

**Section 14**

**Policy and Procedure Regarding Offensive Sounds and Lights**

**Authority:**

This section is adopted pursuant to Article VI, Section 5 a. of the Covenants providing the Board of Directors with the authority to adopt reasonable rules and regulations for ensuring compliance with the Covenants and interpreting any of the provisions of the Covenants.

**Policy:**

Article V, Section 15, of the Covenants regulates offensive activities, sounds, and lights on any lot within the subdivision. The Board of Directors has determined that the welfare and enjoyment of the community depend upon the clearer interpretation and enforcement of this Covenant provision. The purpose of this Policy and Procedure is to provide clear rules and procedures regulating offensive sounds and lights.

The Board of Directors has also determined that the noise policy of the Fairway Pines Estates Owners Association should follow the guidance of Ouray County, Colorado Ordinance No. 92-1 which provides for regulation of noise that is unreasonably excessive, unnecessary, or unusually loud and which unreasonably disturbs or interferes with others. Ordinance No. 92-1 provides 12 criteria for determining when a noise is unreasonable. Ordinance No. 92-1 also prohibits device noises altogether between the hours of eleven p.m. and seven a.m. if they are audible at a distance of fifty feet from the projection point.

**Rules and Procedures:**

Article V, Section 15, of the Covenants prohibits offensive sounds and lights from any lot within the subdivision that may become a nuisance or cause unreasonable disturbance or annoyance to other Owners in the enjoyment of their lots. Ordinance No. 92-1 similarly makes such unreasonable noise disturbances unlawful nuisances which may be abated pursuant to law, including fines upon conviction. The following restrictions do not apply to the Divide Ranch and Club, as it is a commercial facility, therefore homeowners wishing to provide entertainment venues where noise issues might be of concern to neighbors should contact the Club for use of their facilities.

**A. Noise Regulations:**

1. It is unreasonable for any person to make, continue, cause, or permit to be made or continue any unreasonably excessive, unnecessary or unusually loud noise, or any

noise which unreasonably annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of others (language taken from Ordinance 92-1).

2. Unreasonable noise is hereby declared to be a nuisance which may be abated pursuant to law (language taken from Ordinance No. 92-1).

B. Prohibited Noises:

1. The operation or use of any musical instrument, radio, tape recorder, phonograph, loudspeakers, amplifiers or other devices for amplification of sound, or similar device between the hours of ten p.m. and seven a.m., in such a manner as to be plainly audible at a distance of fifty feet from the building, structure, or vehicle in which it is located (language taken from Ordinance No. 92-1 except that ten p.m. is substituted for the eleven p.m. time referenced in the Ordinance).

C. Factors which may be considered in determining whether a noise is unreasonable (as is provided in Section A.1.) include the following (language taken from Ordinance No. 92-1):

1. The volume of the noise;
2. The intensity of the noise;
3. Whether the nature of the noise is usual or unusual;
4. Whether the origin of the noise is natural or unnatural;
5. The volume and intensity of the background noise, if any;
6. The proximity of the noise to residential sleeping facilities;
7. The nature and zoning of the area within which the noise emanates;
8. The density of inhabitation of the area within which the noise emanates;
9. The duration of the noise;
10. The time of the day or night the noise occurs;
11. Whether the noise is recurrent, intermittent or constant;
12. Whether the noise is produced by a commercial or noncommercial activity.

D. Anyone seeking a temporary waiver of the unlawful noise (such as for an outside residential party or musical event) referenced in Section A.1. (and including the application of the “unreasonableness” factors referenced in Section C. above) may apply to the Board of Directors for such a temporary waiver so long as the following requirements are met:

1. Bands or DJ's - Bands, employment of a DJ, or use of amplification devices and/or lighting shall only be temporarily permitted on any lot within Fairway Pines by means of a waiver of Section A.1. and A.2. noise prohibitions, with the following restrictions:
2. At least two weeks before the event, the property owner must submit an application (copy attached) requesting approval of a waiver to any board member, or the Association Administrator, that contains the information noted below. Approval or disapproval is at the discretion of the Board and is final. (Note: For functions, such

as a party, without outside music or lighting, an application is not required, and Board approval is not applicable).

