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CONSTRUCTION ACTIVITIES AND COMPLIANCE DEPOSIT REGULATION

Section 1. Title

This regulation shall be known as the “Construction Activities and Compliance Deposit Regulation.”

Section 2. Purpose

The purpose of this regulation is to regulate Construction Activity (as such term is defined below) within Red Sky Ranch to minimize the impacts of Construction Activity on Guests and Owners. The Red Sky Ranch Design Review Board (DRB) has the power to amend this Regulation from time to time without notice.

Section 3. Definitions

Unless otherwise stated, all capitalized terms used herein shall have the meanings given to them in the General Declaration of Covenants, Conditions and Restrictions for Red Sky Ranch, Eagle County, Colorado, as recorded with the Clerk and Recorder of Eagle County, Colorado, on August 1, 2001, reception #763574, as amended from time to time (the “Declaration”). In addition, as used in this Regulation, the following terms shall have the following meanings:

- 3.00 “Association” means the Red Sky Ranch Association.
- 3.01 “Compliance Deposit” means the deposit that an Owner is required to deliver to the DRB prior to commencing a Construction Activity.
- 3.02 “Construction Site” means a Site upon which Construction Activity takes place.
- 3.03 “Construction Activity” means any site disturbance, construction, addition or alteration of any building, landscaping or any other improvement on any Site.
- 3.04 “Construction Vehicle” means any car, truck, tractor, trailer or other vehicle used to perform any part of a Construction Activity or to transport equipment, supplies or workers to a Construction Site.
- 3.05 “District” means the Holland Creek Metropolitan District.
- 3.06 “DRB” means the Design Review Board as appointed by the Board of Directors of Red Sky Ranch Association.

- 3.07 “Owner Representative” means any contractor, subcontractor, agent or employee hired or engaged by an Owner in connection with any Construction Activity.
- 3.08 “Regulation” means this Construction Activities and Compliance Deposit Regulation.
- 3.09 “Substantially Complete” means that stage of a Construction Activity at which the work is sufficiently complete so as to allow the owner to legally occupy or utilize the work for its intended use. Legal occupation or utilization means that the Owner has obtained a temporary certificate of compliance from the DRB and a temporary certificate of occupancy from Eagle County. Notwithstanding any other provision hereof, a Construction Activity shall not be deemed to be Substantially Complete until all exterior finish work and landscaping work has been completed.
- 3.10 “Temporary Structure” shall mean any structure erected or otherwise installed as a job office or for the purpose of storing materials in connection with a Construction Activity.

Section 4. Construction Process, Approvals and Inspections

- 4.01 Construction Process Construction shall not begin until final plan approvals have been issued by the DRB, and the District (including the issuance of Access Passes, as required by District Road regulations), and a building permit has been obtained from Eagle County. Owners and their Owner Representatives shall arrange a preplanning meeting with DRB staff to educate themselves about the Red Sky Ranch design review and development process and the DRB’s concerns with respect to particular Sites. To assist Owners and their Owner Representatives in educating themselves about Red Sky Ranch design review and development process, please refer to the following information in the Design Guidelines for Red Sky Ranch and information available from the DRB office:
- (a) “Sources for Information Regarding Construction in Red Sky Ranch” available from the DRB office.
 - (b) Design Review Procedures - Chapter 5 of these Design Guidelines.
 - (c) Design Review Board Plan Check Summary Checklists - Appendix F of this document.

4.02 Preconstruction Requirements No Owner or Owner Representative shall commence any Construction Activity until it has satisfied all preconstruction requirements set forth in this Section 4.02.

(a) To initiate the formal design review process, the Owner of a Site shall Submit sketch plans to the DRB for its review and approval. If the DRB rejects the sketch plans, the Owner shall make such design changes as the DRB shall require and resubmit the sketch plans to the DRB. If the DRB approves the sketch plans, the Owner shall proceed as described in subparagraph 4.02(b).

(b) After obtaining the DRB's approval of its sketch plans, the Owner shall prepare final plans and submit the same to the DRB for its review and approval. If the DRB rejects the final plans, the Owner shall make such design changes as the DRB shall require and resubmit the final plans to the DRB. If the DRB approves the final plans, the Owner shall proceed as described in subparagraph 4.02 (c) below.

