

Eagle Pointe Homeowners' Association, Inc.,

The Association of Homeowners for Melvin's Eagle Pointe Subdivision

Enforcement Policy Effective March 1, 2017

Background

The Board desires to update its rules and to adopt a clear policy and procedure for enforcing rules, covenants and restrictions in accordance with Idaho law. The Board finds that it is in the best interest of the Association and all of its members to use a standardized enforcement procedure to enforce the provisions of the covenants and restrictions; and to communicate a clear enforcement policy to all members and enforce it even-handedly and consistently.

Legal Authority

The Association was organized March 22, 1991. The Association's authority derives from the *Master Declaration of Covenants, Conditions and Restrictions for Melvin's Eagle Pointe Subdivision*, Recorded as Instrument 9114059, pages 1285001095 to 1124 in the Records of Ada County (the "Declaration").

The Association can adopt and enforce rules and regulations (including fines) pursuant to Article I, Section 1.4, Article IV, Sections 4.5.1.2, 4.5.1.4, and 4.5.2.5.

Idaho's HOA Fine Statute authorizes the Association to take legal action and impose and collect assessments for costs and legal fees incurred so long as the following process is adhered to. I.C. §55-115. This law has been amended so as to be effective July 1, 2016. This new policy is in the best interest of the Association to comply with that change in the law.

Procedure

This policy shall be effective March 1, 2017. A copy of this notice of rule change shall be kept in the Association records, available for inspection. Further, the Board shall arrange to have this written policy distributed to each member and resident.

Standing Instructions to Agent

The Board may designate in writing (including by management contract) an agent authorized to initiate enforcement actions and send notices to members on its behalf. No other person may do so. The Board, in its discretion, may conduct inspections, contract for its agent to regularly inspect for violations, or may respond only to reports from members.

The agent may schedule a meeting up to once a month as needed, but shall use regularly-scheduled board meetings whenever they are available within the time required. The agent may rely on the last notice of upcoming meetings when giving notice to violation offenders of their hearing date.

The Board may adopt a written list of violations that should always be considered "Actionable." Any violations not on the list shall be referred to the Board. The Board shall adopt a written list of fines to be kept in the Board records. Any unlisted violation shall be referred to the Board.

No fine money shall increase the remuneration of any Board member or agent of the Board.

Board Waiver of Enforcement Meeting Notice

The Board consents to the following procedures for a special board meeting regarding pending violations only. Each member of the Board will keep a current phone number and email address on file with the Board. For the limited purposes of these enforcement and violation matters under this Policy, each member of the Board consents to receive notice by email or phone of meetings and to hold meetings by email or phone. Where contact is required here by phone, it means an in-person conversation, not a message left with another person or recording.

The Board may meet at the scheduled time by email or phone and decide on pending violations.

On or before the day set for the meeting, the director or agent running the meeting shall email or convey by telephone the updated status of each violation that is undisputed, currently unresolved and requiring further action to each member of the Board and recommend the next step to be taken. If this is done, each Board member agrees that the meeting requirement has been met.

This process for remote meetings shall only be approved for violations and fines under this Policy, and for no other meeting purposes. A copy of all such email approvals and minutes of meetings shall be kept in the records of the Board.

Compliance Process To Be Followed By the Board Or Its Agent

A. Initiation of Process

1. A written report of any violation of the Declaration to the Board (or its agent) or noncompliance with a deadline set by a prior violation notice shall initiate the enforcement process.
2. The Board (or its agent) will first review any report of violation to establish that it appears reliable and contains details sufficient to proceed.
3. Written violation reports should include time of violation, place, and photographs whenever possible.
4. The Board (or its agent) shall determine if the alleged violation is Actionable or Non-Actionable and follow the appropriate procedure.
5. A list of Actionable and Non-Actionable violations shall be developed by the Board. It shall include a standard determination of how many friendly notices or warnings that should be given for each type of violation, and how much time should be given the owner to cure the violation.
6. The Board (or its agent) shall keep a record of any determination that a violation is Actionable.
7. For each type of violation

B. Non-Actionable (Informal) Procedure

1. Review the list of violations to determine number of notices to be sent and time to cure. If no standard is listed, determine if standards for this type of procedure are needed and adopt them going forward. Otherwise determine a reasonable deadline to cure and decide how many warning will be given.
2. Set a deadline to cure based on the adopted standard or deadline.
3. Give written notice by personal service, posting on the door of Property, or by first class U.S. mail to the member at the member's last known address. This "friendly notice" shall:
 - i. Describe the violation.
 - ii. Request actions to resolve the violation.
 - iii. Set a reasonable deadline for compliance (at least 10 days).
 - iv. Provide a contact for questions.
 - v. Explain that repeated failure to resolve pending violations can lead to a fine or legal action, and that all legal costs and fees will be assessed against the member.
4. Keep a record of the original violation, including a photograph if possible.
5. If the deadline is not met, and the standard number of warnings have not been sent, initiate the process again with documentation of the first violation and the continuing violation.

