

CHERRY CREEK VISTA HOMEOWNERS ASSOCIATION

Covenant and Rule Enforcement Policy

RECITALS:

A. Pursuant to Colorado Revised Statute ("C.R.S.") 38-33.3-209.5 (1)(b)(IV) the Association is required to adopt a policy concerning the enforcement of the Association's governing documents.

B. C.R.S. 38-33.3-302(1)(k) allows the Association to levy reasonable fines for violations of the declaration, bylaws, and rules and regulations provided notice and an opportunity to be heard is given to the member prior to the fine being imposed.

C. For the benefit and protection of the Association and of the individual owners, the Board deems it desirable to establish and operate by procedures to insure proper process in cases where there is a question of compliance by an owner, a tenant, family members, and guests with the provisions of the declaration, the bylaws, or the rules and regulations.

D. While the Association encourages the neighborly approach that residents first communicate with each other regarding a perceived violation of covenants, laws, rules and/or regulations in an attempt to resolve any problems, the intent of the Board is to establish a procedure for resolving violations of the Association's covenants, rules and regulations.

THEREFORE, IT IS RESOLVED that the following procedures shall apply to violations of the declaration, bylaws, or the rules or regulations other than those concerning payment of assessments by members.

Informal Resolution of Violation

Any owner, owner's tenant, or agent of the Association may directly request that an owner or resident cease or correct any act or omission, which appears to be in violation of the aforementioned documents. It is the preference of the Board that residents of the community attempt informal resolution prior to seeking formal resolution.

In the event the perceived violation would also be a violation of Federal, state, or local laws or regulations the Board may request the complaining resident to contact the appropriate government to report the perceived violation.

Formal Resolution of the Violation

1. The Board or their agent may initiate Formal Resolution of violations upon observation of a violation.

2. Lot Owners of the Association may initiate Formal Resolution of violations by filing a Complaint with any Board member or the association's agent. Complaints may be in writing, either in letter or e-mail format, or by telephone, and clearly indicate the nature of the violation, and the location of the violation. The Board member or it's agent will verify that the described complaint is a violation of the covenants, rules, or regulations of the association before any further action is taken.

3. Any action taken by the Association shall be strictly within the discretion of the Board. The Board shall use its judgment in deciding how to proceed regarding any written complaint

4. When the Board shall, in its sole discretion, believe that action is required regarding violation(s) of covenants, rules and regulations, a letter will be sent to the accused owner identifying the violation(s) and setting forth a timeframe for correction ("**Warning Letter**").

5. A subsequent violation, or non-response to the "**Warning Letter**" will result in a "**Notice of Violation**" being sent to the owner of record of the property. This letter shall again spell out the offense, request compliance, and specify a time limit for compliance.

6. If the violation remains uncorrected, or reoccurs, imposition of a fine may occur. Notice of the fine will be sent to the property owner. Included in this notice will be an option to appear before a hearing with the Board of Directors, or their designated agent. The violating owner shall have twenty (20) days from the date of the mailing to request a hearing with the Board to dispute any violation(s) or dispute the imposition of any fine.

7. Fines may be levied as follows:

1 st :	\$ 50.00
2 nd :	\$ 100.00
3 rd and successive:	\$ 150.00

Payment and collection of all assessed fines, monetary penalties or damages will be in accordance with the Association's established Collection Policy.


8. If the owner charged with a violation responds, requesting a hearing, a hearing shall be set and written notice of the date, time and place of hearing, shall be provided to the accused owner. Such hearing shall be open to attendance to any person having the right to attend any meeting of the Board. The Board may restrict attendance to the meeting to only those parties to the dispute and their witnesses upon the request of any party to the dispute or on the Board's own initiative. Any decision to restrict attendance to the hearing shall be made by the Board in its sole discretion when the Board shall believe that confidentiality shall be in the best interest of the Association. Any such hearing conducted with restricted access shall be in accordance with rules regarding meetings in executive session.

7. The hearing procedures shall be as follows:
 - a. The Board, through the chair of the meeting, shall direct all proceedings at the meeting. The chair shall also have complete authority to decide what evidence shall be accepted. No person shall speak without being recognized by the chair and the chair may limit the amount of time any person may speak. The failure to comply with the directions of the chair or otherwise conduct an orderly hearing may be considered, in itself, a violation of the rules resulting in fines or other penalties.
 - b. The Board, through the chair of the meeting, will describe the specific provision of the declaration or rule or regulation, which is said to have been violated, including the date and place and/or read the written complaint to the accused.
 - b. The person charged shall be asked to admit or deny the charge. The person charged may speak for himself or may be represented by counsel throughout the hearing. Failure to respond or attend the hearing will be construed as an admission of the alleged violation.
 - c. If the charge is denied, the complaining witness or witnesses shall describe the details of the circumstances at the hearing.
 - d. The accused shall have the opportunity to confront each witness against him.
 - e. When all complaining witnesses have been heard the accused may make statements in rebuttal, and may provide witnesses in support of his position. The complaining witnesses may ask questions of each such rebuttal witness in turn.
 - f. The Board shall have the opportunity to question any witness or involved parties if it so desires.
 - g. At the conclusion of the hearing, the Board shall adjourn to an executive session and discuss the statements and vote whether or not the accused violated the provisions of the Association's governing documents. A majority vote shall control. The result of the vote shall be recorded in the minutes of the meeting, and announced to the accused and the party or parties who filed the Complaint.
 - h. If the Board imposes a fine or other penalty the Board shall provide written notice to the Owner of the fine or other penalty.
 - i. Any and all monies collected from such fines may be deposited in the Association's general operating fund.

8. In the event the violation is of a continuing nature, or if the violation constitutes a threat to the health, safety, or welfare of the residents or the property within the community, or the should the owner indicate that he or she will not comply with the request to correct the violation, or fail to communicate with the Board, or when circumstances otherwise justify such action, the Board may institute an action in a court of competent jurisdiction to pursue legal remedies including seeking injunctive relief to abate the violation immediately without proceeding through steps outlined above. Nothing in this policy shall constitute an election of remedies nor preclude the Board from seeking assistance from other enforcement authorities such as police, fire or animal control.

9. The Association shall be entitled to reimbursement of its costs including reasonable attorney fees, court costs, and other legal costs incurred in all enforcement activities from any Lot Owner who has committed a violation. Nothing in this paragraph shall be construed to prevent Lot Owners from recovering their costs as otherwise provided by law.

Procedure adopted this 1 day of Feb, 2006 by Resolution of the Board of Directors.



Barbara Ariss, President
Cherry Creek Vista Homeowners Association