

RULES ENFORCEMENT POLICY

**RESOLUTION
OF
MASTER HOMEOWNERS ASSOCIATION FOR GREEN VALLEY RANCH
REGARDING ENFORCEMENT OF COVENANTS AND RULES POLICY**

SUBJECT: Enforcement of covenants and rules; notice and hearing procedures; fine schedule.

PURPOSE: To adopt a Policy setting forth a process for enforcement of covenants and rules, including notice and hearing procedures and fine schedule as required by Colorado law and HB22-1137. If this policy is inconsistent with a previously adopted policy, the portions of this policy which are subject of the inconsistency will control.

AUTHORITY: The Declaration, Bylaws, and Articles of Incorporation for **Master Homeowners Association for Green Valley Ranch** and Colorado law.

EFFECTIVE

DATE: August 9, 2022 -

RESOLUTION: **Master Homeowners Association for Green Valley Ranch** (“Association”) gives notice of its adoption of a Resolution establishing a fine schedule and enforcement procedure.

The resolution adopted is as follows:

Article V Section 5.16 and Section 5.17 of the Declaration grants the Association the power to enforce the provisions of the Declaration;

The Association’s documents authorize and the Colorado Common Interest Ownership Act requires the Board of Directors to adopt rules, procedures and resolutions for carrying out its duties, and to enforce such rules, procedures and resolutions,

WHEREAS, inherent with the enforcement and defense of Master Declaration, the Articles of Incorporation, the By-Laws and Rules and after delivering proper notice and an opportunity for a hearing to the alleged violator, the Association may choose to impose a fine upon the violator;

WHEREAS, the Association’s power to impose fines is set forth in the Master Declaration;

THEREFORE, the Association will implement the following process regarding the enforcement of Association Rules.

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COMPLAINT PROCESS

1. Inspections. The Association, acting through the HOA Inspector, the HOA Supervisor or other representative, will conduct inspections periodically. These inspections will include photographs of a Residential Site with the corresponding date and time. The photographs will be archived in software used by the Association and will be provided to the Owner upon request.
2. Reporting Complaints. A complaint ("Complaint") regarding alleged violations may be reported by any Owner or resident within the Community or by the HOA Inspector, HOA Supervisor or other designated representative in writing. A complaint must include the street address of the property and a concise description of the alleged violation. Violations that cannot be confirmed by the Association or its designated representative by visual inspection will require additional supporting documentation from the complaining party. Non-written complaints or written complaints failing to include any information required by this provision may not be investigated or prosecuted.
3. Investigation. Upon receipt of a complaint by the Association, if more information is needed, the complaint will be investigated by a designated individual or committee within a reasonable time. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.
4. Responsible Parties. Any non-compliance with the Rules and Regulations by any Owner, renter, or guest will be the responsibility of the Owner.
 - A. Language of Correspondence. The Association will send all correspondence in English unless the owner notifies the Association in writing that the owner prefers correspondence from the Association be in a language other than English. If an owner notifies the Association of its preferred language in writing, the Association will use all commercially reasonable efforts to send all correspondence in the preferred language of the owner in a reasonable time.
 - B. Preferred Contact. The Association will send all correspondence to the owner at their address within the Association unless an owner identifies another person or address to serve as a designated contact for the owner to be contacted on the owner's behalf for purposes of notice. Owner is at all times permitted one additional designated contact. If an owner notifies the Association of its designated contact, the Association will send all correspondence and notices to both the owner and the owner's designated contact. The owner must identify the one additional designated contact to the Association in writing and provide three forms of contact including a mailing address, email address and phone number for the designated contact. The owner is responsible at all times to notify the Association in writing of any changes to the designated contact or the designated contact's contact information.

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NOTICE OF VIOLATION

5. Initial Violation Letter. If a violation is found to exist, a violation letter will be sent to the Violator by Certified Mail, Return Receipt Requested, explaining the nature of the violation. The violation letter will state that the owner has thirty (30) days from the date of the letter to come into compliance or the Association, after conducting an inspection and determining that the owner has not cured the violation, may fine the owner pursuant to the fine schedule in this Policy, following notice and opportunity for a hearing. This letter will serve as notice of the violation and provide an opportunity for a hearing, The letter will state the date and time for the hearing. Owners are encouraged to attend the hearing.