C. Initiating an Actionable Violation

1. The Board or its agent shall determine that a violation is Actionable if:
 - i. The member has repeatedly been issued notices for the same violation without resolving the violation;
 - ii. The violation is considered in the judgment of the Board or its agent to be an emergency, or may result in permanent or irreparable harm (for example, construction of an unimproved improvement or a violation that could lead to bodily harm or damage to person or property); or
 - iii. The violation appears on the list of Actionable Violations or Fines currently adopted by the Board (to be kept in writing in the agent's office).

2. If a violation is determined to be actionable, the Board or its agent shall provide written notice by personal service (hand delivery) or certified mail (return receipt requested) to the member at the member's last known mailing address. This notice shall:
 - i. Tell the member that the violation is one for which a fine and/or legal action may be taken.
 - ii. Describe the violation and include a call to action.
 - iii. Describe the fine amount, if any.
 - iv. Explain that legal action may cost hundreds of dollars, if it is taken.
 - v. Give notice of the date of the Board's next meeting that is at least thirty (30) days from the date of service of the Notice ("Hearing Meeting").
 - vi. Give notice that the Board will vote to approve the fines or pass the violation on for legal action at the Hearing Meeting, unless the violation is fully resolved or partially resolved in good faith prior to or at the Hearing Meeting.
 - vii. Give notice that this is the member's opportunity to resolve the violation without legal or other action such as fining, and give instructions to contact the Board or agent in writing (including email) to negotiate a resolution prior to or at the Hearing Meeting. Explain that if the member fails to contact the Board or agent in writing, the member will be deemed to not dispute the violation notice and waive any further rights to negotiate or mediate the claim.

3. Hold the Hearing Meeting as scheduled. At the Hearing Meeting, the Board shall:
 - i. Review all undisputed, actionable violation notices given at least thirty (30) days prior to the Hearing Meeting and all pending, undisputed and unresolved violations.
 - ii. Review any information submitted by the member for the Hearing Meeting.
 - iii. Review the Board or its agent's determination if the violation is fully resolved, partially resolved, or unresolved. For each partially or temporarily resolved violation, set a time to follow-up and determine if

the member has continued to address the pending violation in good faith until fully resolved. This may be at the next regular Board meeting or sooner if required.

- iv. Review the Board or its agent's recommendation to fine or not. If so, at what rate, and up to what limit before taking further action.
 - v. Review the Board or its agent's recommendation to take legal action or not, including by a legal warning letter or by self-help.
 - vi. By majority vote, decide whether to take the recommended action.
4. Notify the appropriate parties.
- i. Notify the member if the violation has been resolved, letting them know that no fine or charge has been imposed.
 - ii. Notify the member if fining has commenced and give the member notice of the rate of fines, the maximum fine before legal action will be taken, and how the member can resolve the violation.
 - iii. Notify legal counsel if the Board has decided to take legal action or corrective (self-help) action. Assess the member for the costs of enforcement as they are incurred. Legal counsel shall notify the member.

ADOPTED ON THE 6th day of February, 2017.

THE BOARD

I hereby certify that this procedure was adopted by the vote of the Board at a properly-called meeting of the Board of Eagle Pointe Homeowners' Association, Inc.

Jana Servatius

Name:

Secretary/Treasurer

I further attest that this procedure was adopted by the vote of the Board at a properly-called meeting of the Board of Eagle Pointe Homeowners' Association, Inc.

Joseph D. Reynolds
Name
Title: President

Appendix

List of Actionable Violations

As of the date of this procedure, the following are fineable violations.

Fines	Amount/Per	Maximum
Landscaping Front or Back Yard	\$35/week	\$750
Exterior Maintenance	\$35/week	\$750
Nuisances	\$50/week	\$500
Vehicles & Equipment	\$50/week	\$500
Signs	\$35/week	\$105
Improvements	\$50/week	\$750

Hearing Meeting Checklist

Meeting Date/Time:

Owner Name:

Owner Address:

Description of Violation:

Date Notice of Actionable Violation was Sent:

Amount/Rate of fine:

Violation Disputed: [Y/N]

Hearing requested in person: [Y / N]

Information (regarding violation or compliance) has been provided by Owner: [Y / N]
(Attached)

Suggested Next Step: [No Action, Another Warning, Legal Action, Fine]

Board Decision:

Date Notice of Board Decision Sent: