

**POLICY
OF THE ASHTON ESTATES COMMUNITY ASSOCIATION
REGARDING POLICIES AND PROCEDURES FOR COVENANT AND RULE
ENFORCEMENT**

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

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

AUTHORITY: The Declaration, Articles of Incorporation and Bylaws of the Association, and Colorado law.

**EFFECTIVE
DATE:** August 9, 2022

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 member(s) or committee member(s) by submission of a written complaint.
2. Complaints. Complaints by Owners or residents, member of the Board of Directors, a committee member, or the manager 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. 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.

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. Violation Which Threatens Public Safety or Health. With respect to any violation of the Declaration, Bylaws, Covenants, or other Governing Documents of the Association that the Board of Directors reasonably determines threatens public safety or health, the Association shall follow the below process:
 - a. First Notice of Violation. The Association shall send a First Notice of Violation via certified mail, return receipt requested and by first-class mail. The notice must provide an explanation of the nature of the violation, the action(s) required to cure the violation, a seventy-two (72) hour cure period, and the Fine Notice language in Paragraph 7. The notice shall be in English and in any language that the Owner has indicated a preference for correspondence.
 - b. Violation Not Cured. If, after an inspection of the Lot, the Association determines that the Owner has not cured the violation within seventy-two (72) hours after receiving the First Notice of Violation, the Association may impose fines on the Owner every other day, not to exceed five hundred dollars (\$500.00) pursuant to Paragraph 7 and may take legal action against the Owner for the violation.
5. Violation Which Does Not Threaten Public Safety or Health. If an Association reasonably determines that there is a violation of the Declaration, Bylaws, Covenants, or other Governing Documents of the Association that does not threaten public safety or health, the Association shall follow the below process:
 - a. Warning Letter. The Association shall send a Warning Letter to the Owner via certified mail, return receipt requested and by first-class mail. The letter must provide an explanation of the nature of the violation, the action(s) required to cure the violation, and up to 10 days to cure. The letter shall be in English and in any language that the Owner has indicated a preference for correspondence.

- b. First Notice of Violation. Upon expiration of the initial cure period in the Warning Letter, if the violation continues to exist the Association shall provide a First Notice of Violation. The notice must provide an explanation of the nature of the violation, the action(s) required to cure the violation, a thirty (30) day cure period, and the Fine Notice language in Paragraph 7. The notice shall be in English and in any language that the Owner has indicated a preference for correspondence. The notice must be sent via certified mail, return receipt requested.
- c. Second Notice of Violation. Upon expiration of the thirty (30) day cure period in the First Notice of Violation, if the Association does not receive notice from the Owner that the violation has been cured per Paragraph 6 below, the Association shall inspect the Lot within seven (7) days after the expiration of the first thirty (30) day cure period to determine if the violation has been cured. If the violation still exists, the Association may impose a fine pursuant to Paragraph 7.

A Second Notice of Violation shall then be sent via certified mail, return receipt requested and by first-class mail. The notice must provide an explanation of the nature of the violation, the action(s) required to cure the violation, a second thirty (30) day cure period, and the Fine Notice language in Paragraph 7. The notice shall be in English and in any language that the Owner has indicated a preference for correspondence.

- d. Violation Not Cured. If the violation remains uncured, the Association may impose fines after the first thirty (30) day cure period has elapsed pursuant to Paragraph 7, and may take legal action after the second thirty (30) day cure period has elapsed.
6. Process for Curing Violation.
- a. Owner Notifies Association of Cure. If an Owner cures the violation within any cure period afforded the Owner, the Owner may notify the Association of the cure. If the Owner

sends notice to the Association with visual evidence that the violation has been cured, the violation is deemed cured on the date that the Owner sends the notice. If the Owner's notice does not include visual evidence that the violation has been cured, the Association shall inspect the Lot as soon as practicable to determine if the violation has been cured.

- b. Information Provided to Owner After Cure. Once the Association determines that an Owner has cured a violation, the Association shall notify the Owner, in English and in any other language that the Owner has indicated a preference for correspondence and notices pursuant to C.R.S. 38-33.3-209.5 (1.7)(a)(I):

 - i. That the Owner will not be further fined with regard to the violation; and
 - ii. Of any outstanding fine balance that the Owner still owes the Association.
7. Fine Notice. Except for the warning letter in Paragraph 5(a) all notices of violation shall state that the Owner is entitled to a hearing on the merits of the matter in front of an impartial decision maker provided that such hearing is requested in writing within fifteen (15) days of the date on the notice. The notice shall include the information provided in Article XI, Section 3 of the Bylaws and also state the potential fine pursuant to the applicable schedule in Paragraphs 13 and 14. For a violation that threatens public safety or health since the letter only provides seventy-two (72) hours to cure, any request for a hearing occurring after the seventy-two (72) hours shall address such fines before they become applicable.
8. Notice of Hearing. If a hearing is requested by the Owner, the Board, committee, or other person conducting such hearing, may serve a written notice of the hearing to all parties involved at least ten (10) days prior to the hearing date. Such written notice of hearing shall be substantially in the form set forth in Article XI, Section 5 of the Bylaws, but may include other information. If a hearing is requested by the Owner, the hearing shall be held no sooner than 30 days after the date of the most recent letter received by the Owner (either the initial or second letter pursuant to Paragraph 7 and Paragraph 8).

