

ARTICLE XV

1500 - COVENANT AND CODE ENFORCEMENT AND PENALTY POLICY

The District, acting by and through its Manager, has been delegated and has accepted certain powers, duties, and authority to enforce the Wilderdest Covenants pursuant to that certain Assignment of Rights and Obligations Under Declaration of Protective Covenants for Wilderdest Subdivision Filing Nos. 1 and 2 (the "Premises") dated June 15, 2004 (the "Delegation"). A copy of the Delegation is recorded in the real property records of Summit County, Colorado at Reception No. 762834. The District hereby incorporates by reference all prohibitions, guidelines, requirements, and terms of the Wilderdest Covenants into these Rules and Regulations.

.01 - NO HAZARDOUS ACTIVITIES

No activity shall be conducted and no improvement shall be constructed on any property within the Premises that is or might be unsafe or hazardous to any person or property, including but not limited to open burning, and the discharge of weapons. The District's Manager or other employee or agent may identify activities considered hazardous pursuant to this section, but in all cases such identification shall be reasonable and not arbitrary or capricious.

.02 - LANDSCAPE MAINTENANCE

All plans and specifications for landscaping within the Premises are subject to the District's approval. All landscaping, including but not limited to trees existing on each parcel within the Premises, shall be maintained in a neat, attractive and healthy condition. The owner shall remove dead, dying, diseased, or insect-infested landscape materials as soon as possible but in any event within thirty (30) days of a written request by the Manager. The District may require that removed such landscape materials be replaced in accordance with the Code and taking into account weather conditions affecting the planting of replacement landscaping, but replacement of any landscape materials shall be subject to the District's prior written approval and applicable fire mitigation standards may dictate that removed landscape materials not be replaced.

- a. All lots within the District have (at a minimum) 10' drainage and utility easements along the sides and rear lot lines. No property owner shall excavate or fill, construct, place, plant, remove or replace any temporary or permanent improvement, structure, building or deep rooted shrub, plant or tree, in, on or under any part of such easements without the District's prior approval. The District may remove such improvements from such easements if required to fulfill the District's service obligations.
- b. All landscaping, including berm installation, is additionally subject to Summit County's prior approval.

.03 - GARBAGE AND TRASH

No refuse, garbage, trash, lumber, grass clippings, shrub clippings, plant waste, compost, metal, bulk materials, scrap or debris of any kind shall be kept, stored, or allowed to accumulate on any parcel or upon any right-of-way within the Premises, except within an enclosed structure or appropriately screened from view. All trash containers shall be placed outside enclosed structures only on the appointed day for trash pickup, and shall be returned to enclosures no later than 24 hours after pickup.

.04 - NUISANCE AND NOXIOUS ACTIVITIES

No noxious or offensive activities shall be carried on within the Premises, nor shall anything be done or permitted which shall constitute a public nuisance therein. For purposes of these Rules and Regulations, the following shall constitute public nuisances:

- a. Dead or dying trees;
- b. Fallen trees;
- c. Trees diagnosed as being infected with mountain pine beetles or any other infectious, communicable disease or insect;

- d. Abandoned vehicles, as that term is used in Sections 42-4-1202 and 42-4-1801, et seq., C.R.S., vehicles without current registration tags, or vehicles that cannot be moved under their own locomotion (unless such vehicles are parked in a garage or covered by a cover made to fit the vehicle);
- e. The accumulation of trash, garbage, or other rubbish which is noxious, offensive, unsightly, dangerous, hazardous or otherwise constitutes a public nuisance on any property or on any alley, sidewalk, or right-of-way; and
- f. Construction activity that causes noise audible outside the premises at any time other than 7:00 a.m. through 7:00 p.m., Monday through Saturday, or that exceeds the maximum permissible noise levels for industrial zones as specified in Section 25-12-101, C.R.S.

This list of public nuisances is not exhaustive, and any other action or activity may be determined to constitute a public nuisance after appropriate Board research and analysis.

