



Shiloh Estates Homeowners Association

749 South Lemay PMB 147
Fort Collins, Colorado 80524-3251

Fine Policy

1. **Introduction.** The Board of Directors (the “Board”) of Shiloh Estates Homeowners Association, Inc. known as Shiloh Estates PUD Association, a Colorado non-profit corporation (the “Association”) acting pursuant to the powers set forth in the Association’s Bylaws, Articles of Incorporation, the Declarations for Shiloh Estates PUD Association (as amended) (the “Declaration”) (such documents being collectively referred to as the “Association Documents”) and the Colorado Common Interest Ownership Act (the “Act”) has enacted the following Rules and Regulations effective as of the date set forth above. Unless the context otherwise indicates, capitalized words and terms shall have the meanings set forth in the Association Documents and, if not defined in the Association Documents, then as set forth in the Act. These Rules and Regulations super cede any previously adopted Rules and Regulations on the same subject matter.

2. **Fine Policy.** The Association may levy fines for violations of the Association Documents, any other Association Rules and Regulations or any applicable Colorado law in accordance with the following Fine Policy:

2.1 **Preliminary Statement.** To enforce compliance with the Association Documents, any other Association Rules and Regulations or any applicable Colorado law, the Association has instituted this monetary fining policy as allowed by, and in accordance with, the Act. It is not the intent of this policy to serve as a revenue source for the Association. This policy was developed so that the best interests of the Association at large are served.

2.2 **Notice of Violation (“Notice”)** The Notice of Violation process is as follows:

2.2.1 The Association or any member of the Association may note a violation. If noted by a member, the member should report the violation in writing to the Association at the Association’s address.

2.2.2 The Board will verify the violation and issue a written Notice to the violating Owner. The Notice will describe the nature of the violation, the time frame for correcting the violation (expressed as a certain number of days after the effective date of the Notice as determined below), and state that the Association may seek to remedy the violation and otherwise protect its rights as specified in the Association Documents and as provided by law.

2.2.3 The Notice, together with a copy of this Fine Policy, will be sent via U.S. Mail, first class postage prepaid, addressed to the last registered address of the owner as listed in the Association’s records. The Notice will be considered effective seven days after it is deposited in the mail.

2.2.4 The Owner receiving the Notice then has the amount of time specified in the Notice to correct the violation.

2.2.5 If the violation is not corrected within the specified time, a fine is levied starting on the first day after the time period for correcting the violation expires, subject to the Request for Hearing provisions below.

2.3 Request for Hearing Any Owner who believes the Notice was sent in error, or who feels there are mitigating circumstances, has the right to request a hearing before the Mediation Committee. The Mediation Committee shall consist of one Board member and two Owners appointed by the Board. To request a hearing, the Owner must contact the Association's representative within seven days after the effective date of the Notice. The Mediation Committee shall then set a date for the hearing. If the hearing, for whatever reason, cannot be held prior to the date when the fine is otherwise scheduled to commence, the date the fine begins shall be extended to the day following the hearing. After the hearing, the Mediation Committee will make a recommendation to the Board and the Board will make the final decision. The purpose of the hearing is threefold:

- 2.3.1 To determine if there was a mistake made in issuing the Notice.
- 2.3.2 To determine if there are mitigating circumstances.
- 2.3.3 To make arrangements for bringing the violation into compliance over a period of time if it seems warranted.

The hearing process will not and cannot be used to determine if a particular provision of the Association Documents is desirable.

The general procedure for the hearing is as follows:

- The Board member on the Mediation Committee, who shall serve as the Mediation Committee chairperson, shall (1) establish a quorum, (2) explain the Fine Policy and procedures, and (3) describe the nature of the violation as specified in the Notice.
- The Owner may then provide rebuttal to the Notice using witnesses or any other information deemed relevant and necessary.
- After all testimony and other evidence has been presented, the Mediation Committee shall make a recommendation to the Board. The Board shall then consider the Mediation Committee's recommendation and shall decide whether or not the Notice was justified, or whether there were mitigating circumstances. If the Board finds the Notice was justified, a fine shall then be assessed by the Board or mutually agreeable arrangements made with the Owner to ensure correction of the violation and compliance in *the* future. If the Board finds the Notice was not justified, no fine shall be assessed.

2.4 **Fines** If an Owner fails to timely correct a violation, the Board has the right to assess a one-time *fine* (in such amount as the Board deems reasonable and necessary to promote correction of the violation). In addition, the Board *may* assess weekly fines for any continuing or persistent violation (in an amount of \$50.00 per week, *or* such other amount as the Board determines to be reasonable), until the Owner has corrected the violation. The Owner is responsible for notifying the Association in writing if and when the violation has been corrected. Any weekly fine shall continue at the stated rate until the earlier of (a) the date on which the Owner gives written notice of correction, regardless of when the violation was corrected, or (b) 120 days after commencement of the weekly fine. Following commencement of any weekly fine, the Association shall make a good faith effort to resolve the violation with the Owner. If, despite the Association's effort to reach a resolution, the violation has not been corrected within 120 days after commencement of a weekly fine, the Association may commence the necessary legal proceedings under the Association Documents or under law to compel correction of the violation as well as *to* recover any unpaid fines, court costs, attorney's fees and other Association expenses arising from the violation. Nothing in this paragraph shall preclude the Association from commencing legal proceedings to correct the violation prior to expiration of the 120-day period.

The assessed fines are billed to the Owner by U.S. Mail, and are legally collectable as assessments in accordance with the Association Documents and Colorado law. The fines are the personal obligation of the violating Owner and, in addition, constitute a lien against such Owner's property. Furthermore, the violating Owner is responsible for all costs and reasonable attorney fees incurred by the Association as a result of the violation.

2.5 **Repeat Violations**. A "repeat violation" is a violation committed by an Owner which is the same as the original violation committed by that Owner, and which occurs within twelve months after the original violation. A repeat violation is considered a continuation of the original violation, and thus an Owner committing a repeat violation is not entitled to the same hearing procedures set forth above. However the Association shall provide Notice of the repeat violation to the Owner in accordance with Sections 2.2.2 and 2.2.3 above. If the repeat violation has not been corrected within the time period specified in the Notice for correction of the violation, then the fine (which will be determined by the board and may be up to double the amount of the fine assessed for the original violation) will commence upon the expiration of the correction time period, notwithstanding any other provisions of this Fine Policy to the contrary. An Owner committing a repeat violation shall have no right to a hearing on such repeat violation before the Board.

2.6 **Fines Not Exclusive Remedy**. Fines levied under this Fine Policy are not the Association's exclusive remedy for addressing a violation. Nothing in this Fine Policy precludes the Association from pursuing any other remedy provided under the Association Documents or under Colorado law for correcting the violation.