

Heritage Heights HOA

Violations Policy and Procedure

Effective Date: 1/5/2023

BE IT RESOLVED, that the following policy and procedures shall be followed for enforcing policies, rules, and regulations adopted by the Association.

1. Scope

This policy is adopted to comply with the terms of the Colorado Common Interest Ownership Act ("CCIOA") which contains provisions that may conflict with the terms of the Association's governing documents. CCIOA and this policy will control over any conflicting provisions in the governing documents.

2. Overview

Violations That Threaten Public Safety or Health

Status	Fines	Cure
Notice of Violation	None	3 days
2nd Notice	\$50 every other day	2 days

Violations That DO NOT Threaten Public Safety or Health

Status	Fines	Cure
1st Reminder	None	14 days
2nd Reminder	None	7 days
1st Notice of Violation	\$150	30 days
2nd Notice of Violation	\$350	30 days

3. Specifics:

- a. Enforcement Procedure.** The Association will not impose fines or commence legal action for violations of the governing documents until after the Association has followed the procedures set forth below.
- b. Complaints.** Any Owner may send the Association a written complaint by email or first-class mail, with as much information as is known of a covenant or rule violation. Complaints may also be initiated by the manager, any member of the Board, or any committee authorized by the Board. Complaints that cannot be independently verified by a Board member or the Association's manager must be in writing. The Association has no obligation to consider oral or anonymous complaints. The Board may determine whether a written complaint is justified before continuing with any enforcement action or the notice and hearing procedures.

- c. Notice of Violation.** The Association will send a written notice of any asserted violation of any provisions of the governing documents to the Owner in accordance with this policy. The Board may also, at its option, provide a copy of the notice to any non-Owner violator. The notice will describe:
1. the nature of the violation;
 2. the action or actions required to cure the violation;
 3. any fines that may be imposed;
 4. The right to request a hearing to contest the violation or possible fine; and
 5. if a hearing is requested, a date by which such request must be received and a timeline for the hearing process ("Notice of Violation").
- ii. Notices from the Association will be sent in English; provided, however, that the Owner may send written notice to the Association with an alternate language preference. The Association will attempt to provide an accurate translation of the original English version, but due to nuances in translating to a foreign language, slight differences may exist.
- iii. An Owner may send written notice to the Association identifying another person to serve as a designated contact for the Owner for notices and correspondence. The Association will send the same written communications to the designated contact that it sends to the Owner. If the Owner wishes to change or cease the designated contact, the Owner must send the Association written notice.
- iv. For the purpose of this policy to comply with Colorado law, a notice is deemed received when sent by and according to the following timelines:
1. Email or text - Upon successful transmission of electronic mail or text;
 2. Certified Mail/First-Class Mail - 3 business days after deposit for delivery;
 3. Posting - Upon physical posting at the Owner's Lot; or
 4. Actual Notice- Upon hand-delivery.
- d. Violations That Threaten Public Safety or Health.**
- i. If the Association reasonably determines that a violation threatens the public safety or health, the Association will send the Owner a written Notice of Violation informing the Owner that the Owner has 72 hours to cure the violation, or the Association may impose a fine.
- The written Notice of Violation must be sent by first-class mail, but the Association may send additional notice by any of the following means: certified mail; email; or text message to a cellular number that the Association has on file because the Owner has provided the number to the Association; or hand delivery.
- ii. After 72 hours from receipt of notice, the Association will inspect the Lot and determine whether the violation has been cured. If the Owner has not cured the violation, the Association may impose fines on the Lot Owner every other day in accordance with the fine schedule below and/or commence legal action to enforce the governing documents and cure the violation.
- e. Violations That DO NOT Threaten Public Safety or Health.**
- i. If the Association reasonably determines that a violation occurred, other than a violation that threatens public safety or health, the Association will send the

Owner a Notice of Violation informing the Owner that the Owner has 30 days to cure the violation, or the Association, after conducting an inspection and determining that the violation has not been cured, may impose a fine. The Notice of Violation must be sent by certified mail, return receipt requested. The Association may send additional copies of the notice by email, text message to a cellular number that the Association has on file because the Owner has provided the number to the Association, and/or hand-delivery.