(c) After obtaining the DRB's approval of its final plans, the Owner shall

- (i) prepare and submit the following documents:
 - (A) Final Working Drawings
 - (B) Initial Erosion Control and Soil Stabilization Plan (as described in paragraph 6.01 below)
 - (C) Permanent Erosion Control and Revegetation Plan (as described in paragraph 6.01 below).
 - (D) Transportation and Parking Plan (as described in paragraph 6.11 below).
- (ii) stake the footprints of:
 - (A) All improvements to be constructed on the Site
 - (B) All parking, storage, laydown areas and limits of disturbance
 - (C) Tree removal/protection as described in Appendix H of the Regulation
- (iii) request a site inspection from the DRB;
- (iv) deliver its Compliance Deposit to the DRB in accordance with Section 5 below.

If the DRB rejects such submittals or finds the results of the site inspection to be unsatisfactory, the Owner shall make such changes as the DRB shall require and then resubmit such submittals to the DRB and/or request a follow-up site inspection from the DRB, as the DRB may require. If the DRB approves such submittals, finds the results of the site inspection to be satisfactory and receives the Owner's Compliance Deposit, the DRB shall approve the Owner's proposed Construction Activity and the Owner shall proceed as described in subparagraph 4.02 (e).

- (d) Subsequent to its delivery of final drawings and the Compliance Deposit to the DRB under subparagraph 4.02 (c) above, the Owner may submit identical final working drawings to the Eagle County Building Department for its plan check process. In no event shall an Owner (i) initiate the plan check process with the Eagle County Building Department prior to the DRB's approval of the Owner's final plans, or (ii)

submit final working drawings to the Eagle County Building Department that differ from those that the Owner submits to the DRB.

- (e) After the DRB approves the Construction Activity contemplated by the Owner as described in subparagraph 4.02 (c), the Owner shall request a building permit from the Eagle County Building Department and Request any and all other necessary permits and approvals from Eagle County, Colorado, the District and any other governmental or quasi-governmental entity with jurisdiction over the Construction Site. In no event shall an Owner (i) request a building permit from the Eagle County Building Department prior to the DRB's approval of the Owner's proposed Construction Activity as described in subparagraph 4.02 (c), or (ii) commence any Construction Activity prior to obtaining (A) the DRB's approval of such Construction Activity as described in subparagraph 4.02 (c), and (B) a building per-

mit and all other necessary permits and approvals from Eagle County, Colorado, the District and any other governmental or quasi-governmental entity with jurisdiction over the Construction Site.

4.03 Construction Inspections. In addition to any inspections required by the Eagle County Building Department, the District and any other governmental or quasi-governmental entity with jurisdiction over the Construction Site, an Owner must schedule the following inspections with the DRB.

- (a) Prior to commencing its Construction Activity, the Owner shall request a site inspection as described in subparagraph 4.02 (c).
- (b) Upon completion of foundation construction and prior to commencing framing, Owner shall request a foundation inspection from the DRB and, simultaneously therewith, deliver to the DRB an improvement location certificate for the Construction Site, which (i) is certified by a surveyor registered in the State of Colorado, (ii) shows the location of all permanent improvements then located on

the Construction Site; and (iii) sets forth the elevations of the tops of all foundation walls of all such permanent improvements. Thereafter, the DRB will inspect the foundation to ensure the Construction Activity is being performed in compliance with the approved final working drawings and this Regulation.

- (c) Upon completion of core and shell framing, and prior to enclosing exterior walls and roofs, Owner shall request a framing inspection from the DRB and, simultaneously therewith, deliver to the DRB an updated improvement location certificate for the Construction Site, which (i) is certified by a surveyor registered in the State of Colorado; (ii) shows the location of all permanent improvements then located on the Construction Site; and (iii) sets forth the elevations of all floors and the highest roof ridge of all such permanent improvements. Thereafter, the DRB will inspect the framing to ensure that the Construction Activity is being performed in compliance with the approved final working drawings and this Regulation.

