



**RULE AND REGULATION  
FOR THE VALLEY WEST HOMEOWNERS' ASSOCIATION**

**DUE PROCESS RIGHTS**

**A RULE AND REGULATION OF THE VALLEY WEST HOMEOWNERS' ASSOCIATION (hereinafter referred to as "the Association") ESTABLISHING A DUE PROCESS PROCEDURE FOR CERTAIN VIOLATIONS OF THE THIRD AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS AND RESTRICTIONS FOR VALLEY WEST ("Declaration"), OR ANY SUBSEQUENT AMENDMENTS TO THE DECLARATION.**

THIS RULE AND REGULATION is made and adopted this 9<sup>th</sup> day of October, 2013, by the Board of Directors of the Association pursuant to its powers described below.

**WHEREAS**, the Declaration was signed on the 6<sup>th</sup> day of June, 2008 and filed with the Gallatin County Clerk and Recorder on the 9<sup>th</sup> day of June, 2008;

**WHEREAS**, the Declaration, Art. II, section 7, authorizes the Board of Directors to adopt rules and regulations that do not conflict with the Declaration;

**WHEREAS**, the Declaration, Art. XI, section 2, expressly authorizes the Board of Directors to adopt a rule and regulation setting forth a due process procedure regarding some violations of the Declaration or subsequent amendments to the Declaration;

**NOW, THEREFORE, THE BOARD ADOPTS THE FOLLOWING RULE AND REGULATION:**

Other than (1) nonpayment of assessments and related consequences, which is governed by Article III of the Declaration, (2) removal of vehicles and related consequences, which is governed by Article IX, section 3, of the Declaration, and (3) the obligations of successive Owners to pay a prior Owners' unpaid fines, assessments, interest, costs, etc., before any fine, proceeding, or suspension of voting rights for other violations may be imposed by the Association, Board, or VWARC, the Association, Board, or VWARC shall abide by the following due process procedure:

1. Before any fine, proceeding, or suspension of voting rights may be imposed by the Association, Board, or VWARC, the offending Owner shall be provided with written notice of the violation and

a time period in which the violation must be cured. Such time period must be reasonable considering the violation that has occurred. This written notice shall be provided by hand delivery, mail, or certified mail. This notice must also state that the offending Owner has 10 days from the date of the notice to submit a written letter to the President of the Board of Directors setting forth all of the reasons why the offending Owner believes that a violation has not occurred. In addition, the offending Owner shall attach to the letter any documentary evidence and, if applicable, a list of witnesses in support of the Owner's position.

2. If the offending Owner submits a timely written response as required in paragraph 1 above, the Board of Directors shall review the offending Owners' response at the next Board meeting and determine whether a violation has occurred. If the offending Owner fails to submit a timely written letter to the President, then the violation will be deemed to have occurred.
3. If a violation is deemed to have occurred, any action authorized by the Declaration then in effect may be taken against the offending Owner. Such action may include, but is not limited to, assessing fines; filing a lien; filing a lawsuit for any remedy available at law or in equity; assessing payment for attorneys fees, paralegal fees, and costs; suspending voting rights until the violation is cured and monies owed have been paid; and any other remedy expressly or impliedly authorized by the Declaration then in effect or by law. The offending Owner shall be provided with written notice of the action to be taken against the Owner. This written notice shall be provided by hand delivery, mail, or certified mail.
4. If a violation is deemed to have not occurred or if the Board makes a business judgment decision not to take any action, any other person or committee authorized by the Declaration then in effect may elect to proceed as authorized by the Declaration then in effect.

**BE IT FURTHER STATED** that if this Rule and Regulation conflicts in any way with the Declaration or with any amendment to the Declaration, the Declaration or amendment to the Declaration shall control, but the remaining portion of this rule or regulation that does not conflict shall remain in force and effect.

**BE IT FURTHER STATED** that thirty days written notice of this rule and regulation has been provided to all members as required by the Declaration, Art. II, section 7.

**PASSED AND ADOPTED** by the Board of Directors of the Association on this 9<sup>th</sup> day of October, 2013. This rule and regulation shall be kept by the Secretary of the Association and/or the Property Manager for the Association, and it shall be effective beginning on the 20<sup>th</sup> day of December, 2013.

THAT I am agent of the Valley West Homeowner's Association and that the foregoing is a true and correct copy of the Rules and Regulations – Due Process Rights, which were approved and adopted on October 9, 2013 by the acting Valley West Board of Directors.

State of Montana  
County of Gallatin

VALLEY WEST HOMEOWNER'S ASSOCIATION  
BY: PEAK PROPERTY MANAGEMENT  
MANAGER

By: Monica O'Brien General Manager

This instrument was signed and acknowledged before me this 13<sup>th</sup> day of December 2013 by Monica O'Brien as General Manager of Peak Property Management for the Valley West Homeowner's Association.

Dina Emmert

Signature of Notary