.05 - PARKING

No party shall park, store or allow to remain any vehicle on unpaved areas (excepting any approved gravel parking area); park any unlicensed vehicles (unless covered with a cover made to fit the vehicle); park any commercial vehicles (as defined in the Code); park any vehicle on or overhanging a road, path, sidewalk, or street right-of-way; or park recreational vehicles, boats or utility trailers in any front yard (or driveway) or setback within the Premises;

- a. No vehicle shall be parked within seven feet of any publicly maintained roadway, including vehicle parked in a driveway.
- b. Recreational vehicles, boats or utility trailers may be parked in the front yard or setback of residential properties that contain more than five (5) living units provided a driveway or parking area has been constructed in the front yard or setback.
- c. Parked or stored motor vehicles, recreational vehicles, boats, and utility trailers must be owned or leased by the property owner or a guest, relative or tenant of the property owner; not exceed 33 feet in length or 15,000 pounds gross vehicle weight; be licensed and operable unless covered with a cover made to fit the vehicle; and placed on an improved surface constructed to Summit County standards.
- c. All lots within the District have (at a minimum) 10' drainage and utility easements along the sides and rear lot lines. No party shall construct any driveway or parking area, park, and store or allow to remain any vehicle within any part of such easements without the District's prior approval.

.06 - STORAGE

As required by the Code, Chapter 3, no party shall store any item in a front yard (defined as that area of a lot in front of the front plane of the dwelling) or setbacks; provided that firewood may be stored in a front yard, but not in setbacks, if stacked in an orderly manner. No portion of any lot may be used for non-residential storage (e.g., storage of items in exchange for compensation) absent prior approval by Summit County and appropriate screening approved by the District. All outdoor residential storage shall be made in a neat and orderly manner. If the District determines that a screen to shield permitted outdoor residential storage would be in conformance with the property's overall landscaping plan and the Code, the District may permit or require such a screen be installed by the property owner, notwithstanding the fence prohibitions set forth in the Wilderrest Covenants. A garage may be used to screen or shield storage.

.07 - FENCES, WALLS, AND SCREENS

All fences, walls, and screens are subject to the District's prior approval. The District will allow fences, walls and screens only in the following circumstances and for the following purposes:

- a. **Safety:** Safety related fences, walls and screens constructed to enclose hot tubs, swimming pools, tennis courts, trash receptacles, and common area recreation facilities.

- b. **Patio:** Fences, walls and screens of materials and finishes which conform with the architectural design of the adjoining dwelling and do not exceed 50 cumulative feet in length may be constructed around a deck or patio, and between adjoining units, such as duplex offsets.
- c. **Decorative:** Split rail fences which do not exceed 30 cumulative feet in length may be constructed as part of an approved overall landscaping plan, but in no case may such fences be used to delineate the perimeter of a lot.
- d. **Restraint:** One animal or child enclosure of materials and finishes which conform with the architectural design of the adjoining dwelling may be constructed on each lot. Such enclosures must be constructed wholly within applicable setbacks and may not enclose more than 100 square feet, extend more than six feet from the adjoining dwelling, extend forward of the front plane of the dwelling, or limit access to any utility connection or meter.
- e. **Electronic:** Invisible electronic animal fences may be constructed, but such fences may not be constructed within 5 feet of any lot line, extend across any easement, or extend forward of the front plane of the dwelling.

.08 - DUMPSTERS

Any dumpster that is visible from anywhere outside the property must be placed in an enclosure with at least three sides. Such enclosure shall be at least six feet in height and screen the dumpster from public view. An enclosure without a roof may be placed in the property's setbacks. All other buildings, structural improvements and paving are prohibited in any required setback, except driveways and parking areas in the front setback.

- a. **Location:** Dumpsters and enclosures should be located as far as practical inside property boundaries and may not be located in utility easements (absent District approval) or public rights of way. Along Ryan Gulch Road, the right of way typically extends 18 feet from the edge of the paved surface; along all other streets in Wildernest, the right of way typically extends 13 feet from the edge of the paved surface. Utility easements are located along most property lines and are typically 10 feet wide on both sides of the line.
- b. **Gates:** If an enclosure can be oriented so that the front, back and sides of the dumpster are not visible from nearby properties and rights of way, gates are not required.
- c. **Dimensions:** The walls and gates of an enclosure should be not more than twelve inches above the ground and not less than six inches higher than the height of the dumpster. Where gates are not required, enclosures should be deep enough to allow the dumpster to be set at least twelve inches inside the open side of the enclosure after trash removal.
- d. **Materials & Finish:** Exterior surfaces of walls and gates must be finished with wood siding not more than eight inches wide. Interior surfaces need not be finished with siding.
- e. **Repair & Maintenance:** All surfaces and components of an enclosure must be painted or stained to match other structures on the property and maintained in good repair at all times.
- f. **Existing Non-compliant Dumpsters:** Existing dumpsters that do not comply in all respects with this subsection 1500.08 shall be brought into compliance as a condition of any approval of the District for any addition to or modification of any aspect of the property in question, but in any case no later than December 31, 2009.

