third letter, or fails to appear at the hearing, the Board of Directors will 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.

12. Notification of Decision. The decision of the Board shall be in writing and provided to the Violator and Complainant within 10 days of the hearing, or if no hearing is requested, within 10 days of the final decision.

13. Appeals. The Violator may file a written appeal to the Board of Directors of any adverse decision within 15 days of the decision.

14. Fine Schedule. The following fine schedule has been adopted for all recurring covenant violations:

First violation

Warning letter

Second violation (of same covenant or rule)	\$50
Third violation (of same covenant or rule)	\$75
Fourth and subsequent Violations (of same covenant or rule)	\$100.00

The amount of fine imposed may be varied from the above if warranted by the violation, at the discretion of the Board. Any notice sent to a Violator, as outlined above, shall include the amount of the possible fine.

15. Continuous Violations. Continuous violations are defined as violations of Owner obligations that are uninterrupted by time. Each day of noncompliance with such violations constitutes a separate violation. If an Owner is determined as having a continuous violation, in accordance with the terms of this Policy, such Owner shall be subject to a fine of \$25.00 to \$100.00 per day depending upon the violation, following a notice and opportunity for a hearing as set forth above.

16. Waiver of Fines. The Board may waive all, or any portion, of the fines if, in their 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.

17. 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.

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

19. 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.

20. 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.

21. 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 Battlement Mesa Service Association, 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 December 19<sup>th</sup>, 2006 and in witness thereof, the undersigned has subscribed his/her name.

**BATTLEMENT MESA SERVICE  
ASSOCIATION,**  
a Colorado nonprofit corporation

By: \_\_\_\_\_  
\_\_\_\_\_, President