

# COVENANT ENFORCEMENT POLICY

Effective on September 15, 2018

Set forth in this document is the policy for enforcing a violation of the CC&R's. Explained will be the process to notify, assess a fine, and the rights of the unit owner. This policy is compliant with CCIOA CRS 38-33.3-209.5(2).

## 1.GENERAL

Failure to notify or enforce any of the Rules and Regulations will not be deemed a waiver of any of the Rules and Regulations.

All of our Rules and Regulations will be severable, and if one or more are found to be invalid, all others will remain in full force and effect.

Any non-compliance with the Rules and Regulations by any Owner, renter or guest will be the responsibility of the Owner.

## 2.COMPLAINT

**2.1. Complaints:** Complaints by Owners or residents shall be in writing and submitted to the Board of Directors (or its appointee). 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. Non-written complaints or written complaints failing to include any information required by this provision may not be investigated or prosecuted at the discretion of the Association.

**2.2. 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.

**2.3. Initial Warning Letter:** If a violation is found to exist, a warning letter shall be sent to the Violator explaining the nature of the violation. This letter will be sent by First Class mail and placed on the premises. The Violator will have 14 days from the date of the letter to come into compliance or make compliance arrangements agreeable to the HOA.

**2.3.1.Serious/Immediate Risk Violations:** When a violation concerns a serious immediate situation for person or property the board will seek to obtain prompt action by the alleged violator to correct and avoid any recurrence. The board will seek to contact the owner or other violator, and a hearing scheduled as soon as possible.

**2.4. Continued Violation After Initial Warning Letter:** If the alleged Violator does not come into

compliance within 14 days of the first warning letter, this will be considered a second violation for which a fine may be imposed following notice and opportunity for a hearing. A second letter shall then be sent to the alleged Violator, providing notice 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 14 days of the date on the second violation letter.

**2.4.1.** The second letter is sent by First Class mail and placed on the premises.

**2.4.2. Irreversible Violations:** When a violation has occurred, which cannot be mended, the board will seek to notify the owner of a hearing that may determine the amount of a possible fine, or other action, for the violation. Examples include unapproved additions, landscaping, et cetera. The board will seek to contact the owner or other violator to schedule a hearing as soon as possible.

**2.4.3. Repeat Violations:** If a violation recurs after a fine or other action has been imposed, no warning notice will be made, and such violation may trigger a notice of hearing before the Board of Directors. Such hearings may be scheduled as soon as possible. At such hearing, an escalating fine schedule or other action may be imposed, the general guideline to be at least a doubling of the prior penalty.

**2.5. 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 14 days prior to the hearing date.

**2.5.1.** The notice of hearing is sent by certified mail, return receipt requested, at the member's expense. As stated in Section 6.1 of this Resolution, all related costs are charged to the member's homeowner's assessment account.

**2.6. Hearing:** At the beginning of 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 of 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 presented 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 or by the ruling of the appointed person or committee whom the board has appointed. 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.

**2.6.1.** If an alleged Violator fails to request a hearing, the owner is deemed to have waived their right to a hearing, and the Board may proceed to impose a sanction for the Violator's infringement.

**2.7. Appeals:** The Violator may file a written appeal to the Board of Directors of any adverse decision of the hearing committee or individual within 14 days of the decision.

### **3.ENFORCEMENT**

**3.1.**The Board of Directors may contact law enforcement authorities, any regulatory or licensing authorities or other third parties regarding the alleged violation, but any action or decision by those parties shall not bar the Board of Directors from proceeding with covenant enforcement action.

**3.2.** It shall be the general policy of the Association to issue fines only after giving the landowner every opportunity to correct the violation (Refer to Section 2 of this policy) and providing due process for a hearing prior to issuing the fine. The Board may impose a fine in addition to taking any other legal action it deems necessary to enforce the Covenants and/or rules and regulations of the Association. Notwithstanding this procedure, the Board may take legal action to enforce the Covenants and/or rules and regulations at any time.

