

Woodmoor Improvement Association Covenant Enforcement Policy and Fine Structure

Excerpt from Woodmoor Improvement Association Rules and Regulations Parts I, II and III,
Page 15

PART II. ENFORCEMENT OF COVENANTS

SOURCE: Article VI and the Colorado Common Interest Ownership Act ("CCIOA"), which specifically grants to homeowners associations, such as the WIA, the power to impose reasonable fines for violation of the Covenants, By-laws and Rules and Regulations of the Association.

The following rules shall apply to any alleged violation ("violation") of the Covenants, the WIA's By-laws and Rules and Regulations, except and excluding non-payment of assessments or other money due to the Association. The *Design Standards Manual (Rules & Regulations, Part IV)* contains details of the additional enforcement procedures with regard to the ACC and covenant violations arising out of new construction or remodeling.

A. COMPLAINT

Complaints of any violation shall be communicated to the WIA Board of Directors or WIA staff in writing, in person, by email, or by telephone. The Director of Covenant Enforcement (DCE), a WIA employee, or a Board of Directors member appointed by the DCE may initiate and investigate complaints. A complaint that is initiated by a WIA employee or the DCE is considered investigated at the time the violation is noted. A form that summarizes the alleged violation and extracts the pertinent information shall be filled out by the person complaining or by the WIA staff. The DCE will be the complaining party as to all covenant violations that have been brought to the attention of the WIA. The WIA staff is authorized by the Board of Directors to contact the property owner who is the subject of the complaint. The WIA will endeavor to protect the confidentiality of persons alerting the WIA to covenant violations. Letters alerting the ACC to concerns regarding new home construction will be disclosed to the homeowner and/or builder, if requested, and such letters will be part of the lot files and not subject to confidentiality during the construction of the home.

Owners shall be jointly and severally liable for violations committed by their contractors, agents, guests, or tenants. The Board of Directors may proceed against the owner and the contractor, agent, guest, or tenant, simultaneously or separately, and actions against one shall not bar action against the others. The Board of Directors may contact law enforcement authorities, any regulatory or licensing authorities or other third parties regarding the alleged violation, but any action or decision by those parties shall not bar the Board of Directors from proceeding with covenant enforcement action.

B. ENFORCEMENT

After a complaint is received and investigated, following the procedures previously listed, WIA will notify the owner who is the subject of the complaint. Enforcement procedures vary according to the specifics of the violation, subject to the following guidelines.

1. **Serious/Immediate Risk Violations:** When a violation concerns a serious immediate situation for person or property the WIA will seek to obtain prompt action by the alleged violator to correct and avoid any recurrence. Examples include, fireworks, open fires, menacing or attacks by dogs, et cetera. Owners will be contacted, and a hearing scheduled as soon as possible.
2. **Irreversible Violations:** When a violation has occurred, which cannot be mended, WIA will notify the owner of a hearing that will determine the amount of a possible fine, or other action, for the violation. Examples include unauthorized cutting of trees, noise disturbances, et cetera. Owners will be contacted and a hearing scheduled as soon as possible.
3. **Easily Remedied Violations:** When a violation can be remedied by quick action, WIA will contact the owner and warn of a short term notice period, usually twenty four (24) hours to seven (7) days, during which the violation must be cured. Examples include, barking dogs, vehicle and sign violations, refuse and rubbish, et cetera. Owners may receive a warning by mail, phone, e-mail, or in person, advising of the violation, the time to correct, and further action should they fail to act. Violations that remain uncorrected after the notice period or those violations that are corrected but then subsequently recur will trigger a notice of hearing before the Board of Directors. Such hearings will be scheduled as soon as possible.
4. **Other Violations:** When a violation may reasonably require thirty (30) days or longer to remedy, WIA will warn the owner of the violation and establish a notice period during which the violation must be cured. Examples include ACC violations, tree and slash removal, et cetera. Violations that remain uncorrected after the notice period or those violations that are corrected but then subsequently recur will trigger a notice of hearing before the Board of Directors. Such hearings will be scheduled as soon as possible.
5. **Repeat Violations:** If a violation recurs after a fine or other action has been imposed, no warning notice will be made and such violation will trigger a notice of hearing before the Board of Directors. Such hearings will be scheduled as soon as possible. At such hearing, an escalating fine schedule or other action may be imposed, the general guideline to be at least a doubling of the prior penalty.
6. **Following a hearing, in which a fine is levied, such fine may be appealed to the Board of Directors within ten (10) days of the issuance of the fine. Any**

