

EAGLE TRACE HOMEOWNERS' ASSOCIATION, INC.
ENFORCEMENT POLICY FOR THE DECLARATION OF COVENANTS, CONDITIONS and
RESTRICTIONS, BYLAWS,
RULES, REGULATIONS, STANDARDS AND POLICIES.

Effective Date: MARCH 24, 2016

In compliance with the Colorado Common Interest Ownership Act, the Eagle Trace Homeowners' Association, Inc., (Association), Board of Directors (Board) has adopted a uniform and systematic policy to address the enforcement of the Declaration of Covenants, Conditions and Restrictions, Bylaws, Rules, Regulations, Standards and Policies.

Governing Documents for this Policy are the Eagle Trace Homeowners' Association, Inc. Declaration of Covenants, Conditions and Restrictions, Bylaws, Rules, Regulations, Standards and Policies.

The Board has adopted the following procedures for the Enforcement Policy:

1. **THE ENFORCEMENT PROCEDURE.** The Board shall not impose fees, exercise self-help remedies or commence legal action unless and until The Board has sent notice to the Owner and provided an opportunity for a hearing as provided below.
 - A. **COMPLAINT.** Any Owner within the community may send the Association a formal, written complaint via either electronic mail or regular mail for a non-compliant issue with as much information as is known. Complaints may also be initiated by any member of the Board or of the Architectural Control Committee (ACC). The Board shall have no obligation to consider oral complaints or anonymous complaints. The ACC and Board shall have the authority to determine whether a complaint is justified before continuing with the Notice and Hearing Procedure.
 - B. **NOTICE OF NON-COMPLIANCE.** A Notice of Non-Compliance shall be provided in writing to the applicable Owner as soon as reasonably practical following the receipt of a complaint or discovery by the ACC or Board of such non-compliance. The ACC and Board may also, at its option, provide a copy of such notice to a related non-compliant resident not being an owner but an Eagle Trace resident. The notice shall describe (1) the nature of the non-compliance, (2) the possible fee that may be imposed and or (3) the legal action that may be taken, (4) the right to request a hearing before the Board to appeal the non-compliance and possible non-compliance fee, and (5) may further state the ACC and Board may seek to protect its rights as they are specified in the governing Association documents. All notices shall be delivered by Certified U.S. Mail.
 - C. **REQUEST FOR HEARING.** If an Owner desires a hearing to appeal the non-compliance and possible fees, or to discuss any mitigating circumstances, the Owner must request such hearing, in writing, within fifteen (15) days of the date of the ACC and or Board Notice of Non-Compliance. The request for hearing shall describe the basis for appealing the non-compliance. In the event a proper and timely request for a hearing is not made as provided herein, the right to a hearing shall be deemed forever waived. If a hearing is not requested within the 15 day notification period, the Board shall determine if the non-compliance still exists based on the information available, and if so take the appropriate actions which may include a non-compliance fee. The Board shall give written notice of said actions to the applicable Owner within eighteen (18) days after the fifteen day Hearing response period or after timely owner response via Certified U. S. Mail.
 - D. **BOARD TO CONDUCT HEARING.** The Board shall hear and decide cases set for hearing pursuant to the procedures set forth herein. The Board may appoint an officer or other Association Owner to act as the Presiding Officer at any hearing. The Board shall determine if the non-compliance exists and take appropriate actions.
 - E. **CONFLICTS.** Any Board member who is incapable of objective and disinterested consideration for any hearing before the Board shall disclose such to the President of the Association prior to the hearing, if possible, or if advance

notice is not possible, then such disclosure shall be made at the hearing and the Board member shall be disqualified from all proceedings with regard to the hearing for this Association Owner. If disqualification of any Board member(s) results in an even number of remaining Board members eligible to hear a case, the Presiding Officer may appoint Association members, in good standing, to serve as a voting member for the hearing.

F. HEARING. The Board shall inform the Owner of the scheduled time, place and date of the requested hearing by Certified U.S. Mail. The Presiding Officer may grant continuances for good cause. At the beginning of each hearing, the Presiding Officer shall establish a quorum, explain the rules, procedures and guidelines by which the hearing shall be conducted and shall introduce the case to the Board. The Owner and any complaining parties shall have the right, but not the obligation to attend the hearing. Each party may present evidence, testimony and witnesses. The decision of the Board at each hearing shall be based on the matters set forth in the Notice of Non-Compliance and Request for Hearing and such evidence as may be presented at the hearing. Unless otherwise determined by the Board in accordance with the terms of the Colorado Common Interest Ownership Act, all hearings shall be open to attendance by all Association Owners/Members. If a complaining party is unable to attend the Hearing, they may submit a letter to the Board explaining the basis of the complaint.

G. DECISION. After all testimony and evidence have been presented to the Board at a hearing, the Board shall render its written findings and decision, and take the appropriate actions within eighteen (18) days after the hearing. A decision, either a finding for or against the Owner, shall be by a majority vote of the Hearing members present. The Hearing Board shall give written notice of said findings and decision to the applicable Owner within the eighteen (18) days after the Hearing delivered by Certified U.S. Mail.

