

Elkhorn Ridge Homeowners Association

CC&R COMPLIANCE POLICY AND FINE SCHEDULE (adopted 07/11/2014)

It is the policy of the Elkhorn Ridge Homeowners Association (“the Association”) to encourage voluntary compliance with the CC&Rs, Bylaws, and the Architectural Guidelines and other Project Documents of the Association. In order to foster compliance with the Project Documents applicable to the Elkhorn Ridge Homeowners Association, the Board of the Directors adopts the following procedures to encourage compliance and to assess sanctions for failure to comply.

1. First Notice. When a violation is identified through either periodic inspections by the Association, or by direct complaint to the Association, the Property Owner is sent a first notice/warning letter from the Board identifying the item of non-compliance and indicating a time frame for compliance based on the severity of the non-compliance and seasonal considerations, normally a fifteen (15) day period. The Board may, in its discretion, notice a formal disciplinary hearing per the procedures set forth hereafter. When a disciplinary hearing is noticed, the Owner will be given a copy of the notice regarding Dispute Resolution Procedures. Whether or not a formal disciplinary hearing is noticed, during the first notice period, the President of the Board, or his or her designee from the Board of Directors, is authorized to negotiate a CC&R Compliance Agreement with the Property Owners.
2. Second Notice. Absent compliance or an executed CC&R Compliance Agreement, or based on failure by the Property Owners to perform under an executed CC&R Compliance Agreement in a timely manner, the Property Owners is sent a second notice/warning letter. This notice will normally require compliance within seven (7) days. The Board may, in its discretion, in lieu of or in addition to the second notice, notice a formal disciplinary hearing to be held under the procedures set forth hereafter.
3. Third Notice and Hearing. If the Board did not notice a formal disciplinary hearing with its first or second notice/warning, and the non-compliance is not cured within the time allowed in the second notice/warning, the Board will send a third notice that includes a formal notice of disciplinary hearing to be held under the procedures set forth hereafter. The third notice will also give the Owner the option of curing the default within seven (7) days which may avoid a formal disciplinary hearing.
4. Notice and Hearing Procedures. The procedures set forth in this section are intended to augment the basic procedures set out at section 12 of the Bylaws. These procedures also apply to an appeal from an Architectural Control Committee (“ACC”) decision, and decisions by other committees appointed by the Board.

It is general policy of the Board that enforcement matters be resolved informally and by Compliance Agreement when possible. The Board will comply with the Notice regarding Dispute Resolution Procedures requirements, and provide Owners subject to discipline with copies of said notice

and any other required information not later than the time at which a formal disciplinary hearing is noticed. This general policy favoring informal resolution of disputes does not infringe on or affect the Board's discretion to institute formal enforcement proceedings when, in its discretion, it deems they are appropriate.

In the event the Board elects to notice a formal hearing on the alleged breach or non-compliance, written notice shall be given by personal delivery or first class and certified or registered mail to the Owner of such Lot at the same address to which the Association sends assessment statements. It is the obligation of all Owners to advise the Association promptly of any change of address or any second address to which official notices are to be sent. Notification by email, facsimile, or similar electronic transmission may be used in addition to, but not in lieu of, personal or mail delivery as required herein.

The notice shall be given at least fifteen (15) days, and not more than sixty (60) days before any scheduled hearing, and shall contain, at a minimum, the date, time, and place of the meeting or hearing, the basic facts that support the alleged violation for which an Owner may be disciplined, and a statement that the Owner has a right to attend and may address the Board at the hearing. The owners may also appear by written statement only per section 12 of the Bylaws. The Board shall meet in executive session at the hearing, if requested by the Owner being disciplined.

In cases where personal delivery has not been effected, or the property owner does not sign for the certified or registered mail, the notice of hearing shall conclusively be deemed to have been given five (5) days after the first class and certified or registered mailing to the Owner at his/her last known address. Failure to pick up mail or to advise the Association of a change of address will not prevent the Board from proceeding with a hearing and taking disciplinary action.

Hearings are intended to be informal, and representation by attorneys is generally discouraged. Any Owner that wants to be represented by an attorney or other legal representative must advise the Board of that fact in writing, at least seven (7) days before the scheduled hearing. If an Owner is to be represented by an attorney or other legal representative at the hearing, the Board may, in its discretion, advise the Owner at least three (3) days before the hearing, that the attorneys' fees incurred by the Association for its counsel related to the hearing may be assessed against the Owner at a cost or charge of the hearing and/or enforcement process.

Any written materials or evidence that the Owner intends to have considered at the hearing, including the names of any witnesses the Owner intends to call at the hearing, must be received by the Board at least 72 hours before the scheduled hearing. Each side will generally have the right to make a brief opening statement. The Owner may explain or deny the alleged violation(s), and both sides may present evidence including witnesses and documentary evidence. Formal rules of evidence shall not apply, and all relevant and credible evidence should be considered. However, the Board shall have the authority to impose reasonable limitations on the presentation of evidence, such as limitations on time, the number and/or relevancy of witnesses or evidence that the Board does not deem sufficiently relevant, reliable or credible. Each side shall generally have the right to make a brief closing statement.

Each side may waive any rights provided at the hearing, such as the presentation of an opening or closing statement.