- (d) Upon substantial completion of the Construction Activity, and prior to obtaining Eagle County Certificate of Occupancy, the Owner may request a temporary certificate of compliance inspection from the DRB and the District. Thereafter, the DRB shall inspect the Construction Site to ensure that the Construction Activity is substantially complete and has been performed in compliance with the approved final working drawings and this Regulation.
- (e) Upon final completion of all portions of the Construction Activity, including all landscaping required in connection therewith and all remedial work that the DRB required the Owner to perform following the temporary certificate of compliance inspection described in subparagraph 4.03 (d) above, the Owner shall request a final inspection from the DRB. Thereafter, the DRB shall inspect the Construction Site to ensure that all portions of the Construction Activity, including all such landscaping and remedial work, are fully complete and have been performed in compliance with the approved final working drawings and this

Regulation. The DRB shall use its best effort to conduct the inspections described in subparagraphs 4.03 (a) through (e) above within seventy-two hours after receiving written requests therefor. The DRB may enter upon a Construction Site at any reasonable time to inspect the progress of a Construction Activity and ensure compliance with approved final plans and this Regulation.

4.04 Certificate of Compliance and Occupancy.

“Certificates of compliance” are issued by the DRB and the District. “Certificates of Occupancy” are issued by the Eagle County Building Department. An Owner may not occupy or otherwise use any improvement constructed on a Construction Site until it has received (i) a certificate of compliance or temporary certificate of compliance from the DRB and the District (pursuant to the District’s rules and regulations), and (ii) a Certificate of Occupancy or a temporary Certificate of Occupancy from the Eagle County Building Department.

- (a) If an Owner has performed its Construction Activity in compliance with its approved final plans and this Regulation, the DRB will issue a certificate of compliance to the Owner follow-

ing a final inspection conducted under subparagraph 4.03 (e) above. If the Owner has failed to perform its Construction Activity in compliance with its approved final plans and this Regulation, the Owner shall promptly perform such remedial work as the DRB shall require.

- (b) If an Owner has performed its Construction Activity in compliance with its approved final plans and this Regulation, but certain insubstantial details of construction or landscaping remain to be completed, the DRB may, but is not required to, issue a temporary certificate of compliance to the Owner following an inspection under paragraph 4.03 (d). If the Owner has failed to perform its Construction Activity in compliance with its approved final plans and this Regulation, the Owner shall promptly perform such remedial work as the DRB shall require. The DRB may condition its issuance of a temporary certificate of compliance upon an increase in the amount of the Owner's Compliance Deposit as described in subparagraph 5.03 (f).

- (c) In no event shall an Owner apply for a Certificate of Occupancy from the Eagle County Building Department without first having obtained a certificate of compliance from the DRB and the District. Similarly, in no event shall an Owner apply for a temporary Certificate of Occupancy from the Eagle County Building Department without first having obtained a temporary certificate of compliance from the DRB and the District.

Prior to receiving permission to occupy the home, the Owner must demonstrate installation of a Knox Box to the required specifications as prescribed by the Fire Marshall or Red Sky Ranch Security.

Section 5. Compliance Deposit

After the DRB approves an Owner's proposed Construction Activity as set forth in paragraph 4.02 (c), and prior to commencing such Construction Activity, the Owner shall deliver a Compliance Deposit to the DRB, on behalf of the Association, as security for the Owner's full and faithful performance of its Construction Activity in accordance with its approved final plans and this Regulation.

5.01 Amount of the Compliance Deposit.

(a) The amount of the Compliance Deposit shall be based upon the maximum gross floor area, as measured from the outside of all exterior walls of all enclosed structures to be built on a Construction Site as follows:

<u>Square Footage</u>	<u>Deposit</u>
0 - 499	\$5,000
500 - 1,999	\$10,000
2,000 - 4,999	\$20,000
5,000 - 6,999	\$30,000
7,000 - 8,999	\$40,000
9,000 and greater	\$50,000.

(b) Notwithstanding the foregoing, with respect to any Construction Activity that consists solely of a Remodel the amount of the Compliance Deposit shall be equal to the greater of (i) two percent (2%) of the estimated cost of the Construction Activity as determined by the Red Sky Ranch Design Review Board submitted by the Owner to the Eagle County Building Department for

Such Construction Activity (up to, but not to exceed \$50,000) or (ii) \$5,000.

5.02 Form of Compliance Deposit. The Compliance Deposit shall be delivered to the DRB, by certified or cashier's check or by wire transfer.

5.03 Administration of Compliance Deposit. The DRB, on behalf of the Association, shall administer each Compliance Deposit as follows:

(a) The DRB shall hold the Compliance Deposit as security for the Owner's full and faithful performance of its Construction Activity in accordance with its approved final plans and this Regulation. No interest will be paid on the Compliance Deposit to the Applicant.