9. Impartial Decision Maker. The Impartial Decision Maker shall constitute the "Tribunal" as referenced in Article XI, Section 4 of the Bylaws. Pursuant to Colorado law, the Owner has the right to be heard before an "Impartial Decision Maker." An Impartial Decision Maker is defined under Colorado law as "a person or group of persons who have the authority to make a decision regarding the enforcement of the Association's covenants, conditions, and restrictions, including architectural requirements, and other rules and regulations of the Association and do not have any direct personal or financial interest in the outcome. A decision maker shall not be deemed to have a direct personal or financial interest in the outcome if the decision maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association." Unless otherwise disqualified pursuant to the definition of Impartial Decision Maker, the Board may appoint to act as the Impartial Decision Maker the entire Board, specified members of the Board, any other individual or group of individuals.
10. Hearing. The hearings shall be conducted as set forth in Article XI, Section 6 of the Bylaws. 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. Neither the Complainant nor the Owner or alleged Violator are required to attend the hearing. The Impartial Decision Maker 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. Hearings will be held in executive session pursuant to C.R.S. 38-33.3-308(4)(e). The Impartial Decision Maker shall prepare written findings of fact and recommendations for consideration by the Board, pursuant to Article XI, Section 7 of the Bylaws.
11. Failure to Timely Request Hearing. If the Owner fails to request a hearing pursuant to Paragraph 7, or fails to appear at any hearing, the Impartial Decision Maker may make a decision with respect to the alleged violation based on the Complaint, results of the investigation, and any other available information without the necessity of holding a formal hearing. The Impartial Decision Maker shall prepare written findings of fact and recommendations for consideration by the Board, pursuant to Article XI, Section 7 of

the Bylaws. If a violation is found to exist, the Owner may be assessed a fine pursuant to these policies and procedures. Any disciplinary action shall be imposed only by the Board of the Association and in accordance with the findings and recommendations of the Impartial Decision Maker.

12. Notification of Decision. The Impartial Decision Maker’s decision shall be in writing and provided to the Owner within thirty (30) days of the hearing, or if no hearing is requested, within thirty (30) days of the final decision. The Board shall make its decision, shall provide notice of such decision, and such decision shall be effective pursuant to Article XI, Section 7 of the Bylaws.

13. Fine Schedule for Violations that Threaten Public Safety or Health. The following fine schedule has been adopted for all covenant violations that threaten public safety or health:

First Notice	First Notice of Violation (¶4a)
Up to seventy-two (72) hours to cure	\$50 every other day

After an Owner has failed to cure a violation which threatens public safety or health within seventy-two (72) hours of being provided written notice of such violation, the Association may fine the Owner fifty dollars (\$50.00) every other day until the violation is cured and may turn over to an attorney to file suit. Any fine notice shall notify the Owner that failure to cure may result in a fine every other day and only one hearing shall be held.

The Association may also turn over any violation to the Association’s attorney to take appropriate legal action once the seventy-two (72) hour cure period has expired and the violation remains uncured.

14. Fine Schedule for Violations that do not Threaten Public Safety or Health. The following fine schedule has been adopted for all covenant violations that do not threaten public safety or health:

Warning Letter	Warning Letter (¶5a)
Up to ten (10) days to cure	No fine
First Violation (of same covenant or rule)	First Notice of Violation (¶5b) \$200.00

Thirty (30) days to cure

Second Violation
(of same covenant or rule)
Additional thirty (30) days
to cure

Second Notice of Violation (§5c)
\$300.00

The Association may turn over any violation to the Association's attorney to take appropriate legal action once the two thirty (30) day cure periods have expired and the violation remains uncured.

15. 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 violation being resolved and staying in compliance with the Articles, Declaration, Bylaws or Rules.
16. Other Enforcement Means. 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. The use of this process does not preclude the Association from using any other enforcement means.
17. Definitions. Unless otherwise defined in this Policy, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
18. 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 governing the community.
19. Amendment. This Policy may be amended from time to time by the Board of Directors.

PRESIDENT'S

CERTIFICATION: The undersigned, being the President of The Ashton Estates Community Association, a Colorado nonprofit corporation, certifies that the foregoing Policy was adopted by the Board of Directors of the Association, at a duly called and held meeting of

the Board of Directors, on March 17, 2023, or by the procedures set forth in the Bylaws or Colorado law for action without a meeting, and in witness thereof, the undersigned has subscribed their name.

The Ashton Estates Community Association,
a Colorado nonprofit corporation

By: 

Its: President