2. NON-COMPLIANCE FEE SCHEDULE.

A. See attached Non-Compliance Fee Schedule for the fees that may be levied for non-compliance. A \$25 per day non-compliance fee may be levied where the non-compliance continues and does not come into compliance, or is repeated within a one year period. The Hearing Board may waive all, or any portion of the fees if, in its reasonable discretion, such waiver is appropriate under the circumstances. Additionally, the Hearing Board may condition waiver of the entire fee, or any portion thereof, upon the non-compliant resident/ owner coming into compliance with the governing documents for the Association.

B. All non-compliant fees shall be due and payable upon notice of the fee and will be late if not paid within 30 days of the date the non-compliant Owner is sent the notice of the fee by Certified U.S. mail. All fees shall be considered a part of the Maintenance Charge and may be collected as set forth in the Association documents. Fees shall be imposed in addition to all other remedies available to the Association pursuant to the terms herein, the related Association documents and Colorado law, including the Association's right to collect attorney fees as authorized by the Association documents and Colorado law.

3. LEGAL ACTION. The Association may pursue legal action against a non-compliant Owner to enforce the Association documents without first levying a fee, if the Board determines that such action is in the Association's best interests. The non-compliant Owner will be given notice and an opportunity for a hearing before legal action is commenced.

4. FAILURE TO ENFORCE. Failure of the Association to enforce the Association documents will not be deemed a waiver of the right to do so for any subsequent non-compliance or of the right to enforce any of the Association's governing documents.

5. DEVIATIONS. The Board may deviate from the procedures set forth in this Enforcement Policy if in its sole discretion such deviation is reasonable under the circumstances.


6. AMENDMENT. This policy may be amended from time to time by the Board.

7. ENFORCEMENT AND ATTORNEY'S FEES. In accordance with the Association's governing documents, it is hereby declared to be the intention of the Association to enforce the provisions herein by any and all means available to the Association at law or in equity, and to seek recovery and reimbursement of all attorney's fees, Association expenses and costs incurred by the Association in connection therewith.

IN WITNESS WHEREOF, the undersigned certify that this Enforcement Policy amended the previous Policy dated March 16, 2016 and was adopted by resolution of the Board of the Association on the 24th day of March 2016.

EAGLE TRACE HOMEOWNERS' ASSOCIATION, INC.

ARCHITECTURAL CONTROL COMMITTEE

By 
C D Boyd, President

By 
Charlotte Santoro, Chairperson

By 
Judy Shuster, Secretary

NON-COMPLIANCE FEE SCHEDULE (for continuous non-compliance and or repeated within one year period):

First Notice: Association Notification of Non-Compliance.

Second Notice: \$ 50 Fee within 15-30 days of the First Notice.

Third Notice: \$100 Fee within 15-60 days of the Second Notice.

A \$25 per day fee may be assessed if the non-compliance continues and does not come into compliance.

If the non-compliance is not cured in a timely manner in the discretion of the Board, a lien may be placed on the subject Property.

GOVERNING DOCUMENTS:

Eagle Trace Homeowners' Association, Inc. Declaration of Covenants, Conditions and Restrictions, Bylaws, Rules, Regulations, Standards, Policies and Colorado Law.

EXAMPLE CASE.

xx/xx/xx -- Written compliant received by ACC/Board

aa/aa/aa -- ACC/Board determine compliant for non-compliance is justified.

bb/bb/bb-- Notice of non-compliance sent to owner via certified mail. (Also send via regular mail and email (where applicable). Regular mail and email not required.

This is the First Notice from the Association.

The owner has 15 days to respond to the Association from bb/bb/bb.

Option 1- Owner responds and corrects non-compliance within the 15 day period. End of case.

Option 1.1- Owner responds and requests 15-45 days to correct the non-compliance. Does not request hearing. Hearing waived. ACC/Board grants request. ACC/Board monitors non-compliance correction. If not corrected in 45 days process continues. If corrected end of case.

Option 2- Owner does not respond within the 15 days. Hearing waived. Process continues.

Option 3- Owner responds and refuses to correct compliance. Does not request hearing. Hearing waived. Process continues.

Option 4- Owner responds and requests hearing to appeal the non-compliance. Process continues.

Under Option 1.1, 2 and 3 the ACC/Board determines the appropriate actions to be taken and sends a Notification of Association Actions to the Owner via Certified Mail, regular mail and email within 18 days after the 15 day owner response period or 18 days after the date the owner responds.

The Notification of Association Actions provides 15 days for the Owner to respond or comply. If no Owner action the Association will take the actions stated in the Notification and proceed with the Enforcement procedures.

Under Option 4 the ACC/Board sets a time, place and date for the hearing and notifies the owner of such hearing date within 18 days of the Owner response date.

The Hearing takes place. The Board determines its findings and decision and informs the Owner within 18 days of the Hearing date.

