

**EAGLE RIVER COMMERCIAL CENTER ASSOCIATION, INC.  
POLICY REGARDING ENFORCEMENT OF COVENANTS AND RULES WITH  
RELATED NOTICE, CURE, IMPARTIAL FACT- FINDING PROCEDURES AND  
SCHEDULE OF FINES**

**PURPOSE:** To provide a Policy to comply with recent statutory changes to CCIOA to address Emergent and Non-Emergent Violations, as defined below, of the Governing Documents and assessment of fines (collectively a "*Violation*").

**AUTHORITY:** The Governing Documents and Colorado Law.

The Governing Documents are comprised of:

- a. Condominium Declaration for Eagle River Commercial Center Association, as amended and supplemented ("*Declaration*");
- b. Plat Maps for Eagle River Commercial Center Association, as amended ("*Map*");
- c. Bylaws of Eagle River Commercial Center Association, as amended ("*Bylaws*");
- d. Articles of Incorporation for Eagle River Commercial Center Association ("*Articles*");
- e. Rules and Regulations of Eagle River Commercial Center Association ("*Rules*");
- f. Responsible Governance Policies of Eagle River Commercial Center Association, as required by C.R.S. 38-33.3-209.5 ("*RGPs*").

Colorado Law is comprised of:

1. Colorado Common Interest Ownership Act ("*CCIOA*") codified at C.R.S. 38-33.3-101 et seq.; and
2. Colorado Revised Not for Profit Corporation Act ("*CRNPCA*") codified at C.R.S. 7-121-102 et. seq.

**EFFECTIVE DATE:** DECEMBER 13, 2023.

**RESOLUTION:** Eagle River Commercial Center Association, Inc. ("*Association*") hereby adopts the following Policy Regarding Enforcement of Covenants and Rules with Related Notice, Cure, Impartial Fact-Finding Procedures and of Schedule of Fines ("*Policy*"). This Policy takes the place of any prior policies regarding enforcement and fines. Any undefined term herein shall have the meaning provided for in the Governing Documents.

**I. GENERAL.**

1. Who is Subject. Owners and their Guests are subject to the Governing Documents. Only Owners are entitled to the notice and hearing provisions herein. For purposes of this Policy, the term "*Guest*" shall collectively mean any individual who is present at the Property with the express or implied invitation of an Owner including, without limitation, agents, business invitees, clients, customers, contractors, employees, friends, acquaintances, family members, relatives, renters, lessees, or tenants of Owner or any other person other than an Owner.

2. Conflicts Between Documents. The Governing Documents are intended to be interpreted and read in a harmonious manner to promote organic and fluid governance. In the event of a true conflict between this Policy and the Declaration, Bylaws or Plat Maps (“**Key Governing Documents**”), the Key Governing Documents shall control. In the event of a true conflict between this Policy and Colorado Law, Colorado Law shall govern. In the event of a true conflict between this Policy and any other Governing Documents, the more specific policy or rule shall govern.

3. Inspections. The Association is entitled to inspect a Unit in order to address if a Violation has occurred or has been cured. Owners shall provide the Association with reasonable access to their Unit for such purposes in order to meet any inspection time frames required herein and under Colorado Law.

## II. IMPARTIAL FACT-FINDING PROCEDURES.

4. Owner Complaint. An Owner may submit a written Complaint to the Board of Directors regarding a Violation. No anonymous Complaints will be accepted. The Complaint form can typically be found on the Association website. The Complaint shall not be used for personalized attacks. Only Owner Complaints submitted in this manner will be addressed by the Board of Directors. The Board of Directors will review any properly submitted Owner Complaint as provided for in this Policy. The Complaint shall:

- a. Set forth the nature of the allegations related to the alleged violation along with all facts the Board of Directors should consider including whether the Violation is an Emergent Violation. If not designated on the Complaint form, the Violation shall be deemed Non-Emergent;
- b. Should include any supporting documents; and
- c. Must be signed and dated by the complaining Owner.

5. Board of Directors Action. The Board of Directors may also directly raise and address a Violation per the Governing Documents without receipt of an Owner Complaint.

6. Impartial Fact-Finding Process. Any alleged Violation is subject to the fair and impartial fact-finding process provided for in this Policy in order to determine whether the alleged Violation actually occurred and whether an Owner is the one who should be responsible for the Violation (“**Impartial Process**”). Accordingly, any Owner may take advantage of the Impartial Process by submitting a written challenge to a Violation (“**Challenge**”) in the manner and timeframe provided for in the notice regarding the Violation. Unless otherwise provided in any such notice, the time period for submitting a Challenge is fifteen (15) days from the date the notice of the Violation is deemed served per Paragraph 12, for Emergent Violations, and Paragraph 14 for Non-Emergent Violations. In the event of an Emergent Violation, the Association is entitled take steps to remedy the Emergent Violation if not cured by the Owner per Article III prior to the Challenge process, with the Challenge process then addressing allocation of costs and fines.

7. Challenge Hearing. The Challenge may request a hearing before an Impartial Decision Maker as addressed further in Section II (6) below (“**Challenge Hearing**”). The Challenge shall at a minimum provide for the following:



- a. Owner Name and Unit number;
- b. Basis for the Challenge; and
- c. Whether or not a hearing is requested before an Impartial Decision Maker.

8. Failure to Timely Submit a Challenge. If an Owner fails to timely submit a Challenge, the Board of Directors may proceed with addressing the Violation without conducting a Challenge Hearing.

9. Challenge Hearing. If an Owner timely submits a Challenge requesting a Challenge Hearing, the Board of Directors shall select an Impartial Decision Maker to hear the Challenge. An Impartial Decision Maker ("**Decision Maker**") shall be a person or group of persons who have authority to make a decision regarding the enforcement of the Association's covenants, conditions, and restrictions, including architectural requirements, and other rules and regulations and whom do not have any direct personal or financial interest in the outcome of the Challenge Hearing. A Decision Maker shall not be deemed to have a direct personal or financial interest in the outcome if the Decision Maker will not, as a result of the outcome of the Challenge Hearing, receive any greater benefit or detriment than will the general membership of the Association. The Decision Maker may be a member(s) of the Board of Directors. The Challenge Hearing shall afford the alleged violator a reasonable opportunity to be heard by the Decision Maker. Written documentation may be requested by the Decision Maker or submitted to the Board of Directors for dissemination to the Decision Maker. The Hearing may be held via remote means. Notice of the Challenge Hearing ("**Hearing Notice**") shall provide the time, place and format for the Challenge Hearing, the name(s) of the Decision Maker along with an invitation to the alleged violator to attend the Challenge Hearing and produce any statements, evidence, and witnesses. The Hearing Notice shall be provided to an Owner via certified mail, return receipt requested, to the Owner's mail address on file with the Association and also via e-mail, if the Association has an e-mail address on file because the Owner has provided the e-mail address to the Association.

### III. VIOLETIONS THAT THREATEN PUBLIC HEALTH OR SAFETY.

10. Emergent Violation. If the Board of Directors reasonably determines that a Violation has occurred which threatens public safety or health ("**Emergent Violation**"), a Notice of Emergent Violation shall be provided to the violating Owner ("**Respondent**"). The Notice of Emergent Violation shall:

- a. State the nature of the alleged Emergent Violation;
- b. Provide that the Respondent has seventy-two (72) hours to cure the Emergent Violation (or such longer time as the Board of Directors may determine);
- c. Provide the action(s) required to cure the alleged Emergent Violation;
- d. Set forth the fines and penalties that may be assessed if the Emergent Violation is not timely cured;
- e. Provide the name, address, and telephone number of a person to contact to Challenge the proposed action;
- f. Provide the timeline for the Challenge process including requesting a Challenge Hearing;

- g. If an Owner has indicated a preference for correspondence and notices per C.R.S. 38-33.3-209.5 (1.7) (a)(I) to be provided in a language other than English, the Notice of Emergent Violation shall be provided in English and the preferred language.

11. Failure to Cure. If, after an inspection, the Association determines that an Owner has not cured the Emergent Violation within seventy-two (72) hours after receiving the Notice of Emergent Violation, or such longer time as may have been provided for in the Notice of Emergent Violation, the Association may remedy the Emergent Violation and allocate the cost to the Owner (subject to the Owners right to Challenge the cost allocation), impose fines on the Owner as provided for below, and/or take legal action against the Owner for the Emergent Violation. Foreclosure actions for fines are currently not permitted by Colorado Law.

12. Notice of Emergent Violation. Notice of an Emergent Violation shall be provided to an Owner via e-mail, if the Association has an e-mail address on file because the Owner has provided the e-mail address to the Association. The Association shall also attempt contact the Owner via text message to a cellular number that the Association has on file because the Owner has provided the cellular number to the Association. If the Association does not have an email address on file because the Owner has not provided an e-mail address to the Association, the Notice of Emergent Violation shall be posted upon the Unit door and the Association shall also attempt contact the Owner via text message to a cellular number that the Association has on file because the Owner has provided the cellular number to the Association. If no such cellular number has been provided to the Association, a copy shall be sent via first class mail to the address for the Owner that the Association has on file. Service of the Notice of Emergent Violation shall be deemed to have occurred the day notice is provided per this Section.

#### **IV. VIOLATIONS THAT DO NOT THREATEN PUBLIC HEALTH OR SAFETY.**

13. Non-Emergent Violation. If the Board of Directors reasonably determines that a Violation has occurred which does not threaten public safety or health ("***Non-Emergent Violation***"), a Notice of Non-Emergent Violation shall be provided to the violating Owner ("***Respondent***"). The Notice of Non-Emergent Violation shall:

- a. State the nature of the alleged Non-Emergent Violation;
- b. Provide that the Respondent has thirty (30) days to cure the Non-Emergent Violation, or such longer time as the Board of Directors may provide for in the Notice of Non-Emergent Violation ("***Cure Period***");
- c. That the Association, after conducting an inspection and determining that the Owner has not cured the Non-Emergent Violation, may then fine the Owner, not to exceed \$500.00 total for the Non-Emergent Violation;
- d. Provide that the Association may commence legal action regarding the Non-Emergent Violation if the Non-Emergent Violation is not cured within sixty (60) consecutive days from the date of the Notice of Non-Emergent Violation;
- e. Provide the action(s) required to cure the Non-Emergent Violation. This can include the cure being cited as not having the Non-Emergent Violation occur



