(b) The Association may use, apply or retain the whole or any part of a Compliance Deposit to the extent required to reimburse DRB for any cost which DRB may incur, or may be required to incur, by reason of an Owner's non-compliance in respect of any of the terms and conditions set forth herein. The DRB shall be entitled to a fee in an amount equal to 15 percent of the amount of any costs incurred by DRB to cure any

noncompliance by an Owner, which fee may be paid from the Compliance Deposit. If the amount of the Compliance Deposit is not sufficient to cure any such noncompliance by an Owner, DRB may apply the Compliance Deposit in a manner which best mitigates the effects of such noncompliance. In addition, DRB may use, apply or retain the whole or any part of a Compliance Deposit to pay to DRB any fine imposed by DRB under paragraph 7.02 below that is not paid as and when the same becomes due and payable.

- (c) The Association's decision to use the Compliance Deposit as permitted hereunder shall be at the sole and absolute discretion of the DRB.

- (d) If DRB so uses part or all of the Compliance Deposit as set forth in subparagraph 5.03 (b), then the Owner shall, within five days after written demand therefor from DRB, pay DRB the amount used to restore the Compliance Deposit to its original amount. Neither the Owner nor any other party shall have any rights of any kind or nature against DRB, its officers, agents, employees, directors or attorneys arising out of DRB use of the Compliance Deposit, unless DRB is grossly negligent, or intentionally acts in bad faith.
- (e) DRB shall be under no obligation of any kind or nature to take any action to comply with all regulations pertaining to the Construction Activity.

- (f) Any part of the Compliance Deposit not used by DRB as permitted by subparagraph 5.03 (b) shall be returned to the Owner within thirty days after the issuance of a certificate of compliance for the Site by the DRB. No portion of the Compliance Deposit shall be returned to an Owner upon the DRB's issuance of a temporary certificate of compliance. The DRB may condition its issuance of a temporary certificate of compliance upon its receipt from the Owner of funds sufficient to increase the amount of the Compliance Deposit to an amount equal to the product obtained by multiplying (i) the cost of that portion of the Construction Activity that remains to be completed, as estimated by the DRB, by (ii) 1.15.

Section 6. Construction Requirements

Each Owner shall ensure that all Construction Activity that is performed on its Construction Site is performed in accordance with the following requirements.

6.01 Erosion Control and Vegetation Protection.

DRB shall not approve any proposed Construction Activity under subparagraph 4.02(c), unless and until it has first approved an initial Erosion Control and Soil Stabilization Plan and a permanent Erosion Control and Revegetation Plan for the Construction Site. The Owner of the Construction Site is responsible for preparing and submitting such plans to the DRB. If the DRB rejects any such plan submitted by the Owner, the Owner shall make such changes to the plan as the DRB shall require and resubmit the plan to the DRB. Once the DRB has approved such plans for a Construction Site, the Owner shall ensure that all Construction Activity is performed in compliance with such plans. In addition, the Owner shall ensure that (a) trees not authorized for removal are not damaged; (b) brush, surplus soil, and other excavated debris are promptly removed from the Construction Site; (c) dust is controlled by a dust abatement method approved by the DRB; and (d) during all Construction Activity, all driveway, parking and lay-down areas are covered with at least two inches of three/quarter inch screened rock.

6.02 Construction Hours/Noise. Each Owner shall use all reasonable efforts to minimize external noise resulting from its Construction Activity.

Construction Activity within Red Sky Ranch is permitted during the following times;
Monday-Friday: 7:30am-7:00pm
Saturday: 8:00am-5:00pm
Sunday: No Construction
Holidays: No construction

6.03 Protection of Property. An Owner's Construction Activity shall be limited to its Construction Site, unless the DRB Security Department provides specific written authorization to the contrary. Access to the parcel shall be only from the approved road adjoining the site. An Owner shall restore promptly any adjacent lots or roads damaged during its Construction Activity to the DRB's satisfaction and, in any event, within thirty days after such damage occurs. If restoration is not accomplished by the end of the growing season following completion of construction, all required repairs will be performed by Red Sky Ranch Association, with all costs plus 50% thereof charged to the person in whose name the building permit was issued. The Owner shall ensure that a temporary visual screen or temporary fence of not less than four feet in height be constructed and maintained along the limits of disturbance line.