.09 - SIGNS

While the Wildernest Covenants prohibit all signs, and this prohibition may be enforced by any property owner, the District's enforcement of this prohibition shall be limited to the express terms of these Rules and Regulations.

- a. **General Provisions:**

- 1) All signs must be professionally made and comply with the Code's restrictions on permitting, size, and placement.
 - 2) Signs must be plumb, level and maintained in good repair at all times.
 - 3) Signs must be supported by a permanently attached post, which post must be stained or painted and maintained in good repair at all times. Signs may not be attached to trees, buildings, or vehicles.
 - 4) Signs must be set back at least fourteen feet from publicly maintained roads.
 - 5) These Rules and Regulations do not limit the power of other entities to limit or prohibit signs, including the power of homeowner's associations to adopt stricter sign provisions.
- b. **Project Identification Signs:** Each condominium or townhome development may post an identification sign no larger than 12 square feet with the top of the sign no more than six feet above the ground. All such signs must be approved by the Wildercrest Architectural Review Committee and the District prior to installation. One sign indicating the management agent, not larger than 2 square feet, may be attached to the post(s) supporting each approved project identification sign.
- c. **Real Estate Signs:**
- 1) Sales: One "For Sale" sign no larger than 4 square feet with the top of the sign not more than 4 feet above the ground is permitted on each property offered for sale.
 - a) No free-standing "For Sale" sign visible from any public right-of-way may be placed in a condominium or townhome development, but, if permitted by the governing homeowners' association, a "For Sale" sign may be posted in a window or balcony of a condominium or townhome.
 - b) Any real estate company posting a "For Sale" sign must be under a current listing contract with the property owner. Any sales agent listed on a "For Sale" sign must be licensed in the State of Colorado.
 - c) Any owner posting a "For Sale by Owner" sign may only post a professionally made sign. Any "For Sale by Owner" sign must be removed within six months of its original posting, and shall not be replaced on the property (either with the same sign or a similar sign, excluding signs posted by a licensed real estate agent) for three months following its removal.
 - d) All "For Sale" and "For Sale by Owner" signs must be removed within the earlier of 72 hours of closing or expiration of the listing agreement.
 - e) One "Open House" sign no larger than 4 square feet, with the top of the sign not more than 4 feet above the ground, may be posted temporarily on property for sale during daylight hours only.
 - 2) During construction, one builder/contractor identification sign, one "For Sale" sign, and one "Open House" sign (posted during daylight hours only) per project are permitted. Builder/contractor identification signs may not exceed 12 square feet with the top of the sign not more than 6 feet above the ground.
- d. **Business Identification Signs:** Any sign designed to identify a business is subject to the prior approval of the District and the District's Architectural Review Committee.
- e. **Other Signs:** No other signs, including signs offering units for rent or lease are permitted.
- f. **Additional Enforcement:** In addition to any other enforcement powers that may be exercised by the District, the District may remove non-conforming signs. Any sign removed by the District and not claimed within 15 days of removal will be destroyed.

.10 - EXTERIOR MODIFICATION TO STRUCTURES

No modification or addition to the exterior of any structure shall occur in the absence of the prior written approval of the District, acting through its Architectural Review Committee.

