

HERITAGE HILLS HOMEOWNERS ASSOCIATION

Enforcement Procedure Policy

The following enforcement procedure was adopted by the Board of Directors of Heritage Hills Homeowners Association ("Association") pursuant to C.R.S. § 38-33.3-209.5, at a regular meeting of the Board of Directors.

Effective Date: July 1, 2017

NOW, THEREFORE, it is resolved that the Association does adopt the following policy regarding the enforcement procedures of the Association:

1. Pursuant to the Declaration of Covenants, Conditions and Restrictions For Heritage Hills Homeowners ("Declaration"), the Bylaws of Heritage Hills Homeowners Association ("Bylaws") and pursuant to the Colorado Common Interest Ownership Act (the "Act"), the Association or any member of the Association, or both, may bring an action to enforce the terms of the Association's covenants and rules. The collection of delinquent assessments shall be governed by the Association's Collection Policy, except to the extent that the Association desires to suspend an Owner's membership privileges for the non-payment of assessments, in which case the suspension procedure set forth herein shall apply, but it shall not apply to the Association's efforts to collect the assessments.
2. The Association's primary objective is to uphold the terms of the Declaration and other governing documents that benefit the community at large. To the extent that a neighbor to neighbor dispute exists, the Board encourages the neighbors to resolve the dispute in an informal and cooperative manner if possible. In some cases, a community mediator may be brought in to resolve such disputes.
3. As used in this policy, the term "Board" shall mean the Board of Directors, any committee of the Board, the Association's Managing Agent or their Agent assigned to Covenant Enforcement or any other body established by the Association's governing documents such as, but not limited to, the Design Review Committee.
4. The Board may initiate resolution of violations upon observation of a violation. Any Unit Owner or Resident may contact the Board regarding an alleged violation of the Association's governing documents. Any complaint submitted to the Board shall be sufficiently detailed to provide the provisions of the governing documents alleged to have been violated together with the time, date, and place of the violation and any witnesses thereto. The Board shall have no obligation to consider oral complaints or anonymous complaints that cannot be independently verified.
5. If the Board determines that the complaint sets forth a potential violation of the Association's governing documents and that the Board is justified in pursuing the matter further, the Board shall commence enforcement and notify the violator. Enforcement may begin with a written friendly reminder left on site. If the person causing the violation is a guest, tenant, family member, or invitee or licensee of an Owner, then the Owner shall be responsible for the act or omission. (The term "Owner" used in this policy shall refer to the responsible Owner.) The Board shall send a notice to the Owner if the non-owner violator does not remedy the violation after a friendly reminder.

6. The notice of violation shall be sent to the Owner's address registered with the Association, and to the address of the property within the Association's community owned by the Owner.
 - a. All notices shall be delivered by first class mail, postage prepaid or personally delivered or by registered or certified United States Mail, postage prepaid. The Association, upon the written request of the Owner delivered to the Association personally, by certified mail, return receipt, postage prepaid, or any other form of delivery allowed by the Association will mail the notice of delinquency to another address as set forth in the Owner's written request.
 - b. The notice of violation shall state with reasonable detail the facts and circumstances of the claimed violation as known by the Board, and with reasonable detail the provisions of the Association's governing documents alleged to have been violated. The notice of violation shall provide the Owner an opportunity for a hearing before the Board to refute the complaint. If the Owner charged with a violation responds in writing in a timely manner and requests a hearing, a hearing shall be set and written notice of the date, time, and place of hearing shall be provided to the Owner in question.
7. If a hearing is held, it will include a fair and impartial fact finding process concerning whether the violation occurred and whether the Owner is the one who should be held responsible for the violation. The hearing will be held before the Board or a committee having authority to make a decision but the people making the decisions shall not have any direct personal or financial interest in the outcome. A decision maker will 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.
8. If the Owner does not respond in writing with a request for a hearing within fifteen (15) days after the Board sends the notice of violation per this policy, then the Owner shall be deemed to have admitted the facts set forth in the notice of violation at which time the Board may enforce the provisions of the governing documents; impose a fine or penalty, or both, for the violation; and may suspend the Owner's privileges as the Board deems appropriate and pursuant to the governing documents, all as set forth in further detail in Article 6 of the Bylaws.
9. The procedure to be followed at a hearing shall be as follows:
 - a. The President of the Board or his/her designee shall be the chairperson of the meeting ("Chair"). The Chair shall conduct the hearing and shall recognize people prior to them speaking and shall direct them to stop speaking as the chair deems appropriate. At the conclusion of the hearing, the Board may but need not make a final decision at the hearing. In any case, the Board shall send written notice of its decision to the Owner within a reasonable time after the meeting, not to exceed forty-five (45) days. Any fine, penalty, or suspension of privileges shall not take effect until at least five (5) days after the Board's decision.
 - b. If any person present at the hearing continues to speak or continues to be disruptive during the remainder of the meeting, the Board may vote to adjourn the hearing. In

the alternative, or in addition to adjourning the hearing, the chair, in the exercise of his/her reasonable discretion shall be entitled to contact law enforcement and request that the disruptive person be removed from the hearing

10. The Board shall exercise its discretion with regard to the amount of any particular fine levied but shall be limited to the following fine schedule:
 - a. First violation notice: notice of hearing;
 - b. Second violation notice (same covenant or rule): fine up to \$ 250.00;
 - c. Third violation notice (same covenant or rule): fine up to \$ 500.00;
 - d. Fourth and subsequent notices (same covenant or rule): fine up to \$1,000.00; and
 - e. Continuing violations (same covenant or rule) shall be considered a separate violation for each 24-hour period that the violation continues. All fines assessed shall be collectible as assessments.
11. The above-listed fine schedule shall not limit the Association's ability to assess the Owner for any damages arising from the Owner's violation of the governing documents.
12. Notwithstanding anything in this policy to the contrary, the Association shall have the right, at any time and without proceeding through the steps outlined herein and without regard to the fine schedule, to bring an action at law or in equity to compel compliance with the terms of the Association's governing documents or to exercise any other specific remedy allowed under said governing documents. Nothing in this paragraph constitutes an election of remedies nor precludes the Board from levying fines as set forth above while at the same time seeking injunctive relief for violations of a continuing nature or violations that affect the health, safety, or welfare of the residents or the property. The prevailing party to any action shall be entitled to recover its costs, expenses and reasonable attorneys' fees.
13. Failure of the Association to enforce its governing documents pursuant to this Policy shall not constitute a waiver of the right to enforce the same thereafter.
14. This Policy shall replace and supersede all previous policies, rules, and regulations regarding the subject matter of this Policy.
15. In the event that a court of competent jurisdiction finds any portion of this policy void or otherwise unenforceable, the other provisions shall remain in full force and effect.

The undersigned hereby certifies that the foregoing resolution was adopted and made a part of the minutes of the meeting of the Board of Directors of the Association conducted on the 16th day of May, 2017.

HERITAGE HILLS HOMEOWNERS ASSOCIATION

By: Pamela J. Lachner
Pamela J. Lachner, President
(Print Name) (Print Title)