6.04 Temporary Structures Temporary Structures may be maintained on a Construction Site. Temporary living quarters shall not be permitted on a Construction Site. All Temporary Structures erected on a Construction Site shall be removed within thirty days after completion of the Construction Activity. Temporary structures shall be screened to minimize the visual impact to other Owners and Guests. Plans for the placement and screening of Temporary Structures must be approved by the DRB prior to the erection of the Temporary Structures. Trash dumpsters maintained on a Construction Site are deemed to be temporary structures and shall be visually screened to the greatest extent practicable. Once a trash dumpster is one-half (1/2) full, it shall be covered with a cover supplied by the owner of the dumpster, or with a cover that has been approved by the DRB, until emptied or removed from the Construction Site.

6.05 Water Connections and Toilets. A temporary water connection and on site enclosed chemical toilets must be available at all times when Construction Activity is taking place on a Construction Site. Chemical toilets shall be screened from view and shall be located so as to minimize any adverse impacts on adjacent Sites.

6.06 Blasting Restrictions No blasting shall be performed on any Construction Site without the DRB's prior consent. Blasting may be subject to certain restrictions, which shall be determined by the DRB in its sole and absolute discretion and which may vary from Site to Site.

6.07 Signs No signs shall be displayed on a Construction Site without the prior written approval of the DRB.

One construction sign will be allowed for each project. The sign shall not exceed 16 square feet of total area, and shall be located within the project boundary and visible from an adjacent roadway and/or entry to the project. The sign will be freestanding and constructed in a standardized format as provided by the DRB. Construction signage will be allowed for the duration of construction or 18 months, whichever is less.

Signs with the intended use of selling property are prohibited. No other or additional signs may be displayed on the property without written approval of the DRB.

6.08 Roadway Maintenance. An Owner shall repair any damage to roads within Red Sky Ranch caused by Construction Vehicles used in connection with such Owner's Construction Activity and shall keep all such roads free and clear of all materials rubbish and debris resulting from such Owner's Construction Activity. No road cuts, deletions or additions shall be made without the consent of the District.

6.09 Access and Parking

- (a) Access to Construction Sites shall be subject to regulations governing the use of roads within Red Sky Ranch as adopted by the District from time to time.
- (b) Construction Vehicles shall gain access to Construction Sites only from existing roads adjacent to the Construction Sites.
- (b) Prior to the site inspection described in subparagraph 4.02 (c), an Owner of a Construction Site shall submit a written Parking and Transportation Plan to the DRB and the District for review and approval. Each such Parking and Transportation Plan shall describe (i) how and where Construction Vehicles will be parked at the Construction Site during the Construction Activity; (ii) the maximum number of Construction Vehicles that will be parked at or adjacent to the Construction Site at any one time; and (iii) the manner in which construction workers will be transported to and from the Construction Site.

(c) No Construction Activity shall commence at a Construction Site until the DRB and the District have approved a Parking and Transportation Plan for that Construction Site in writing. The DRB may require modifications to any proposed Parking and Transportation Plan submitted by an Owner. Such modifications may include, without limitation, modifications that (i) alter designated Construction Vehicle parking areas; (ii) limit the maximum number of Construction Vehicles that may be parked at or adjacent to a Construction Site; (iii) alter the manner in which construction workers will be transported to and from the Construction Site; and (iv) require the Owner to pay a reasonable fee to the Red Sky Ranch DRB to use DRB bus system to transport construction workers to and from the Construction Site if the DRB determines that use is necessary.

6.10 Construction Lighting No Construction Site or Construction Activity shall be lighted unless and until a construction lighting plan has been submitted to, and approved by, the Security Department and the DRB. All exterior construction lighting shall be connected to a motion sensor. All interior construction lighting, including lights within temporary structures such as construction offices, shall be turned off when not actually in use. The DRB shall not approve any construction lighting plan unless it determines that the proposed lighting will not cause unreasonable glare upon or the excessive lighting of property not owned by the Owner of the Construction Site.

6.11 Business License All Owners and Owner Representatives shall obtain an Annual Business License if required to do so by Red Sky Ranch Association Annual Business Licenses Regulation. Business licenses for general contractors and architects are subject to DRB approval.