Before and/or after the hearing, the Board may meet in private, executive session, outside of the presence of the Owner that is subject to discipline, to informally consult experts or witnesses, or consider evidence presented at a hearing and discuss and/or decide appropriate action to be taken by the Board.

The Board may, after consideration of the evidence, set another hearing date for the consideration of additional evidence, or determine penalties, if any, to impose, and if appropriate, what corrective measures it will take and the approximate date of such actions should non-compliance by the Owner continue. If the Board imposes discipline on an Owner, the Board shall provide the Owner a written notification of the disciplinary action and the factual basis for such action, by either personal delivery or first class and certified mail, within three (3) days following the hearing. The decision may include fines and/or suspension of privileges, a specified date by which to correct the offending conditions (after which the Association may correct the offending condition itself as provided in the Project Documents or as allowed by applicable law), a recommendation to Board that a lawsuit be filed to compel compliance by the Owner and to recover the Association's costs and attorney's fees, a recommendation to the Board that the Owner's membership rights be suspended, or such other remedies that are consistent with the Project Documents and these Rules.

In all instances where the Board gives notice that a violation must be corrected, a specific time limit for correction will be included in the notice that is at least eight (8) days after the date of the hearing. The specific time set for correction of a violation shall be a reasonable period based on the particular violation and the time required for a prudent person acting diligently to remedy the violation.

5. Repeat Violations. For repeat violations, the Board may immediately re-impose any fines or other disciplinary action that has been suspended in any prior disciplinary proceeding. For example, if a prior disciplinary hearing has been held concerning a trailer or RV violation, and a fine has been suspended because the Owner has complied by removing the trailer or RV, if the trailer or RV is returned to the Owner's lot in violation of the Project Documents, the Board may immediately re-impose the fine, without noticing and holding another hearing. In such cases, the Board will serve a written notice of violation and may re-impose any fines or other disciplinary action by simple majority vote of the Board. An Owner may request, or the Board may notice, another hearing thereafter under the Notice and Hearing Procedures at paragraph 4 herein above.

6. Exercise of Discretion. The failure of the Board to impose any prescribed fine or to avail itself of any prescribed remedy shall not be deemed a waiver of its authority to do so in any instance, but rather an exercise of its discretion in dealing with a specific situation.

7. Mandatory Mediation. Prior to initiating any arbitration or litigation regarding any decision by the Board, all Owners will be required to participate in a non-binding, neutral, third party mediation process pursuant to Civil Code Section 13693.510 et seq. The mediation process will be conducted by a

third party acceptable to both the Owner and the Association. The mediation may be conducted informally, but if the parties cannot agree on any procedural aspect of the mediation, it shall be conducted pursuant to the mediation rules of Judicial Arbitration and Mediation Service (JAMS). Unless otherwise agreed by both parties, mediation proceedings shall be held in the Truckee area and the cost of the mediation process will be divided equally between the Owner and the Association. Any Owner that fails or refuses to participate in mediation as required by this paragraph shall not be entitled to collect attorneys' fees or costs in any arbitration or litigation arising from any action or decision, or any alleged failure to act or decide, by the Board that is the subject of such arbitration or litigation. Participating in this mandatory mediation by an Owner will satisfy the ADR requirement of Civil Code section 1369.510 et seq., as described in the Notice regarding Dispute Resolution Procedures.

ELKHORN RIDGE SCHEDULE OF FINES

The following schedule of fines is applicable to the Project Documents violations. Any and all costs incurred by the Association, including attorneys', experts', and/or consultants' fees, in its efforts to correct violation(s), may be added to the fines and collected as a cost of enforcement. However, although fines and penalties assessed under these rules for violation of the Project Documents may result in the recording of a lien against the Owners lot/unit, the lien cannot be enforced by sale of the Owners lot/unit by foreclosure.

<u>Infraction or Violation</u>	<u>CC&R Provision</u>	<u>Fines (per month)</u>
Use of lot	Section 4.01	\$100 – \$1,000
Garages	Section 4.02	\$50 - \$500
Parking and Vehicle Restrictions	Section 4.03	\$100 - \$500
Signs	Section 4.05	\$50 - \$300
Animals	Section 4.06	\$50 - \$300
Trash/Storage of Materials	Section 4.07	\$50 - \$300
Television & Radio Equipment	Section 4.08	\$50 - \$500
Right to Lease	Section 4.09	\$100 - \$500
Architectural Control	Section 4.10	\$100 - \$2,500
Construction Activities	Section 4.21	\$100 - \$1,000
Window Coverings	Section 4.11	\$50 - \$100
Clothes Lines	Section 4.12	\$50 - \$100
Power equipment & Car Maint	Section 4.13	\$100 - \$500
Drainage	Section 4.14	\$100 - \$500
Damage to the Common Area	Section 4.15	\$100 - \$500
Sports Fixtures	Section 4.17	\$100 - \$250
Nuisances	Section 4.18	\$100 - \$1,000
Maintenance	Section 5.02	\$100 - \$1,000
Other Project Document Violations	Section 4.19	Case by case basis

For serious, repeated, or intentional violations, the Board reserves the right to impose graduated fines and/or per diem fines with a specific dollar amount for each day a violation continues until it is cured. The Board reserves the right to impose alternate or additional disciplinary measure, and to take additional enforcement actions in all cases, consistent with the Project Documents and applicable law.