.11 - ENFORCEMENT

- a. **Property Owners Responsible of Compliance:** It benefits all property owners within the Premises to adhere to the Wildernest Covenants to promote the common good and enjoyment of the property owners' investments, protect property values, and maintain a pleasant residential environment. Each owner of property within the Premises is responsible for the compliance with these Rules and regulations regardless of whether the property in question is rented to others or vacant for any length of time. Upon adoption of these Rules and Regulations, the District Manager or any duly authorized agent of the Manager or the District, bearing proper credentials and identification, shall be permitted to enter upon the exterior portions of all properties for the purposes of investigating suspected violations and enforcing these Rules and Regulations. The Manager shall make reasonable efforts to notify the property owner prior to such entry. Should a property owner be in violation of the Wildernest Covenants or these Rules and Regulations, the Manager may, but is not obligated to, provide the following notices and impose the following penalties:

1st Notice of Violation (Courtesy Notice) - Written notice to property owner describing the alleged violation and requesting that the property owner correct the alleged violation within a stated period of time, depending upon the violation in question, as determined in the exercise of the Manager's discretion. Any written request by the Manager to replace or remove dead, dying, diseased, or insect-infested landscaping shall be considered as the Courtesy Notice.

2nd Notice of Violation (\$50.00 Penalty) - Written notice to property owner that the alleged violation has not been corrected, informing property owner that a penalty of \$50.00 has been imposed, and notifying the property owner that an additional \$100.00 penalty will be imposed if the alleged violation is not corrected within ten (10) days. The Second Notice of Violation may be issued if the property owner does not correct the violation within thirty days of the First Notice of Violation.

3rd Notice of Violation (\$100.00 Penalty) - Written notice is given to property owner that the alleged violation has not been corrected, informing property owner that a penalty of \$100.00 has been imposed, and notifying property owner that an additional \$100.00 penalty will, without further notice, be imposed for every subsequent ten (day) period, in part or in whole, that the alleged violation remains uncorrected. The Third Notice of Violation may be issued if the property owner does not correct the violation within ten days of the Second Notice of Violation.

- b. **Penalties Imposed per Violation:** Penalties imposed for violations shall be imposed on a per-violation basis, rather than a per-notice basis.
- c. **Recurring Violations:** All notices of violation provided pursuant to this section shall also notify the property owner that if the same violation occurs within six months of the date of the First Notice of Violation, such recurrence shall be considered as a continuance of the original violation and not a new violation. All notices shall state the date, time, and location of the next regularly-scheduled Board meeting.
- d. **Right to Appear at Board Meeting:** Any party notified of a violation pursuant to this section shall be permitted to appear at the next regularly-scheduled Board meeting following such notice of violation to present evidence and testimony regarding the violation. The Board shall then determine, based on the evidence presented, whether the party committed a violation, whether the party should be subject to any fine, whether any circumstances should mitigate the fine, and whether any other circumstances justify a delay or deferral in the imposition of the fine.
- e. **Recovery of Damages, Including Attorney's Fees:** In accordance with the Wildernest Covenants, the District Manager may without notice institute proceedings at law or in equity to enforce the Wildernest Covenants, and to recover damages, including reasonable attorney's fees, as applicable.

- f. **Perpetual Lien:** The penalties set forth in this section shall constitute penalties of the District in accordance with Section 32-1-1001(1)(j), C.R.S., and until paid shall constitute a perpetual lien on and against the property that is the subject of the enforcement action.

- g. **Immediate Action in Lieu of Notice:** In lieu of the notice and penalty policy set forth in this section, the Manager may, if necessary to guard against fires or otherwise protect any portion of the Premises or the Constituents, take such immediate action(s) as may be necessary to enforce the Wildernest Covenants or ensure compliance with these Rules and Regulations, including but not limited to instituting an enforcement action authorized by this section or entering private property within the Premises to remove dead, dying or diseased trees, or trees diagnosed as infected with mountain pine beetles or other similar insects.
 - 1) If the Manager takes immediate action(s) to enforce the Wildernest Covenants or enforce these Rules and Regulations, any and all costs and fees incurred by the District related to such enforcement or other corrective action, plus a ten percent surcharge, shall constitute a fee, penalty or charge of the District and shall constitute a perpetual lien on and against the property served in accordance with C.R.S. §32-1-1001(1)(j)(I).
 - 2) If the Manager takes immediate action(s) to enforce the Wildernest Protective Covenants or enforce these Rules and Regulations, such action(s) shall be ratified by the Board at the Board meeting immediately following such action.
 - 3) If the Manager takes immediate action(s) to enforce the Wildernest Protective Covenants or enforce these Rules and Regulations, neither the Manager nor the District, nor any of their employees, agents, or contractors shall be liable in any fashion for trespass or related claims arising from the enforcement activity.