If an owner cures the violation within the 30-day cure period, the owner may send written notice to the Association that the violation has been corrected and provide visual evidence of the correction. If the visual evidence submitted evidences the violation is corrected, the violation will be deemed cured on the date the owner sent the notice. If the owner does not include visual evidence that the violation has been cured, the Association shall inspect the violation as soon as practicable to determine if the violation has been cured.

If the Association does not receive notice from the owner that the violation has been corrected after receiving the initial violation letter, the Association shall inspect the violation within seven (7) days after the expiration of the thirty (30) day period for compliance.

If, after inspection and whether or not the Association received notice from the Unit owner that the violation was cured, the Association determines that the violation has not been corrected, a second violation letter will be sent to the owner.

6. Second Violation Letter. If the owner does not come into compliance within thirty (30) days of the first violation letter, a second violation letter will be sent by first class mail providing a final thirty (30) day request for compliance.
7. Hearing. Unless otherwise determined by the Board, all hearings shall be held in executive session. At the beginning of each hearing, the presiding officer or committee member, shall introduce the case by describing the alleged violation. Each party may make opening statements, may present evidence and testimony, may present witnesses, and may make closing statements. Neither the Complainant nor the alleged Violator are required to be in attendance at the hearing. However, failure to appear at the hearing will result in the Board making a unilateral decision based solely on the matters set forth in the complaint, results of the investigation and such evidence as may be presented at the hearing. After all testimony and other evidence has been presented at a hearing, the Board or Committee shall, within a reasonable time, 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 or Committee members.
8. Notification of Decision. The decision of the Board, committee or other person, shall be in writing and provided to the Violator and Complainant by first class mail within 10 days of the hearing, or if no hearing is requested, within 10 days of the final decision.

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- 9. Appeals. The Board, committee or other person, may order an appeal at any time within ten (10) days following the delivery of its decision at the request of the Complainant, Violator or Board member.
- 10. Fine Schedule. The following fine schedule has been adopted for all recurring covenant violations:

First Notice (First Violation Letter)(30 days to Cure)	\$0
Second and Subsequent Violations (after initial 30 days)	\$100
Continuing Violations	\$200

After the second violation letter and expiration of second thirty (30) day opportunity to correct the alleged violation, the violation(s) may also be turned over to the Association’s attorney to take appropriate legal action, including but not limited to injunctive relief and an award of attorney’s fees and costs. Any Violator committing two (2) or more violations of the same covenant in any six (6) month period may be immediately turned over to the Association’s attorney for appropriate legal action.

- C. Continuous Violations. Continuous violations shall be defined as on-going violations of owner obligations that are perpetual in nature. Each day/incidence of noncompliance with such perpetual obligations constitutes a separate violation. *For example: the failure to remove an unapproved exterior improvement is a breach of the perpetual covenant requiring owners to obtain Board approval prior to making exterior modifications. Therefore, every day the owner fails to remove the improvement constitutes a breach of the covenant.*

If a Violator is determined as having a continuous violation, in accordance with the terms of this Policy, such owner may be subject to a monthly fine of \$200.00 each month the violation is not corrected, not to exceed \$500.00. Each fine is due and payable within thirty (30) days. The Association will perform an inspection prior to each fine being levied.

- D. Public Safety or Health. If the Association reasonably determines that a violation threatens public safety or health, the Association shall provide the owner written notice of the violation informing the owner that the owner has seventy-two (72) hours to cure the violation or the Association may fine the owner. If after an inspection, the Association determines that the owner has not cured the violation within seventy-two (72) hours after receiving the notice, the Association may impose a \$100 fine on the owner every other day until the violation is cured and commence legal action against the owner for the violation, not to exceed \$500.00.
- E. Cure. Once an owner cures a violation, the Association shall notify owner (1) that the owner will not be further fined with regard to the violation, (2) of any outstanding balance that the owner owes the Association as a result of the violation, and (3) the date that balance is due before being considered delinquent.