### **4.FINES AND SANCTIONS**

**4.1.** Any fine shall be a personal obligation of the owner, contractor, guest, family member and/or resident and may be recorded against the property creating a lien against the property, which may be foreclosed. The Board may notify any lender or credit agency of such obligation and lien.

**4.2.** For all violations (other than the immediate towing of violating vehicles), the fine for a first violation of a Rule or Regulation will be per the fine schedule for the initial and daily amounts. The fine for a second offense of the same nature will be at least double the initial fine amount and double the daily amount. Subsequent fines for similar offenses will increase by at least double the previous amount, including the exponential growth of the previous doubling per subsequent offense, unless in its sole discretion, a greater amount is deemed appropriate by the Board. Fines assessed against the Owner will become assessments collectable against the property pursuant to the Declarations and Colorado Law and will be collected in the customary manner and pursuant to the business practices of the Association.

**4.3.** Upon written notice of the judgment of the hearing, the owner will have 14 days to bring the violation into compliance, or make arrangements agreeable to the HOA. If, for any reason, the violator fails to do this, there will be a per day fine as shown on the fine schedule until the violation is brought into compliance.

**4.4.** In all instances, the imposition of an amount less than the maximum possible fine will not preclude the Board from imposing the maximum fine allowable under this section for subsequent offenses.

### **5.CONFIRMED RESOLUTION OF VIOLATION**

**5.1.** In all instances where a violation has been found to have occurred, and the violator has brought the violation into compliance, the violator must submit, in writing, that correction has been completed. The HOA will then inspect the correction to ensure it is adequate and meets compliance. The HOA will provide, in writing, a letter of compliance letting the violator know

that the issue has been resolved.

**5.2.** If there are per day fines being assessed, those fines will not cease until the letter of completion from the violator is received by the HOA. Upon inspection, if it is found that the violation has not been corrected, the violator will be responsible for the daily fine amount associated with the violation retroactively from the time the letter was received until the time the correction was found to be inadequate. At that time the per day fine will continue to be assessed until a second letter of correction has been received by the HOA and another inspection can occur.

## **6.RECOVERY OF EXPENSES AND ATTORNEY FEES**

**5.1.** In any court action or other proceedings to enforce or defend the covenants, the rules or otherwise to address a violation by an alleged violator, the Board shall be entitled to assess and recover its expenses, including that of reimbursement for expenses as well as attorney fees and costs against the owner, alleged violator and/or other party in addition to all other rights and remedies.

## **7.DEVIATIONS**

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

## **8.AMENDMENT**

**7.1.** The Board of Directors may amend this policy from time to time. The undersigned, board members of The Cottage Meadows Homeowners' Association, certifies that the foregoing resolution was approved and 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 September 12<sup>th</sup>, 2018, and in witness thereof, the undersigned has subscribed their names.

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# **LATE FEE POLICY ADDENDUM A**

Drafted on September 12, 2018

Effective on February 1<sup>st</sup>, 2019

This is an addendum to the late policy in Article IV Section 8 stating that there will be a \$45 late charge for any account more than 30 days, late then shall bear interest at the rate of eighteen percent per annum thereafter. This addendum is to address the changes being made to the eighteen percent annum. It will be changed to \$25 per month thereafter the initial \$45 late charge. This addendum also addresses the issue of forgiveness of late fee's. The HOA understands that occasionally there are issues beyond anyone's control that may constitute a tardiness in payment of yearly dues. For this reason, the HOA has agreed to forgive late fees incurred for the account once. The forgiveness will be noted on the account. Any late fees incurred after the one-time forgiveness, will not, as a policy, be forgiven. Late dues cost the HOA, and the HOA must recuperate those costs. This policy does not limit the HOA from making payment arrangements or accommodating any homeowner who makes advanced arrangements knowing they will be tardy in a payment. This option will be at the sole discretion of the board.

The undersigned, board members of The Cottage Meadows Homeowners' Association, certifies that the foregoing resolution was approved and 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, September 12, 2018 and in witness thereof, the undersigned has subscribed their names.

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