

**RESOLUTION
OF THE ESPERANZA HOMEOWNERS ASSOCIATION
REGARDING POLICIES AND PROCEDURES FOR COVENANT AND RULE
ENFORCEMENT**

SUBJECT: Amendment of a policy regarding the enforcement of covenants and rules and procedures of the notice of alleged violations, conduct of hearings and imposition of fines.

PURPOSE: To amend the uniform procedure to be followed when enforcing covenants and rules to facilitate the efficient operation of the Association.

AUTHORITY: The Declaration, Bylaws, and Articles of Incorporation of the Association, and Colorado law, including, but not limited to C.R.S. 38-33.3-209.5.

EFFECTIVE DATE: February 26, 2020

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 members(s) or committee members (s) by submission of a written complaint.
2. Complaints. (a) Complaints by owners or residents shall be in writing and submitted to the Board of Directors. 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. Complaints failing to include any information required by this provision may not be investigated or prosecuted at the discretion of the Association. (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 or Manager.
3. Investigation. Upon receipt of a complaint by the Association, if additional information is needed, the complaint may be returned to the Complainant or may be investigated further by a Board designated individual or committee. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.
4. Courtesy Letter. If a violation is found to exist, a courtesy letter shall be sent, by certified mail, to the Violator explaining the nature of the violation. The Violator will have 10 days from the date of the letter to come into compliance.
5. Continued Violation After Courtesy Letter. If the alleged Violator does not come into compliance within 10 days of the courtesy letter, the Association will consider whether a fine should be imposed. A fine threat letter shall then be sent to the alleged Violator by certified mail, providing notice that a fine may be imposed if the violation is not corrected within 10 days. If the Violator does not come into compliance as requested, the second and subsequent letters shall be sent by certified mail to the Violator providing the Violator with notice of the alleged violation 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 any subsequent fine threat violation letter. The Association may modify any dates for compliance as may be appropriate given the nature of the alleged violation.

6. Notice of Hearing. If a hearing is requested by the alleged Violator, the Board, committee or other person conducting such hearing as may be determined in the sole discretion of the Board, may serve a written notice of the hearing to all parties involved at least 10 days prior to the hearing date.
7. Hearing. At the beginning of the 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 or 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 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 present at the hearing. Unless otherwise determined by the board, all hearings shall be open to attendance by all Owners. After all testimony and other evidence has been presented at a hearing, the Board shall, within a reasonable time, not to exceed 30 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 members present at the hearing. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the hearing committee's decision absent a showing of denial of due process.
8. Failure to Timely Request Hearing. If the alleged Violator fails to request a hearing within 10 days of the second letter, or fails to appear at the hearing, the Board may make a decision with respect to the alleged violation based on the Complain, results of the investigation, or 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.
9. Notification of Decision. The decision of the Board, committee or other person, shall be in writing and provided to the Violator and Complainant within 30 days of the hearing, or if no hearing is requested, within 30 days of the final decision.
10. Fine Schedule The following fine schedule has been adopted for all recurring seasonal covenant violations. Seasonal is defined as maintenance and upkeep of a homeowners lot and or improvements on that lot such as, landscape and plant life care, grounds maintenance , general structure and fence maintenance. Fines shall not be assessed for exterior maintenance and upkeep on items that cannot be properly addressed during the poor weather months. Fines may be assessed for all other items that are not considered to be seasonal such as broken windows, unacceptable window coverings, etc.

Alleged violation	Courtesy Letter Sent Through the U.S Postal Service
First violation	Fine Threat Letter
Second violation	\$100.00 fine
(of same covenant or rule)	
Third violation	\$200.00 fine
(of same covenant or rule)	
Fourth violation	\$400.00
(of same covenant or rule)	

Fifth and Subsequent \$400.00
Violations
(of same covenant or rule)

Fourth and subsequent covenant violations may be turned over to the Association's attorney to take appropriate legal action. Any Owner committing four or more violations in a twelve 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.

The following fine schedule has been adopted for all non-approved changes to the exterior of homes and or lots. All landscape and or structure changes must be pre approved prior to work taking place by submitting a Design Review Request Form to the managing agent. If a homeowner or tenant makes changes to their lot or structure without following this process, the Fine Schedule shown below shall be imposed, including an immediate fine of \$100.00 for not obtaining prior approval, notice sent by certified mail. In addition to the Fine Schedule, depending on the magnitude of the non-approved change(s), the Board has the full discretion to demand that not only work in progress stops, but to also demand that all non-approved changes be reversed and returned to the previous state and or original condition within a reasonable amount of time which will also be determined by the Board on a case by case basis.

First confirmed non-approved work violation immediate \$100.00 fine
Second violation \$100.00 fine
(of same non-approved change)
Third violation \$200.00 fine
(of same non-approved change)
Fourth violation \$400.00
(of same non-approved change)
Fifth and Subsequent \$400.00
Violations
(of same non-approved change)

Fourth and subsequent covenant violations may be turned over to the Association's attorney to take appropriate legal action. Any Owner committing four or more violations in a twelve 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.

11. Waiver of Fines. The Board may waive all, or any portion, of the fines if, in its 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 Article, Declaration, Bylaws or Rules.
12. Other Enforcement Means. The 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.
13. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
14. 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
15. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviations are reasonable under the circumstances.

16. Amendment. This policy may be amended from time to time by the Board of Directors and replaces all other Policies to Enforce Covenants previously adopted.

PRESIDENT'S CERTIFICATION

The undersigned, being the President of the Esperanza Homeowners Association, a Colorado nonprofit corporation, certifies that the foregoing Resolution was adopted by the Board of Directors of the Association on _____ and in witness thereof, the undersigned has subscribed his/her name.

ESPERANZA HOMEOWNERS ASSOCIATION,

A Colorado nonprofit corporation

By: Signature on File in Management's office
President

SUMMARY OF KEY PROVISIONS OF POLICIES AND PROCEDURES FOR COVENANT AND FINE ENFORCEMENT

Complaints: May be made by any owner or resident, board member or manager. Must be in writing.

Steps:	Letter sent to Owner	Business Days to Correct from Date of Letter
	Courtesy Letter or Immediate Fine	10
	Fine Threat Letter	10
	Second letter (actual fine after notice and hearing)	10
	Third letter (fine with threat of legal action)	10
	Fourth letter (fine and/or turnover to legal counsel)	10
	Fifth letter (fine and/or turnover to legal counsel)	10

Turned over to legal counsel at the discretion of the Board

Hearing: At least 10 days **business days** notice given by Board to Owner.
Board decision within 30 days of hearing

Fine Schedule:	First Violation or Immediate \$100.00 Fine	Fine Threat Letter
	Second Violation	\$100.00
	Third Violation	\$200.00
	Fourth Violation	\$400.00
	Fifth and Subsequent Violations	\$400.00