

**POLICY
OF PARK EAST SQUARE HOMEOWNERS ASSOCIATION, INC.
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:** October 8, 2024

RESOLUTION: The Association hereby adopts the following procedures to be followed when enforcing the Declaration, Articles of Incorporation, Bylaws, rules including architectural guidelines, and policies of the Association (hereinafter collectively referred to as (“covenants and rules”)).

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 manager or management company, if any, Board member(s) or committee member(s) by submission of a written complaint as specified in paragraph 2.
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. Oral or anonymous 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 covenants or rules that the Board of Directors reasonably determines threatens the public

safety or health, the Association shall provide the Owner(s) of the townhome (hereinafter individually and/or jointly referred to as "Owner") a First Notice of Violation (see Paragraph 7 below) informing the Owner that the Owner has 72 hours to cure the violation or the Association may fine the Owner.

- a. If, after an inspection of the townhome, the Association determines that the Owner has not cured the violation within 72 hours after receiving the notice, the Association may impose fines on the Owner every other day, not to exceed three hundred dollars (\$300.00), and may take legal action against the Owner for the violation.
- b. Violation Cured by Unit Owner. 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.

5. Violation Which Does Not Threaten Public Safety or Health. If an Association reasonably determines that there is a violation of the covenants or rules, other than a violation that threatens the public safety or health, the Association shall, provide a First Notice of Violation (see Paragraph 7 below) informing the Owner that the Owner has 30 days to cure the violation. Upon expiration of the initial 30 days, the Association, after conducting an inspection and determining that the Owner has not cured the violation, may fine the Owner.

- a. Process to Cure Violation. If an Owner cures the violation within the period to cure afforded the Owner, the Owner may notify the Association of the cure and, if the Owner sends with the notice 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 townhome as soon as practicable to determine if the violation has been cured.
- b. Violation Cured by Owner. 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:
 - 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.
- c. Failure to Cure Violation by Owner. If the Association does not receive notice from the Owner that the violation has been cured, the Association shall inspect the

townhome within seven (7) days after the expiration of the 30-day cure period to determine if the violation has been cured. If, after the inspection, the Association determines that the violation has not been cured, the Association may impose a fine pursuant to Paragraph 17 below. A second notice pursuant to Paragraph 8 shall provide an additional 30-day period to cure.

- d. The Association may take legal action pursuant to this section if the two (2) 30-day periods described above have elapsed and the violation remains uncured.
6. Courtesy Notice. If a violation is found to exist, a courtesy notice may be sent to the Owner. The notice must be sent via regular mail if not concerning a public safety or health threat. The notice must explain the nature of the violation, the action or actions required, and the deadline to cure the alleged violation. The written notice shall be in English and in any language that the Owner has indicated a preference for.
7. First Notice of Violation. If the violation has not been cured following the courtesy notice, a first notice of violation shall be sent to the Owner. The notice must be sent via certified mail, return receipt requested if not a public safety or health threat, and the Owner shall be charged the actual cost of the mailing. The notice must explain the nature of the violation, and the action or actions required within 30 days to cure the alleged violation. The written notice shall be in English and in any language that the Owner has indicated a preference for. The notice shall state that a fine may be imposed if the violation is not cured within 30 days as set forth in Paragraph 17 and provide the opportunity to request a hearing as set forth in Paragraph 10.
8. Second Notice of Violation. If the alleged violation is not resolved within 30 days of the first notice of violation, this will be considered a continuation of the violation for which an additional fine or legal action may be imposed following notice and opportunity for a hearing. The second written notice shall be in English and in any language that the Owner has indicated a preference for. This notice shall then be sent to the Owner via certified mail, return receipt requested if not a public safety or health threat, and the Owner shall be charged the actual cost of the mailing. It shall include 30 days to cure the alleged violation, the fine that may be imposed if the violation is not timely cured as set forth in Paragraph 17 (not to exceed three hundred dollars (\$300 in total) and provide the opportunity to request a hearing as set forth in Paragraph 10.
9. Final Notice of Violation. If the alleged violation continues after the 30 days of the second notice of violation, a final notice of violation shall be sent imposing the additional fine in the second notice of violation and stating that further legal action may be pursued. This notice shall be sent to the Owner via certified mail, return receipt requested if not a public safety or health threat, and the Owner shall be charged the actual cost of the mailing.
10. Opportunity to Request for Hearing. The first and second notice (s) of violation shall state that the Owner is entitled to request a hearing on the merits of the matter in front of an impartial decision maker provided that such hearing is requested in writing within

seven (7) days of the date on the first notice of violation pursuant to Paragraph 7 or date on the second notice of violation pursuant to Paragraph 8. On a violation that is a safety/health violation since the letter only provides 72 hours to cure, any request for a hearing will be after that period runs but the hearing has to be prior to any fines being applied.

11. Notice of Hearing. If a hearing is requested by the Owner, 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 seven (7) days prior to the hearing date.
12. Impartial Decision Maker. Pursuant to Colorado law, the alleged Violator 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, such as the Architectural Control Committee.
13. 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. 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 hearing shall not be audio, video, or otherwise recorded, except by the Impartial Decision Maker to aid in the preparation of the decision, in which case the recording shall be deleted once the decision is written. The Impartial Decision Maker shall, within a reasonable time, not to exceed 14 days, render its written findings and decision, and impose a fine or take further enforcement action, if applicable.
14. Failure to Timely Request Hearing. If the Owner 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. If a violation is found to exist, the Owner may be assessed a fine or the Association may take further enforcement action pursuant to these policies and procedures. If the request is untimely, the Board has sole discretion to decide whether to grant a hearing.
15. Notification of Hearing Decision. The decision of the Impartial Decision Maker shall be in writing and provided to the Owner within 14 days of the hearing.

16. Fine Schedule for Violations that do Threaten Public Safety and Health. The following fine schedule has been adopted for all covenant violations that do threaten Public Safety and Health:

First notice of Violation (§7)

After an Owner has failed to cure a violation which threatens public safety and health within 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.

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

Courtesy notice (§6)

With no fine

May give 10 days or more to fix

First notice of violation (§7)

No fine is imposed

Must give 30 days to fix or fine may be imposed

Second notice of violation (§8)

(of same violation of covenant or rule) \$100.00

Must give an additional 30 days to fix.

Final notice of violation (§9)

(of same violation of covenant or rule) \$200.00

Not to exceed a total of \$300 for the same violation of covenant or rule

The Association may turn over any violation after 60 days has passed to the Association's attorney to take appropriate legal action.

18. 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 covenants and rules.
19. 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.

20. Definitions. Unless otherwise defined in this Policy, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
21. 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.
22. Amendment. This Policy may be amended from time to time by the Board of Directors.

PRESIDENT'S

CERTIFICATION: The undersigned, being the President of Park East Square Homeowners Association, Inc., 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 October 8, 2024, and in witness thereof, the undersigned has subscribed their name.

Park East Square Homeowners Association, Inc.,
a Colorado nonprofit corporation

By: 
Its: President