appeal must be made in writing to the WIA office and will be scheduled for a hearing with the Board of Directors.

C. HEARINGS

When a hearing is necessary, the WIA shall send to the owner a written notice that a hearing on the complaint may be held and that fines may be imposed at the hearing. Such notice shall be sent via regular mail or by hand delivery. The notice shall indicate the time and place of the hearing, and any other information regarding violations and fines that the Board of Directors deems appropriate. The notice shall be deemed received by the alleged violator seven (7) days after mailing. The complaining resident may be given a copy of the notice of the hearing date.

At the hearing, the Board of Directors may consider any oral or written or other information from the alleged violator, the complaining party or any other concerned resident of Woodmoor. No legal or statutory rules of evidence or procedure apply to the hearing, and the Board of Directors may restrict testimony or proceed in any manner or order that it deems appropriate in its discretion. The Board of Directors may tape record or otherwise transcribe the hearing. The Board of Directors may proceed with the hearing even if the alleged violator fails to appear or refuses to participate or to submit information. The alleged violator may appear by himself or with an attorney and may cross-examine any witnesses and evidence presented. After hearing all information, witnesses or documents presented at the hearing, the Board of Director's decision shall be made by a majority vote of the Board of Directors members present for the hearing and a brief summary of the decision and sanction, if any, shall be sent by regular mail to the alleged violator. The Board of Director's decision shall be final and conclusive on all parties and matters, except for instances of fraud or gross negligence.

D. FINES AND SANCTIONS

The WIA Board may impose fines and/or require restitution and/or other enforcement remedies, et cetera for any violation of the covenants, By-laws or Rules and Regulations. Each incident or each day of a continuing violation, may be considered a separate violation for which any maximum fine may be imposed. Any fine shall be a personal obligation of the owner, contractor, guest, family member and/or resident and may be recorded against the property creating a lien against the property, which may be foreclosed. The Board may notify any lender or credit agency of such obligation and lien.

E. ENFORCEMENT BY COURT ACTION

At the Board of Director's discretion, correction of a violation may be enforced through courts of law or equity; such enforcement may be independent, concurrent or subsequent to the imposition of fines. Whenever a violation is not corrected, or a formalized plan of compliance presented and approved by the

Board of Directors or ACC, the Board of Directors may refer the matter to the Association's attorney for further action and court proceedings.

F. RECOVERY OF EXPENSES AND ATTORNEY FEES

In any court action or other proceedings to enforce or defend the covenants, the rules or otherwise to address a violation by an alleged violator, the WIA shall be entitled to assess and recover its expenses, including that of reimbursement for staff time and expenses as well as attorney fees and costs against the owner, alleged violator and/or other party in addition to all other rights and remedies.

G. SUBSTANTIAL COMPLIANCE

Technical irregularities or defects in the complaint, notice or other compliance with this rule shall not invalidate the proceedings or any fine or sanction imposed. This rule is to be liberally construed to accomplish prompt, effective enforcement of Woodmoor covenants, By-laws and Rules and Regulations.

H. TIME LIMITS

Enforcement of violations of the Covenants, By-laws or Rules and Regulations is not waived by any prior non-enforcement and the WIA may enforce its rights and remedies, including its lien for a period of not less than six years from the date it discovers the violation.

Note: Fine Schedule Attached as separate document due to Page set-up