

EAGLEBROOKE ASSOCIATION COVENANTS VIOLATIONS APPEALS PROCESS

Purpose: Florida statutes and Eaglebrooke community documents allow fines to be levied for violations of community standards. The Eaglebrooke Homeowner Association (HOA) has adopted fines as a vehicle to enhance enforcement authority. This process serves to deter and prevent violations; helps promote timely correction of violations; and provides a means to recover Association costs incurred through the enforcement process.

This document addresses the procedure for fining owners, tenants, guests and other persons who violate the Declaration of Covenants, Bylaws, or Rules and Regulations of the Association and the Architectural Committee. Fines are an alternative to other means of enforcement provided for in the Declaration and Bylaws. Fines will be adopted in accordance with the following procedure.

1. The Eaglebrooke HOA Board of Directors or its appointed agents is charged with determining whether there is probable cause that any of the provisions of the Declaration, the Bylaws, or the Rules of the Association regarding the use of the unit, common elements, or Association property are being or have been violated.
2. The Eaglebrooke HOA Board has chartered its contracted Management Company (EnProVera Property Advisors) with enforcing adherence to community restrictions, rules and regulations for the Homeowners Association. The manager's specific responsibilities are:
 - A. Observing and/or receiving verbal and written complaints about violations of general restrictions, rules and regulations.
 - B. Confirming that a complaint is valid.
 - C. Notifying residents, verbally or in writing, that they are in non-compliance, the required corrective steps, and the time interval needed for compliance.
 - D. Ascertaining whether the violation has or has not been corrected. The Management Company, at their discretion, may notify the resident with a first notice, second notice, and third certified notice in an effort to resolve issues which are not corrected. If the violation is not corrected, the Management Company forwards the information to the HOA Board of Directors for their review and resolution, or the Board's submission to the Violations Appeals Committee (Appeals Committee) for further review.
 - E. Fines may be imposed for:
 - Violations that have not been corrected after three (3) notices with the resident/homeowner
 - Repeat violations
 - Violations where the normal process of notification, as determined by the HOA Board of Directors, would nullify enforcement actions

The HOA Board of Directors may adopt a proposed fine, up to the maximum amount allowed by law. A fine may be imposed based upon each day that a violation continues, and for each specific violation. The fine will not become final until a hearing has been held, or is waived by the alleged violator. Failure to respond to the Board's notification within the allotted time frame constitutes waiver of the hearing.

3. The Eaglebrooke HOA Board has established a formal appointed committee, the Covenants Violations Appeals Committee (Appeals Committee) to review penalties that are proposed by the Board of Directors. The purpose of the Appeals Committee is to provide any alleged violator, who feels he/she is being improperly faulted, a process of being heard by an independent group of community peers. The Appeals Committee consists of three (3) to five (5) persons, which shall consist entirely of lot owners other than members of the Board of Directors, or persons related to Board members appointed by the HOA Board of Directors. Alternate members of the Appeals Committee may be appointed, to be available to serve if a committee member resigns or is unavailable for a hearing. (Three members must be present at hearings to constitute a quorum.) The Appeals process provides for a hearing where both sides of the issue will be heard and investigated and a final decision is rendered specific to the levy of a proposed fine.
4. The process will follow the steps noted below:
 - A. The HOA Board of Directors will adopt a proposed fine according to the Fine Classes in Section 5 of this document, and the violator shall be notified by regular and certified mail. A copy of these rules shall be provided, along with a notice that the violator may request a hearing before the Appeals Committee within fourteen (14) days of the date of the violation letter. The notice to the alleged violator shall also include a short and plain statement of the matters asserted by the Association, as well as a statement of the provisions of the Declaration, Bylaws, or Rules, which have allegedly been violated. Failure to request a hearing within this fourteen (14) day time frame shall constitute a waiver of the right to a hearing, and the fine shall be payable within 30 days of the certified mail notification.
 - B. As needed, the Appeals Committee shall hold one (1) monthly hearing at a time mutually agreed by the Committee and the alleged violator, but within fourteen (14) days of the hearing request. Property Management shall provide the alleged violator written notice of the hearing date, time, and place at least three days prior to the scheduled hearing.
 - C. If the HOA Board has not directly appointed a Chairman for the Appeals Committee, or if the Chairman is absent, the Committee shall appoint a Chairman and shall conduct hearings in accordance with the following rules, in addition to such other rules and procedures as may be established by the Committee, to hear any charges and defenses.
 - 1) A representative of the Appeals Committee shall be heard first, in order to summarize the basis for the proposed fine, and to present any witnesses or documents in support of the proposed fine. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to relying in the conduct of serious affairs, regardless of the existence of any common law or statutory rule, which might make improper the admission of such evidence over objection in civil actions.
 - 2) Each party shall have these rights: to call and examine witnesses; to introduce exhibits, exhibits should be sent to Appeals Committee members at a minimum of five (5) business days before the monthly hearing; to cross-examine opposing

witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; and to rebut the evidence against him/her.