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- F. Monthly Statements. On a monthly basis and by First Class Mail, and if the Association has the relevant e-mail address, by e-mail, the Association shall send to each owner who has any outstanding balance owed the Association an itemized list of all assessments, fines, fees, and charges that the owner owes to the Association. The Association shall send the itemized list to the owner in English or in the preferred language for which the owner has indicated a preference for correspondence and to any designated contact for the owner.
- G. The Board of Directors will not impose a fine, suspend voting or suspend any other rights of an Owner for violations of the Governing Documents unless the procedures set forth in this policy are followed.

HEARING RULES

- 1. The purpose of the Hearing Committee is to evaluate the nature of the alleged violation and to arrive at a resolution with the Owner(s). A Hearing Committee shall be appointed by the Board and be comprised of at least three (3) Owners whom the Board of Directors believes will be able to afford a fair and impartial hearing. If there is not an established Hearing Committee, the HOA Board shall perform the functions otherwise delegated to the Committee.
- 2. At the hearing, the Owner shall have the right, personally or by representation, to give testimony orally, in writing, or both (as specified in the Hearing Notice), subject to reasonable rules of procedure established by the Hearing Committee to assure a prompt and orderly resolution of the issues.
- 3. The Owner may be represented by counsel. If the Owner is represented by counsel, the Owner's hearing will be rescheduled until the Association's counsel can be present. Written and oral evidence may be presented. The hearing need not be conducted according to any technical rules relating to evidence or witnesses, except the presenting party will provide copies of any written evidence to the other party or parties.
- 4. The hearing shall be held in Executive Session because of sensitive or personal information that satisfies the requirements of Executive Session. Any evidence shall be duly considered, but is not binding on the Committee in making its recommendations.
- 5. The Association shall deliver to the Owner notification of the decision within fifteen (15) calendar days after HOA Board acts on the recommendations of the Hearing Committee.

FAILURE TO APPEAR

Neither the alleged violating Owner nor any accusing person need be in attendance. Owners who fail to attend or do not file a written response with the Association may be fined if the Hearing Committee determines a violation exists based on the information it has available to it at that time.

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NONPAYMENT OF ASSESSMENT AND OTHER CHARGES

The foregoing Notice and Hearing procedures are not required in order for the Association to impose any sanction for nonpayment of an Assessment and other charges, including, but not limited to, imposing default interest, charging a late fee or lien charge, assessing collection costs and attorney fees. For more detail, please see the Association's Delinquency Policy.

EXTENSIONS

There may be circumstances that require an Owner additional time to correct his/her violation. In such instances, Owners may request extensions pursuant to the following:

1. All extension requests must be submitted in writing to the Association.
2. All extension requests will be reviewed on a case-by-case basis and decisions will be made based on the facts involving each individual request.
3. No extensions will be given past one year from the date of the original violation as set forth on the first violation notice, unless the Board approves the additional extension based on extenuating circumstances.

APPEALS

Each Owner has a right to appeal any Hearing Committee regarding a violation and/or an ARC decision. The Owner may appeal the findings to the HOA Board at its next regularly scheduled board meeting. The Board will not hear repeat appeal requests for the same matter.

1. 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.

GENERAL PROVISIONS

1. Waivers. The Board is authorized to extend the time periods and otherwise modify or waive the procedures contained in this policy, on a case-by-case basis, as the Board determines to be necessary, in its sole discretion.
2. Extenuating Circumstances. If extenuating circumstances arise with a violation, the Association may request the Owner prepare and submit a written plan outlining how the violation will be corrected. The Board will review the proposed plan and will decide, in its sole discretion, whether to accept, reject or offer a compromise on the submission.
3. Definitions. Unless otherwise defined in this Policy, capitalized term or terms defined in the Declaration shall have the same meaning herein as set forth in the Declaration.


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4. New Owners. When a closing occurs and a new Owner moves into the community, the Association will send a reminder to the Owner for the first two (2) months after closing. This letter is designed to let the Owner know what the violations are, while giving them time to become familiar with the Association's rules and regulations. This will only be done with new Owners, but not with new tenants.

5. Notification to ARC. The HOA Supervisor or designated representative will notify the Architectural Review Committee (ARC), if the violation is a failure to submit for and receive ARC approval.

PRESIDENT'S CERTIFICATION: The undersigned, being the President of the Association, certifies that the foregoing Resolution was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on August 4, 2022 and in witness thereof, the undersigned has subscribed his/her name.

Master Homeowners Association for Green Valley Ranch

By: 
Its: President