

Forest Trails CC&R Enforcement Policy

Article 1 Introduction

1.1 Proclamation of Additional Enforcement Measures

The Board of Directors of Forest Trails Owners Association is empowered to make policy according to Article 5 of the Declaration of Covenants, Conditions, and Restrictions of Forest Trails (Declaration or CC&Rs) and the Washington State Homeowner's Association Act of 1995. The Board is further authorized and empowered to impose a fine, in an amount not to exceed the maximum rate established by resolution of the Board, on any Owner whom it finds to have violated the Declaration.

Some complaints about violations of the CC&Rs remain unresolved and some Owners have not corrected violations after being notified by the Association. The Association decided at a Special Meeting that there is a need to provide additional, reasonable measures for enforcement of the CC&Rs to help ensure compliance. The Association asked the Board of Directors to create an enforcement policy and fine schedule to allow the Board to more effectively ensure compliance with Association rules and restrictions.

A purely complaint-based approach to enforcement is not fair to all owners and means it is likely that the restrictions will be selectively enforced on only those Owners who are complained against. Furthermore, when a written complaint is received by the Board, in order to be fair, the Board has been forced to inspect each lot in the neighborhood.

Therefore, be it resolved that the Board of Directors has adopted this enforcement policy, in compliance with the Declaration and the Washington State Homeowner's Association Act of 1995, as follows:

1.2 Purpose of Enforcement Policy

The purpose of the enforcement policy is to provide incentives for owners to comply with the Declaration. This process is intended to provide all Owners with fair and equal treatment.

If any portion of this rule is determined to be legally unenforceable, it shall not negate the enforceability of the remaining portions of the rule.

1.3 Informal Dispute Resolution Preferred

It is the intent of the Association that Owners attempt to resolve problems informally, and that an Owner talk with another Owner or Tenant about possible violations of the Declaration prior to initiation of a formal complaint against an Preferred Owner or Tenant, Each Owner has the authority to request that an Owner or Tenant correct or cease any act which appears to be in violation of the Declaration or Rules.

1.4 Tenant/Occupant Violations

In the case of rented or non-owner occupied properties, if a written complaint is received concerning a Tenant/Occupant, the Association shall contact the Owner of the rented property in writing. The Association may also provide written notice of the violation to the Tenant at the property address.

Article 2

Roles and Responsibilities of the Board of Directors

2.1 Process Initiation

Upon receipt of a written complaint or inspection report, the Board or a member or designee of the Board, shall investigate and determine if the complaint has validity and is material. If the Board concludes the complaint does have validity and is material, the Board shall deliver a letter to the Owner addressing the complaint.

2.2 Inspection

To ensure fair and consistent enforcement, a monthly inspection may be conducted by the property management firm or the Board prior to each Board meeting. Results of the inspection will be reviewed by the Board in executive session and based on this information, the Board shall determine if the complaint has validity and is material. If the Board deems necessary, it shall further investigate before making a determination. If the Board concludes the complaint does have validity and is material, the Board shall deliver a letter addressing the complaint to the Owner.

2.3 Determination

After all evidence from the inspection and investigation has been presented to the Board, the Board shall meet in executive session to deliberate and reach a decision. The Board will make a determination based on information available from the inspection and/or investigation alone.

2.4 Notice of Violation

If the Board concludes the complaint does have validity and is material, the Board shall send a Notice of Violation to the alleged violator stating:

- a. a description of the violation, including the date and approximate time it occurred (if appropriate);
- b. text of the restriction that is violated;
- c. a compliance date, and time (if appropriate), following a reasonable time period during which the violation may be abated without sanction; and
- d. the sanction that the Board may impose if the violation is not abated by the compliance date.
- e. the maximum sanction that the Board may impose.
- f. if the alleged violator does not comply by the compliance date and does not request a hearing, the Board may decide the matter and impose a sanction at the next meeting. The alleged violator has 10 days after the compliance date to request a hearing.

2.5 Notice of Sanction

If the Board determines that the violation has continued past the compliance date specified in the Notice of Violation, and the violator has not requested a hearing within 10 days of the compliance date, the Board shall send a Notice of Sanction to the violator stating:

- a. a description of the violation, including the date and approximate time it occurred (if appropriate);
- b. text of the restriction that is violated
- c. notice calling for immediate remedy of the violation (compliance);
- d. the sanction (e.g., fine) that the Board has imposed and the sanction that may be imposed for every day the violation continues;
- e. if a fine is imposed, notice calling the fine due immediately;
- f. notice explaining the fine will be treated like any other assessment;
- g. an opportunity for the owner to request a hearing before the imposition of the sanction/fine;
- h. notice explaining that failure to comply within 30 days of the compliance date shall be grounds for a defiance fine.