- 3) Each case shall be heard in public. If requested by any member who is brought before the Appeals Committee, and if all members in attendance at the Committee meeting consent, the member allegedly in violation may be heard by the Committee privately. The results of any hearing shall, however, be reflected in the minutes of the Appeals Committee meeting.
- 4) The Appeals Committee may recommend to the HOA Board of Directors:
 - Upholding the proposed fine
 - Reducing the proposed fine
 - Eliminating or waiving the proposed fine
- D. Following the conclusion of the hearing, the Appeals Committee shall render a decision on the matter, and will prepare a written summary of the decision within ten (10) days of the hearing, which is to be provided to the HOA Board of Directors and the alleged violator. All fines shall be payable to the HOA Association within thirty (30) days from the date that written notice of the decision is sent to the alleged violator(s).
- E. Subsequent to the hearing, or if no hearing is requested within fourteen (14) days from the date of the letter notifying the violator of the fine, any further enforcement action will be taken by the Board of Directors.
- F. Any violator(s) will be responsible for interest, costs and attorney's fees incurred in the enforcement of the fine, including costs and attorney's fees in connection with any correspondence or hearings, provided that the Appeals Committee upholds the fine, in whole or in part. Fines not paid by the due date shall be subject to interest at a rate of eighteen percent (18%) per annum, compounded monthly.
5. Violation Categories and Fining Classes: There are three (3) categories of violations that may be subject to specific classes of fines. Below is a list of the most common violations (this list is not an all-inclusive list of the covenant restrictions. A complete listing can be found on www.eaglebrooke.net in the deed restrictions document).
 - Trash cans not put away, and not out of sight
 - Driveways that need to be cleaned
 - Failure to clean exterior of home
 - Mailbox in need of repair
 - Mailbox in need of painting
 - Mailbox in need of replacement
 - Basketball hoops not put away, and not out of sight
 - Trailers parked
 - RVs parked
 - Boats parked
 - Dumping of yard waste in empty lots
 - Failure to trim trees
 - Failure to re-sod lawn
 - Failure to mow lawn
 - Making unapproved modifications to home
 - Failure to pick up dog waste
 - Under age driving of golf cart
 - Failure to replace torn screens
 - House in need of painting
 - Failure to complete simple home repair
 - Failure to replace/add Landscaping

Class A Violations: Violations that can be immediately corrected, and have not been addressed or corrected within 1 week and prior to the next weekly inspection, and after formal notification to the owner/resident by certified mail.

- Examples include, but are not limited to: failure to mow lawn, dog waste not picked up, garbage cans not put away and not out of sight, basketball goals/hoops not put away and not out of sight, RV parking, or allowing children under the age of sixteen (16) to drive golf carts on the development's streets.

In determining the amount of the fine, considerations include the nature of the violation, the time period since the homeowner/tenant was first notified, any subsequent notifications and correspondence/conversations with the homeowner/tenant, and the total association expenses incurred in trying to correct the violation.

- **Class A Fine = \$ 15.00 per week retroactive to date of occurrence**

B. Class B Violations: Violations needing less than 30 days to correct.

- Examples include, but are not limited to: Pressure washing, failure to trim trees, simple home repair.

In determining the amount of the fine, considerations include the specifics of the violation and an amount that would prevent repeat violations.

- **Class B Fine = \$ 25.00 per week retroactive to date of occurrence**

C. Class C Violations: Violations needing more than 30 days to correct.

- Examples include: House in need of painting.

In determining the amount of the fine, considerations include the specifics of the violation and an amount that would prevent repeat violations.

- **Class C Fine = \$ 40.00 per week retroactive to date of occurrence**

6. **Forms Prescribed:** Use the Appeals Committee Violation Summary that follows. A separate summary should be completed for each alleged violation.

Appeals Committee Violation Summary
THIS SECTION FOR MANAGEMENT COMPLETION

Address of Violation	
Homeowner Name:	
Resident of Premises:	
Other Persons:	
Description and Duration of the Violation:	

Notices and contacts: List Dates and Nature of Contact (Letter, certified mail, attorney demand letters, phone conversations, e-mail, etc.)

Type	Date	Summary

Association Costs: List costs associated with enforcement actions (postage, certified mail, process server, attorney fees, filing fees, etc. Also include the cost of management representation at Appeals Committee hearings)

Type	Date	Summary

Past violations: include past violations that are relevant to the existing violation

Date	Violation	Summary

HOA Board of Directors summary

Comments:

Proposed Fine:

Date of Notification of Proposed Fine:

This section for Appeals Committee

Date of Hearing:	
Management Representative	
Defendant:	
Witnesses:	
Summary of Proceedings:	
Committee Findings:	
Disposition: (Include amount of fine or if deferred, conditions for deferral)	

This section for Management Company follow-up

Appeals Committee Decision Notification: (Should Be Sent Certified Mail)	
Date:	
Due Date of Fine:	
Other Comments	

