

POLICY FOR COVENANT AND RULE ENFORCEMENT

This Policy for Covenant and Rule Enforcement supersedes and replaces all prior policies regarding covenant and rule enforcement.

PURPOSE: The following policy was adopted by the Board of Directors of The Esperanza Homeowners Association, Inc. ("the Association") pursuant to Colorado law at a regular meeting of the Board.

AUTHORITY: The Sub-Subassociation Declaration of Covenants, Conditions and Restrictions for Esperanza recorded on 5/15/02 at Reception #02047071 ("Declaration"), the Bylaws of the Association, the Colorado Common Interest Ownership Act ("CCIOA") §38-33-101, C.R.S.

EFFECTIVE

DATE: July 20, 2020

RESOLUTION:

The Association hereby adopts the following procedures to be followed when enforcing the covenants and rules of the Association:

Complaints

1. Complaints regarding alleged violations may be reported by an Owner, the Association's management company, if any, or by a Board or committee member.
2. Complaints by owners shall be in writing and must be submitted to the Association at its principal business office. Complaints by the management company, board member or committee member may be either in writing or by any other means deemed appropriate so long as it was personally observed by such individuals.
3. The complainant shall have observed the alleged violation and shall identify the alleged violator ("Violator"), if known; a statement describing the alleged violation; when the violation was observed; photographs, if possible; and any other pertinent information including references to the specific provisions of the Declaration, Rules, Bylaws or Guidelines alleged to have been violated.
4. No action will be taken on anonymous complaints.
5. Non-written complaints or written complaints failing to include information required by this provision may not be investigated or prosecuted at the

discretion of the Association.

6. Upon receipt of a complaint by the Association, if additional information is needed, the complaint may be returned to the Complainant or it 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.

Courtesy Notice

1. Following receipt of a Complaint, if a violation exists, a Courtesy Letter may be sent to the owner *by first class mail* to the address on file with the Association, explaining the nature of the violation and requesting that the owner correct the violation within seven (7) days of the date of the letter.
2. Certain types of violations cannot be cured but, instead, are complete upon their occurrence and, therefore, will not receive any Courtesy Letter. By way of example but not limitation, the following types of violations are not capable of being cured: instances of threats, harassment or profanity directed at management company personnel, other owners, tenants, association contractors or Board members and injuries caused by pets.

Violation Notice

1. If a Courtesy Notice was sent and the owner does not come into compliance within the time frame provided in the Courtesy Notice, or if the violation was of a type such that no Courtesy Notice was sent, a Violation Notice will be sent to the owner *via first class mail* only to the address on file with the Association: (a) enclosing a copy of the written complaint; (b) identifying the alleged violation(s); (c) explaining that a fine and/or other penalties may be imposed; and (d) providing that the owner may request a hearing within ten (10) days of the date of the Violation Notice or else the owner waives the right to a hearing.
2. If the Owner requests a hearing, the Association shall set a hearing date and provide a Notice of Hearing to the alleged violator and complainant at least ten (10) days before the hearing date.
3. The owner(s) is free to either attend or not attend the hearing, send documentary material for the Association to review, and/or be represented by an agent or attorney at the hearing (with prior written authorization executed by the owner).
4. If no owner or owner's representative attends the hearing and no evidence is submitted to the Association at or prior to the hearing, the Association is entitled to make a decision with respect to the alleged violation based on available information without the necessity of holding a formal hearing.

5. If a violation is found to exist, the Association may impose a fine, suspend the owner's voting rights, suspend the owner's right to use any amenities, and/or impose other penalties permitted by the Declaration, Bylaws, Rules and/or Colorado law.

Hearing

1. At the beginning of each hearing, the presiding officer or any committee appointed by the Board, shall introduce the case by describing the alleged violation and the procedure to be followed during the hearing.
2. 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.
3. The presiding officer may also impose such other rules of conduct as may be appropriate under the given circumstances.
4. The Complainant may but is not required to be attend the hearing.
5. 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 presented at or before the hearing.
6. All hearings shall be open to attendance by all Owners.
7. After all testimony and other evidence has been presented at a hearing, the Board shall, within thirty (30) days of the hearing date, render a decision.
8. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the decision absent a showing of denial of due process.

Notice of Decision

1. The Board shall issue a written Notice of Decision and mail it, *by first class mail*, only to the address on file with the Association, within a reasonable time following the final decision by the Association.
2. The Notice of Decision will state whether or not the violation was found to exist and identify the penalty(ies) to be imposed including the amount of any fine imposed and the date the fine is due.

Fine Schedule

1. Depending upon the type of violation, following the hearing date, the Association may impose the following fines:

A. Completed Violation of Covenant, Rule, Guideline or Policy:

1. First or single violation: \$100.00
2. Second violation of the same covenant, rule, guideline, or policy: \$200.00
3. Third violation of the same covenant, rule, guideline, or policy: \$400.00
4. Fourth violation of the same covenant, rule, guideline, or policy: \$400.00

B. Continuous Violations: \$25.00 per day

1. Continuous violations are defined as violations of an Owner's or occupant's obligations that are uninterrupted by time. By way of example but not limitation, the following constitute continuing violations: the failure to remove an unapproved exterior improvement, failure to maintain unit or landscaping, or parking violations.
2. Each day of noncompliance constitutes a separate violation.
3. The owner must provide notice to the Association and a reasonable opportunity to inspect and to either approve or disapprove the Owner's attempted cure of a continuing violation, in its sole discretion. If no notice or inspection is provided to the Association, the condition will be deemed to be continuing and daily fines will continue to be imposed regardless of when the Owner allegedly ceased or cured the violation.

C. Fines as Assessments

All fines, attorney fees and costs, administrative fees and other amounts due the Association shall constitute Assessments and will be posted to the Owner's account. If unpaid, they will be collected in conformance with the Association's Collections Policy.

Other Enforcement Means

1. This 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.
2. The use of this process does not preclude the Association from using any other

enforcement means, including suspension of an owner's right to vote and/or to use the common elements, exercising self-help to remove or abate the violation, filing a suit for damages, receivership and/or injunctive relief.

3. All violations of City codes, ordinances, statutes, or violations of state or federal law, should be reported to the police or the City.

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 owner coming into and staying in compliance with the Articles, Declaration, Bylaws or Rules.

Definitions

Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.

Supplement to Law

The provisions of this Policy shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado.

Deviations

The Board may deviate from the procedures set forth in this Policy if in its sole discretion such deviation is reasonable under the circumstances.

Amendment

This Policy may be amended from time to time by the Board of Directors.

Severability

Invalidation of one of the foregoing provisions by court order or judgment shall have no effect on the remaining provisions which shall remain in full force and effect.

CERTIFICATION:

The undersigned, being the Secretary of the Board of Directors of The Esperanza Homeowners Association, Inc., a Colorado nonprofit corporation, certifies that this Policy was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors of the Association on _____, 2020 and in witness thereof, the undersigned has subscribed his/her name.

**THE ESPERANZA HOMEOWNERS
ASSOCIATION, INC.,**
a Colorado non-profit corporation

By: _____
Its: