

The Peaks at Aspen Glen Homeowners' Association, Inc.

Enforcement Policy

In compliance with the Colorado Common Interest Ownership Act, The Peaks at Aspen Glen Homeowners' Association, Inc. (the "Association"), through its Board of Directors (the "Board"), desires to adopt a uniform and systematic policy and procedures for the enforcement of Association policies and fines. This policy is intended to comply with C.R.S. § 38-33.3-209.5(1)(b)(IV) and (2).

As a supplement to the Declaration, the Association hereby adopts the following policy and procedures to address the enforcement of the Association's Declaration, articles of incorporation, bylaws, rules, regulations, policies and/or procedures (collectively, "Governing Documents") and imposition of fines:

- A. Report of Possible Violation: Upon observation of a possible violation of the Governing Documents, an Owner, a person, or entity may contact the Board of Directors by writing a letter or sending an email to the President of the Board of Directors ("Report"). The Report shall include all or some of the following:
 - a. Date and time of violation;
 - b. Description of the observed behavior; and
 - c. Visual evidence of the violation, if feasible.

The Board will confirm receipt of the correspondence from the reporting homeowner.

- B. Investigation: Upon receipt of the Report, the Board of Directors will make reasonable efforts to investigate the content of the Report, confirm that evidence of a violation is existing or did at one time exist, and identify a responsible Owner. In performing this investigation, the Board shall, in its discretion, make a reasonable determination as to whether the violation threatens public safety or health.
- C. Violations Threatening Public Safety or Health: Upon conclusion of the investigation, where the Board has reasonably determined that the violation threatens public safety or health, the Board will proceed as follows:
 - a. Notice: The Board shall deliver written notice to the Owner that the Owner has seventy-two (72) hours to cure the violation or the Association may impose fines upon the Owner. The notice must be sent in English, and the language that the Owner has previously indicated a preference for correspondence and notices.
 - b. Inspection and Cure: The Owner shall have seventy-two (72) hours to cure the violation. Upon the expiration of this cure period, the Association shall inspect the property and determine whether the Owner has cured the violation.

- c. Fines: If the Owner has not cured the violation within seventy-two (72) hours, the Association shall impose fines upon the Owner at a rate of \$500.00, every other day until the violation is cured.
 - d. Legal Action: In addition to imposing fines, if the Owner has not cured the violation within seventy-two hours, the Association may take legal action against the Owner for the violation for an injunction ordering compliance, prohibiting future occurrences of the violation, for damages, and for any other appropriate relief, but may not foreclose on any assessment lien for fines assessed against the Owner.
- D. Violations Not Threatening Public Safety or Health: Upon conclusion of the investigation, where the Board has determined that the violation does not threaten public health or safety, the Board will proceed as follows: by certified mail, return receipt requested
- a. Notice: The Board shall deliver written notice to the Owner by certified mail, return receipt requested, to the last registered address of the Owner, as contained in the Association's records. The notice must be sent in English, and the language that the Owner has previously indicated a preference for correspondence and notices. The Notice shall include:
 - i. Date and time of the violation;
 - ii. Description of the violation;
 - iii. References to portions of the Governing Documents that the Owner violated or is in violation of;
 - iv. The action(s) required to cure the violation;
 - v. Notice that the Owner has thirty (30) days to cure the violation or the Association may fine the Owner;
 - vi. The fines to be imposed if the violation is not remedied within the cure period, including the interval at which such fines may be assessed if the violation is continuing in nature; and
 - vii. An explanation of the Owner's right to request a hearing, and the timeline for the hearing process described in this policy.
 - b. Inspection and Cure: The Owner shall have thirty (30) days to cure the violation. The Owner may notify the Association of its cure and provide visual evidence of the cure within this thirty (30) day period. If the violation has been cured, such cure shall be deemed cured on the date notice was sent by the Owner. If the Owner notified the Association of its cure, but failed to provide visual evidence, the Association shall inspect the property as soon as practicable to determine whether the violation has been cured. If the Association does not receive notice that the Owner cured the violation, the Association shall inspect the property within seven

(7) days of the expiration of the cure period to determine whether the violation has occurred.