- ii. After 30 days, if the Association has not received notice from the Owner that the violation Has been cured, the Association will inspect the Lot within 7 days of the initial 30-day cure period. After inspection, if the Association determines that the violation has not been cured, the Association may impose the fine stated in the Notice of Violation and will send a second Notice of Violation with a second 30-day cure period.
 - iii. After the second 30-day cure period, if the Association has not received notice from the Owner that the violation has been cured, the Association will inspect the Lot within 7 days of the second 30-day cure period. After inspection, if the Association determines that the violation has not been cured, the Association may impose a second fine in accordance with fine schedule below, send additional notice and opportunity to cure, and/or commence legal action. The Association may not commence legal action until a second 30-day cure period has elapsed.
 - iv. If an Owner cures the violation within the required cure period, the Owner may notify the Association in writing, including visual evidence that the violation has been corrected. If the Owner provides visual evidence of the cure, the violation will be deemed cured on the date the Owner sends the notice. If the Owner does not provide visual evidence of the cure, the Association will inspect the Lot as soon as practicable to determine if the violation has been cured. If the visual evidence provided is insufficient for the Association to determine if a violation has been cured, at the Association's sole discretion, the Association can provide notice to the Owner that it intends to inspect the Lot to verify the violation has been cured.
- f. **Additional Required Notices.** If an Owner cures a violation, the Association will notify the Owner: (i) of any outstanding fine balance owed to the Association, and (ii) that the Owner will not be further fined with regard to the violation.
- g. **Request for Hearing.** If an Owner desires a hearing to contest any alleged violation and possible fine or to discuss any mitigating circumstances, the Owner must request the hearing, in writing, prior to the deadline stated in the Notice of Violation. The request for hearing should describe the grounds and basis for challenging the alleged violation or the mitigating circumstances. If a timely request for a hearing is not made, the right to a hearing is deemed forever waived. If a hearing is not requested by the deadline, the hearing board will determine if there was a violation based upon the information available to it, and if so, assess a fine as set forth in the fine schedule upon expiration of any applicable cure period(s).
- h. **Hearing Board to Conduct Hearing.** The hearing board, which may be the Board of Directors, will hear and decide cases set for hearing pursuant to the procedures set forth

in this policy. The hearing board may appoint an officer or other Owner to preside at any hearing.

- i. **Conflicts.** Any Owner who desires a hearing will be afforded a fair and impartial fact-finding process by "impartial decision makers" (persons with authority to make a decision on a claimed covenant, rule, or architectural violation and without a direct personal or financial interest in the outcome of the hearing). Any decision-maker who is incapable of objective and disinterested consideration will disclose this to the presiding officer prior to the hearing, if possible. If advance notice is not possible, the disclosure will be made at the hearing, and the decision-maker will be disqualified from all proceedings related to the hearing. If disqualification of any decision-maker results in an even number of individuals eligible to hear a case, the presiding officer may appoint an Association Member, in good standing, to serve as a voting member of the hearing board.
- j. **Hearings.** The Board will inform the Owner of the scheduled time, place, and date of the requested hearing by first-class mail. The Association may send additional copies of the notice by certified mail; email; text message to a cellular number that the Association has on file because the Owner has provided the number to the Association; and/or hand-delivery. Hearings may be conducted during or subsequent to any applicable cure period(s). The presiding officer may grant continuances for good cause. At the beginning of each hearing, the presiding officer will explain the rules, procedures, and guidelines by which the hearing will be conducted. The complaining parties and the Owner will have the right, but not the obligation, to attend the hearing. Each party may present evidence, testimony, and witnesses. The decision will be based on the matters set forth in the notice of alleged violation, request for hearing, and evidence as may be presented at the hearing. Unless otherwise requested by the Owner, all hearings will be conducted during executive session. If a complaining party is unable to attend the hearing, the Complainant may submit a letter to the hearing board explaining the basis of the complaint.
- k. **Decision.** After all testimony and other evidence has been presented to the hearing board, it will render its written findings and decision, and impose a fine, if applicable, upon expiration of any applicable cure period(s). A decision, either a finding for or against the Owner, will be by a majority vote of the hearing board.
- l. **Fine Schedule**
 - i. **Limitation on Fines.** With the exception of violations that threaten public safety or health, CCIOA provides that the total amount of fines imposed for each violation of the governing documents may not exceed \$500. In accordance with limitations set forth in CCIOA, the Association has adopted the following schedule of fines. These fines supersede and replace any existing fines greater than \$500 adopted prior to the date of this policy.
 - ii. **General Fine Schedule.** Unless otherwise specified in the governing documents, the following fines may be imposed for each violation of the governing documents occurring within a one-year period:

