

THE CONSERVATORY HOMEOWNERS ASSOCIATION, INC.
AMENDED POLICY REGARDING ENFORCEMENT OF COVENANTS AND RULES,
INCLUDING NOTICE AND HEARING PROCEDURES AND FINE SCHEDULES

Effective: August 10, 2022

The Association adopts the following enforcement policy to replace all pre-existing policies related to the enforcement of covenants and rules inclusive of required letters, hearing procedures and fine schedules and for any and all violations or noncompliance of the Association's Declaration, Articles of Incorporation, Bylaws, Rules and Regulations, Design Guidelines, or policies and procedures (collectively the "Governing Documents").

Enforcement Procedure

1. *Manner of Enforcement.* All enforcement actions will be consistent and not arbitrary or capricious.
2. *Community Inspections.* The Board of Directors (Board) or the management company will conduct periodic routine inspections of the community to identify noncompliance with the Governing Documents. The Board and management company will determine the frequency of such inspections.
3. *Complaints.* Any Owner or resident of the community may file a written complaint or petition with the management company. Non-written 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. If the written complaint meets the below criteria, the reported noncompliance will be noted for investigation and action during the next routine inspection. Written complaints or petitions regarding nuisance and/or noise violations, which meet the below criteria will be investigated and acted upon by the Board and/or management on a case-by-case basis:
 - The complaint must identify the complainant.
 - The complaint will clearly identify the noncompliant issue and the section of the Governing Documents that have been violated.
 - The complaint must include the address of the person who is noncompliant (if known).
 - The complaint must include the date(s) and time(s) the noncompliant issue was observed.
 - The complaint should include a photograph or other visual evidence of the noncompliance.
4. *Public Safety/Health Violations.* Public Safety/Health Violations shall be determined by the Board of Directors. Violations of this nature shall only be acted upon by management at the direction of the Board. The Board may identify an individual board member, officer or committee member to represent and report such types of violations to management. Upon receipt of a report from the Board, management will issue a violation letter to the Owner of record via certified mail. The letter will be sent to the mailing address registered with the Association, and if none, to the property address.

The letter will describe the nature of the violation as well as the schedule of letters & actions set forth in Section 6 below. The Owner has a duty to cure the noncompliance issue and respond to the violation letter within seventy-two (72) hours from the date of the letter. Curing the noncompliance issue via written response to management should include visual evidence. Failure by the Owner to cure the noncompliance issue will result in re-inspection and if the noncompliance is found to be continuing, the matter may be sent to the Association's attorney for additional remedy pursuant to the schedule of letters & actions set forth below.

In the event the Owner submits visual evidence of a cured noncompliance issue, the Association will re-inspect the item within five (5) business days from the date of the violation letter and will send a violation cured confirmation letter to the Owner of record pursuant to the schedule of letters & actions identified further below.

5. *All Other Violations (Violations That do not Threaten Public Health or Safety)*. A courtesy letter will be sent to any Owner of record wherein a noncompliance is found to be occurring pursuant to the schedule of letters & actions set forth in Section 7 below. The letter shall be sent via certified mail. The letter will be sent to the address registered with the Association, and if none, to the property address of the Association for that Owner. The letter will state the details of the noncompliance issue as well as include the schedule of letters & actions noted further below. The Owner must cure the noncompliance and respond to the courtesy letter within thirty (30) days from the date of the letter, in writing, to the management company. Curing the noncompliance issue should include visual evidence.

If an Owner cures the violation within the required cure period, the Owner may notify the Association in writing, including visual evidence that the violation has been corrected. If the Owner provides visual evidence of the cure, the violation will be deemed cured on the date the Owner sends the notice. If the Owner does not provide visual evidence of the cure, the Association will inspect the property as soon as practicable to determine if the violation has been cured. If the visual evidence provided is insufficient for the Association to determine if a violation has been cured, at the Association's sole discretion, the Association can provide notice to the Owner that it intends to inspect the property to verify the violation has been cured.

Failure to cure any noncompliance issue within thirty (30) days will result in a re-inspection of the issue between thirty-one (31) days and thirty-seven (37) days. If the noncompliance remains uncured as of the inspection, a second violation notice (Notice of Possible Fine) will be sent. The letter will state the details of the noncompliance, will include the schedule of letters & actions, and will identify that if the noncompliance is not cured within thirty (30) days from the date of the letter a fine will be assessed. Should the Owner cure the violation within the required cure period of the possible fine letter, no fine will be assessed to the Owner's account.

If the noncompliance is not cured within thirty (30) days from the date of the fine letter the matter will be sent to the Association's attorney for additional remedy pursuant to the schedule of letters & actions below.

The Owner may submit a written request for a hearing to the management company. The written request for hearing must be submitted within ten (10) days from the date of either the courtesy letter or the fine letter. In the event a request for a hearing is received within the given time line a hearing confirmation letter will be sent to the Owner at least ten (10) days prior to the hearing date

Schedule of Letters & Actions – Public Health and Safety Violations

6. *Notices*. The Association will send notice(s) of any asserted violations that threaten the public health or safety as follows:

(a) *First violation – Violation Letter of noncompliance issue to Owner*. Owner has seventy-two (72) hours to cure the noncompliance. Letter of cure to the Association should include visual evidence and be sent, in writing, to the management company. If the violation is uncured following the seventy-two (72) hour cure period, the Association may fine the Owner not more frequently than every other day up to a maximum of \$25 for the violation.

(b) *Second violation (of the same covenant or rule) - Letter of Legal Action to Owner.* This letter is optional and may contain additional information and deadlines to the Owner relative to the noncompliance. If the Owner does not comply with the requests in the notice, then information related to the noncompliance will be turned over to the Association's attorney to take appropriate legal action, or other available remedies may be pursued.

(c) *Violation cured by Owner – Violation Cured Confirmation letter to Owner upon re-inspection confirming the same.* This letter will notify the Owner that the violation cure has been confirmed and the record is being closed. If any fines were assessed, the letter will notify the Owner that they will not be further fined regarding the violation and will provide the Owner with information as to paying any outstanding fine balance that is owed to the Association for such violation.

Schedule of Letters & Actions – All Other Violations

7. *Notices.* The Association will send notice(s) of any asserted violations that do not threaten the public health or safety as follows:

(a) *First violation – Courtesy Letter to Owner.* Owner has thirty (30) days to cure the noncompliance. The notice will include the next action identified in the Schedule of Letters & Action should the violation not be cured by the Owner within the thirty (30) days set forth in the letter. Letter of cure to the Association should include visual evidence and be sent, in writing, to the management company. Owner may submit a request for a hearing within fifteen (15) days of the notice being sent pursuant to Section 8 below.

(b) *Second violation (of the same covenant or rule) – Notice of Possible Fine Letter to Owner.* Owner has thirty (30) days to cure the noncompliance. Letter of cure to the Association should include visual evidence and be sent, in writing, to the management company. Should the Owner cure the violation within the thirty (30) days set forth in the letter, no fine will be assessed to the Owner's account. Should the Owner request a hearing pursuant to Section 8 below, the fine will be stayed until the hearing has been completed and a decision has been rendered by the Association to the Owner.

(c) *Third violation (of the same covenant or rule) – Fine Letter to Owner with fine in the amount of \$200.00.* Fine Letter will include notice that all information related to the noncompliance will be turned over to the Association's attorney to take appropriate legal action, or other available remedies may be pursued in addition to the fine assessment.

(d) *Violation cured by Owner – Violation Cured Confirmation letter to Owner upon re-inspection confirming the same or upon receipt of notice of the cure, with visual evidence of the cure, from the Owner, as applicable.* If a fine has been assessed prior to the cure, the letter will notify the Owner that they will not be further fined regarding the violation and will provide the Owner with information as to paying any outstanding fine balance that is owed to the Association for such violation.