- c. Fines: If the Owner has not cured the violation with thirty (30) days, the Association shall impose fines upon the Owner in accordance with the Fine Schedule listed below. The total amount of fines imposed for each violation shall not exceed five hundred dollars (\$500.00).
 - d. Second Cure Period: If the Owner has not cured the violation within thirty (30) days, the Association shall grant the Owner a second thirty (30) day period before initiating any legal action against the Owner. The Association may impose fines upon the Owner during the second cure period, as described in the preceding paragraph.
 - e. Legal Action: In addition to imposing fines, if the Owner has not cured the violation by the expiration of the second thirty (30) day cure period, the Association may take legal action against the Owner for an injunction ordering compliance, prohibiting future occurrences of the violation, for damages, and for any other appropriate relief, but may not foreclose on any assessment lien solely for fines assessed against the Owner.
 - f. Notice After Cure: Once the violation has been cured, the Association shall provide written notice to the Owner of the outstanding fine balance for the violation, and that no further fines will be assessed for the violation.
- E. Request for Hearing: If an Owner desires a hearing to challenge or contest any alleged violation and possible fine for a violation determined by the Association to not threaten public health or safety, the Owner must request such hearing, in writing, within ten (10) days from receipt of the Notice (“Request”). The Request shall describe the grounds and basis for challenging the alleged violation.
- F. Hearing: Upon receipt of a timely Request, the Board of Directors must stay the imposition of any fines and provide the Owner with an invitation to attend a hearing in front of the Board of Directors (“Hearing”) no less than ten (10) days after receipt of the Request. The Hearing will, at a minimum, afford the Owner the right to appear at the hearing in writing, in person or through a designated representative (including counsel); and present any relevant evidence and witnesses, and cross-examine any witnesses testifying against them. Any party presenting evidence at the hearing must provide copies of any written evidence to the Board of Directors and other parties. Prior to the effectiveness of any fine, proof Notice and the invitation to be heard will be placed in the minutes of the meeting. Such proof will be deemed adequate if a copy of the Notice, together with a statement of the date and manner of delivery, is entered by the officer, Board of Directors member, or agent who delivered such notice. The notice requirement will be deemed satisfied if the alleged violator appears at the meeting. Following the hearing, the Board of Directors, acting by majority vote of the quorum, shall determine if the Owner violated the Governing Documents and the amount, if any, of the fine to be imposed. The Board of Director’s decision after the Hearing will be final. The minutes of the meeting must contain a written

statement of the results of the hearing and the fine, if any, imposed. The Board of Directors will then provide the Owner in violation a written letter or email notice that includes:

- a. A summary of the hearing;
- b. Final determination made by the Board of Directors; and
- c. The amount of any fine to be imposed.

G. Appeal of Hearing: The Board of Directors may, in its discretion, appoint a hearing committee to hear the Hearing (“Hearing Committee”). In such event the above procedure will apply except that either party may appeal the decision of the Hearing Committee to the Board of Directors by written notice to the Hearing Committee, the other party, and the Board of Directors. The Board of Directors will consider the minutes of the hearing and report the decision of the Board of Directors within a reasonable period of time not exceeding sixty (60) days after receipt of the notice. The decision of the Board of Directors will be final.

H. Impartial Decision Maker. Any person or group of persons involved in the enforcement process outlined above must be an “impartial decision maker,” as defined by C.R.S. § 38-33.3-209.5(2)(b). The impartial decision maker must not have any direct personal or financial interest in the outcome. Any impartial decision maker who is incapable of objective and disinterested consideration of any enforcement matter before the Association shall disclose such to the President of the Board of Directors prior to the Hearing, if possible, or at the Hearing, and the person shall be disqualified from all proceedings with regarding the Hearing at issue. If disqualification of the person results in an even number of remaining persons eligible to preside over the Hearing, the presiding officer may appoint an impartial Owner, in good, standing, to serve as a voting member of the Hearing.

I. Fine Schedule: Unless otherwise provided in the Governing Documents, any violation of the Governing Documents determined as not threatening to public health or safety will subject the Owner to a reasonable fine assessment, not to exceed five hundred dollars (\$500.00) per violation, imposed by the Association as follows:

First time:	Warning letter
Second violation:	\$125.00
Third, subsequent and flagrant violations:	\$500.00

J. Continuing Violations: If a violation is one that is continuing in nature, the Association may assess a fine on the offending Owner in intervals of every other day, weekly, or monthly until the fine is abated.

K. Repeat Violations: Repeat violations occurring within the same calendar year of the original violation will be treated as such (without the Association giving another warning) and may be subject to increased fines.


L. Reimbursement Assessment: Any fines, fees imposed or costs and expenses incurred enforcing the Governing Documents may be levied as a Reimbursement Assessment,

pursuant to the Declaration. Except that costs incurred in providing the Owner a statement of the total amount that the Owner owes, shall not be charged to the Owner.

- M. Reimbursement of Fees: If suit is brought, the prevailing party in any such suit shall be entitled to recover reasonable attorney's fees and costs incurred. Notwithstanding this, the Association shall not allocate to the Owner any of the Association's costs or fees incurred for the Hearing, or for costs incurred in providing the Owner a statement of the total amount that the Owner owes.
- N. Association Records: The Association shall maintain records of all contacts between the Association and the Owner in regard to a violation, including the type of communication, the date of the communication, and the time of the communication.
- O. Judgment: Upon entry of judgment against the party violating the Governing Documents, the judgment shall be recorded as a lien against the property involved.
- P. Funds: All funds collected as a result of this procedure shall be deposited in the general account maintained by the Association, and shall be available for use as any other funds in that account, such as, but no limited to, funds collected as the annual assessment of Association Members.
- Q. Replacement. This policy supersedes and replaces prior policies adopted by the Board dealing with the subject matter herein.
- R. Definitions. Unless otherwise defined in this Policy, capitalized terms shall have the same meaning ascribed by the Declaration.
- S. Amendment. This policy and procedure may be amended at any time by the Board of Directors, pursuant to its policies and procedures.

This policy is effective immediately.

The undersigned, being the President of the Association certifies that the foregoing resolution was adopted by the Board at a duly called and noticed meeting of the Board held on this 15th day of November, in the year 2022 and in witness thereof, the undersigned has subscribed his/her name.



President
The Peaks at Aspen Glen Homeowners' Association, Inc.