6.12 Animals No Owner Representative or Construction worker may keep or maintain a dog or other pet on a Construction Site at any time.

6.13 Continuity of Construction Unless otherwise approved by the DRB, each Owner shall ensure that each Construction Activity it performs (a) commences within one year after the DRB's approval of final plans therefor; (b) is substantially complete within 16 months after commencement thereof; and (c) is fully and finally complete, including all required landscaping, within 24 months after commencement thereof.

The DRB, at its sole discretion, may impose a fine if all Construction Activity, including all required landscaping, is not fully and finally complete within 24 months of commencement. In this case, the Owner shall be subject to a \$3,000 fine for the first month construction continues past 24 months. This fine will increase by \$1,000 for each additional month construction continues.

Once a Construction Activity commences, the Owner must actively and diligently pursue the project to its completion.

6.14 Compliance with Laws and Regulations.

- (a) Each Owner shall, at its own expense, comply with all terms and conditions of this Regulation, District road regulations, the Declaration and all other regulations promulgated from time to time by DRB that are applicable to its Construction Activities.
- (b) Each Owner shall, at its own expense, comply with all federal, state, and local laws, ordinances, orders, rules, regulations and other governmental requirements relating to its Construction Activities.
- (c) Each Owner shall, at its own expense, ensure that its Owner Representatives comply with the terms and conditions of subparagraphs 6.13 (a) and (b) above.

Section 7. Enforcement

If an Owner or any Owner Representative violates any term or condition set forth herein, DRB shall have the following rights and remedies.

- 7.01 Right to Cure. DRB may, but is not obligated to, enter upon the Construction Site and cure such violation at the Owner's cost and expense. If DRB cures any such violation, the Owner shall pay to DRB the amount of all costs incurred by DRB in connection therewith, plus an administrative fee equal to 15 percent of all of such costs, within five days after the Owner receives a written invoice therefor from DRB.
- 7.02 Right to Fine. The DRB may impose a fine of \$100 against the Owner for the first violation of any term or condition of this Regulation. For each subsequent violation of that same term or condition, DRB may impose a fine in twice the amount of the fine imposed against the Owner for the Owner's last violation of that same term or condition. The Owner shall pay any fine imposed under this paragraph 7.02 within five days after the Owner receives written notice thereof. DRB hereby delegates its power to fine under this paragraph 7.02 to the DRB and the Security Department.
- 7.03 Right to Sue for Injunctive Relief. DRB may sue the Owner to enjoin such violation.
- 7.04 Right to Sue for Damages. DRB may sue the Owner for all damages, losses, costs and expenses, including, without limitation, reasonable attorney's fees and disbursements incurred by DRB as a result of the violation.
- 7.05 Lien. DRB shall have a lien against the Site and all of the Owner's other properties within Red Sky Ranch to secure payment of (a) any fee, charge, fine or other amount due from the Owner to DRB under this regulation, (b) interest on any unpaid amounts at the rate of 18 percent per annum from the date due until paid, and (c) all costs and expenses of collecting any unpaid amounts, including, without limitation, reasonable attorney's fees and disbursements. Any such lien may be foreclosed as a mortgage under the laws of the State of Colorado.
- 7.06 Other Rights and Remedies. DRB shall have all other rights and remedies available to it at law or in equity. All rights and remedies of DRB shall be cumulative and the exercise of one right or remedy shall not preclude the exercise of any other right of remedy.

Section 8. Appeals of Fines

An Owner may appeal any fine imposed against the Owner by the DRB to the DRB's Fine Appeals Committee (the "FAC") in accordance with the following terms and conditions. Within five days after receiving written notice from the DRB or the Security Department that such entity is imposing a fine against the Owner, the Owner may file a written appeal with the FAC. If the Owner fails to file a written appeal with the FAC within such five-day period, the Owner shall have no further right to appeal the fine under this Section 8. If the

Owner files a written appeal within such five-day period, the FAC shall review such appeal and within 45 days deliver a written decision with respect thereto to the Owner and to the DRB or the DRB, as the case may be, within thirty days after its receipt of such appeal. If the FAC decides in favor of the Owner, the DRB shall revoke its notice imposing the fine. If the FAC decides in favor of the DRB, the Owner shall pay such fine within five days after its receipt of the FAC's decision.