(e) *Request for hearing submitted by Owner – Hearing Confirmation letter to Owner at least ten (10) days prior to the scheduled hearing date.*

Hearing Procedures

8. *Request for Hearing.* If an Owner desires a hearing to contest any alleged violation and possible fine or to discuss any mitigating circumstances, the Owner must request the hearing, in writing, prior to the deadline stated in the notice of violation. The request for hearing should describe the grounds and basis for challenging the alleged violation or the mitigating circumstances. If a timely request for a hearing is not made, the right to a hearing is deemed forever waived. If a hearing is not requested by the

deadline, the hearing board will determine if there was a violation based upon the information available to it, and if so, assess a fine as set forth herein.

9. *Hearing.* Any Owner who desires a hearing will be afforded a fair and impartial fact-finding process by "impartial decision makers" (persons with authority to make a decision on a claimed covenant, rule, or architectural violation and without a direct personal or financial interest in the outcome of the hearing). The Board will notify the Owner of the scheduled time, place, and date of the requested hearing. At the beginning of each hearing, the presiding officer will explain the rules, procedures, and guidelines by which the hearing will be conducted. The complaining parties and the Owner will have the right, but not the obligation, to attend the hearing. Each party may present evidence, testimony, and witnesses. The decision will be based on the matters set forth in the notice of alleged violation, request for hearing, and evidence as may be presented at the hearing. Unless otherwise requested by the Owner, all hearings will be conducted during executive session. If a complaining party is unable to attend the hearing, the complainant may submit a letter to the hearing board explaining the basis of the complaint.

10. *Decision.* After all testimony and other evidence has been presented to the hearing board, it will render its written findings and decision, and impose a fine, if applicable, upon expiration of any applicable cure period(s). A decision, either a finding for or against the Owner, will be by a majority vote of the hearing board.

Additional Enforcement Rights

11. Subject to the provisions in the Declaration and CCIOA, the Association may take any or all of the following actions: (i) levy a Reimbursement Assessment as provided in the Declaration; (ii) suspend the Owner's voting privileges as further provided in the Declaration; (iii) enter upon the Lot (but not the residence) or Limited Common Elements to make necessary repairs, or to perform maintenance which, according to the Declaration, is the responsibility of the Owner; (iv) record a notice of violation with county Clerk and Recorder; (v) suspend or condition the right of said Owner to use any Common Elements (e.g., recreational facilities); (vi) or take any other action authorized by the Declaration or Colorado law.

General Provisions

12. All letters sent in accordance with this policy will be sent via certified mail. Additional copies may, but are not required to, be sent any of the following means: (i) first class, registered or certified mail; (ii) email; or (iii) personal delivery.

13. Enforcement costs imposed by the Association or its managing agent, related to covenant and rule enforcement will be the obligation of the Owner and may be posted to the Owner's account. Examples include but are not limited to, certified mailing costs.

14. Any actions which, in the opinion of the Board of Directors or the Association's Insurance Agent, adversely affect or compromise the Association's insurance coverage, policy or premiums, will be considered a violation of the Association's Governing Documents.

15. Any noncompliance of the Governing Documents by any Owner, tenant, guest, family member, or invitee or licensee of an Owner, will be the responsibility of the Owner.

16. Failure to notify or enforce any provision of the Governing Documents will not be deemed a waiver of the Association's ability to enforce any provision of the Governing Documents at a later time.

17. All of the Association's Governing Documents will be severable, and if one or more are found to be invalid, all others will remain in full force and effect.

**RESOLUTION OF THE BOARD OF DIRECTORS OF
THE CONSERVATORY HOMEOWNERS ASSOCIATION, INC.**

Pursuant to the requirements of CCIOA and HB22-1137, the Board of Directors of The Conservatory Homeowners Association, Inc. (the "Association"), hereby adopts the foregoing policy. This policy supersedes all previous policies related to the enforcement of covenants and rules, including letter and hearing procedures and any schedule(s) of fines.

BE IT RESOLVED, that the Association approves the "Amended Policy Regarding Enforcement of Covenants and Rules ", _____.

By: _____

Its: _____

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BE IT RESOLVED, that the Association approves the "Amended Policy Regarding Enforcement of Covenants and Rules", Aug 11, 2022

By: *Helene Gardeni*

Its: *President*