1st Reminder with 14-day cure: No fine

2nd Reminder with 7-day cure: No fine
1st Notice of Violation with 30 day cure: \$150
2nd Notice of Violation with 30 day cure: \$350

A Notice of Violation may be sent for any first violation. Additional or subsequent violations of the same provision occurring within one year from the date of the first Notice of Violation will be considered repeat or recurring violations, subject to additional fines as set forth above. After the one-year period, any subsequent occurrence of the same violation will be treated as a new first violation.

iii. Continuing Violation Fine Schedule

For any violation that does not threaten public safety or health and is continuing in nature, the Association may impose fines in accordance with the general fine schedule or the Association may impose fines on a weekly basis in the amount of \$100 per week up to a maximum of \$500. The Association may impose a fine every other day in the amount of \$50 for violations that threaten public safety or health until the violation is cured.

For purposes of this policy, a violation is considered "continuing in nature" if the violation is uninterrupted by time or, by the nature of the violation, it occurs at such frequency to create a continuous pattern of occurrence. Examples of continuing violations include failure to paint your house, unsightly yard, unauthorized improvements, parking an unauthorized vehicle in the community on a nightly or other regular basis, etc.

The total amount of fines will not exceed \$500 for each violation of the same covenant, restriction, rule, or regulation. However, the Association reserves the right to impose fines greater than \$500 for violations that threaten public safety or health.

m. Additional Enforcement Rights

- i. Reimbursement Assessment.** After notice and an opportunity for a hearing, the Board may levy a Reimbursement Assessment against any Owner and Owner's Lot for those purposes set forth in the Declaration, including, but not limited to reimbursing the Association for costs incurred in bringing an Owner into compliance.
- ii. Self-help Remedies.** After notice and an opportunity for a hearing (except in the case of emergency no notice is required), the Association or its duly authorized agent has the authority to abate or remove any structure, thing, or condition that violates the governing documents. All costs of self-help will be assessed against and be a lien on the Owner's Lot.
- iii. Suspension of Right to Vote.** After notice and an opportunity for a hearing, an Owner's right to vote may be suspended if the Owner is in violation of the governing documents for up to 60 days; provided suspension is automatic without notice for nonpayment of assessments.

n. **Administrative Expenses.** Enforcement costs, imposed by the Association or its managing agent, related to covenant and rule enforcement will be the obligation of the Owner and may be posted to the Owner's account. Examples include but are not limited to, certified mailings or costs to translate a notice to a language other than English.

4. Deviations

The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances. The Association's failure to enforce the governing documents is not a waiver of the right to enforce for any subsequent violations.

5. Amendment

The Board may amend this procedure from time to time.

President's Certification

The undersigned, being the President of the Association, certifies that the Board of Directors of the Association has adopted the foregoing resolution.

HERITAGE HEIGHTS HOMEOWNERS ASSOCIATION

Jacob Massey

[Jacob Massey \(Jan 5, 2023 08:02 MST\)](#)

President

Jan 5, 2023

Date