- Information to be included are the date, time, duration, and description of the event; property owner's contact information; estimated number of guests, band or DJ description and contact information, and whether a temporary small-stage or other-than-normal exterior lighting will be used.
  - Confirmation that owners of occupied, developed adjacent lots have been notified of the date, time, duration, and description of the event, either in writing or verbally. Adjacent lots include all lots that share any length or corner of a common property line, or would share such line except for being separated by a street. Advisable, but not required, would be courtesy notice to other nearby neighbors who might be reasonably affected by noise and traffic from the event.
  - An acknowledgement that the owner has read, understands, and will comply with all Association rules regarding the use of bands and DJs, and other loud events within the subdivision, and that damage to Association property, or injury to persons, or the property of others, resulting from the event is the responsibility of the owner providing the event, and that failure to comply with the applicable rules may result in fines or penalties not to exceed \$250 per occurrence.
  - Failure to properly and timely complete and provide the form at least two weeks before the event will result in a denial of the owner's request for a temporary waiver of the unlawful noise set forth in Sections A.1. and A.2. above.
3. Amplified sounds and event lighting, if any, shall at all times be directed away from neighboring homes. Spotlights are not allowed at any time, but reasonable small-stage lighting (non-strobe) is permitted only in connection with the event, and must be described on the form.
4. Hours of Operation:
- Outside operation, as prohibited in the above-referenced Section B.1., shall be fully complied with for the period of time between the hours of ten p.m. and seven a.m.
  - The waiver granted by submission and acceptance of the form referenced above is applicable to Sections A.1 and A.2 above.
  - Interior operation, or use of any musical equipment between the hours of eleven p.m. and seven a.m. that is plainly audible at a distance of fifty feet, from the building (or applicant's property line) in which it is located, is prohibited.
5. If a neighbor complains about the noise, or lighting, emanating from the event between the hours of 10 p.m. and 7 a.m., or at any other time emanating from a home or other non-commercial structure or vehicle within the subdivision, immediate steps

shall be taken by the property-owner source of the noise or lighting to satisfactorily resolve the issue.

Adopted September 8, 2015



Association Administrator

# Fairway Pines Estates Homeowners Association

## Application for Temporary Offensive Sounds/Lighting Waiver

(Required per FPEOA Policies and Procedures, Section 14)

cbriggsfp@gmail.com

**Note:** Completed application must be provided to FPEOA Administrator at [cbriggsfp@gmail.com](mailto:cbriggsfp@gmail.com), or to any Board member for processing at least two weeks prior to a planned event.

Name: \_\_\_\_\_ Address of event: \_\_\_\_\_  
First Name/Last Name Street address only

Telephone/Contact #: \_\_\_\_\_ E-Mail Address: \_\_\_\_\_

Lot #: \_\_\_\_\_ Planned Date of Event: \_\_\_\_\_ Time/Duration of Event: \_\_\_\_\_ Number of guests: \_\_\_\_\_

If a band or DJ is to be utilized, please provide name of group, contact name, and telephone number:  
\_\_\_\_\_  
\_\_\_\_\_

Is special staging or lighting planned? \_\_\_ Yes \_\_\_ No ( If yes is checked, please explain below:)  
\_\_\_\_\_  
\_\_\_\_\_

### Adjacent homeowners contacted

	<u>Name and/or address</u>	<u>Method of contact (circle one)</u>		
1.	_____	Letter	Email	In Person
2.	_____	Letter	Email	In Person
3.	_____	Letter	Email	In Person
4.	_____	Letter	Email	In Person
5.	_____	Letter	Email	In Person
6.	_____	Letter	Email	In Person

*If more spaces are needed, please attach additional sheet*

I/we have read FPEOA Policy Section 14, and will comply with all Association rules and regulations.

\_\_\_\_\_  
(Signed)

\_\_\_\_\_  
(Date)

Approved \_\_\_\_\_ Rejected \_\_\_\_\_

Date application received: \_\_\_\_\_ Date of Board decision: \_\_\_\_\_ Initials of approving authority: \_\_\_\_\_

Notification sent to applicant on: \_\_\_\_\_ via e-mail

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_