2.6 Hearing Request

Upon written request to the Association, postmarked not later than ten (10) days after the date of the Notice of Sanction, an Owner may request a hearing. The Board shall set the date for the hearing. Requesting a hearing does not preclude the owner from compliance, If the violation remains until the hearing and the Board confirms at the hearing there to be a violation, a fine may be imposed from the compliance date forward.

2.7 Notice of Hearing

If an Owner that receives a Notice of Sanction makes written request for a hearing, postmarked not later than ten (10) days after the date of the Notice of Sanction, the Board shall deliver a Notice of Hearing to the requesting Owner within ten (10) days of receipt of the Hearing Request. The Board shall set a hearing date not less than fourteen (14) days and no more than thirty (30) days from the date of receipt of the Owner's request for Hearing. The notice shall state:

- a. a description of the violation, including the date and approximate time (if appropriate) it occurred;
- b. the text of the restriction that is violated;
- c. the fine or other sanction the Board has imposed for each day the violation has existed past the compliance date and for each day the violation continues;
- d. the date and place a hearing will be held;
- e. an invitation to the alleged violator to provide a statement, evidence, or witnesses on the alleged

violator's behalf at the hearing; and

- f. the maximum sanction that the Board may impose.
- g. notice that requesting a hearing does not preclude the owner from compliance and if the violation remains until the hearing and the Board confirms at the hearing that there is a violation, a fine may be imposed from the compliance date forward.

2.8 Vehicle Storage Notice For vehicle storage violations: in addition to delivering the written Notice of Violation to the Owner, the Board may place a warning notice on a vehicle, boat, trailer, or other recreational vehicle specifying a due date for compliance.

2.9 Correspondence All correspondence (letters and conversations) from the Board regarding enforcement will be summarized and documented.

2.10 Access to Information Upon written request to the Association, not later than ten (10) days prior to the date of the hearing, the Owner alleged to have committed the violation shall be entitled to (a) obtain (via release only to the Owner's attorney with the confidentiality of the witnesses protected, for the express purpose of confirming that the complaint originated from a bonafide Owner) the names and addresses of witnesses, to the extent known to the Association; and (b) inspect and make copies of any statements, writings and investigative reports relative to the case contained in the Associations records. Nothing in this section, however, shall authorize the inspection or copying of any writing or other thing which is privileged from disclosure by law or otherwise made confidential or protected, such as attorney work product or unlisted telephone numbers.

2.11 Hearing Procedure The general procedure for the hearing shall consist of opening statements by each party; presentation of testimony and evidence, including the cross examination of witnesses by each party, where appropriate; and closing statements by each party.

The hearing shall be informal. At the beginning, the President shall explain the rules and procedures by which the hearing is to be conducted. The President, or in the absence of the President, the Vice President, shall preside over the conduct of the hearing and shall make any necessary rulings concerning evidence.

Any party may be represented by an attorney or other duly appointed representative at such hearing at that party's own expense provided the Board is notified of such representation in writing at least three (3) working days prior to the hearing. Any party, including the Board, may cause the hearing to be transcribed at that party's own expense.

2.12 Rules of Evidence Any relevant evidence, which is not privileged, is admissible regardless of whether the evidence is hearsay or otherwise inadmissible in a court of law.

2.13 Hearing Determination The Board will make a determination based on information available at the time of the hearing, including information submitted to the Board in writing at least three (3) working days prior to the hearing. Failure of one party to appear at a scheduled hearing does not preclude the Board from proceeding with the hearing, receiving evidence from and hearing arguments from any other parties, and making a decision in the matter. Upon failure of the complainant to appear, the Board may, in its discretion, drop the matter.

2.14 Conflicts of Interest It shall be incumbent upon each member of the Board to make a determination as to whether he or she is able to function in a disinterested and objective manner considering the matter to be heard. Any Board member incapable of objective and disinterested consideration of the matter to be heard shall so inform the Board President prior to a hearing, if possible, or at a hearing or meeting, and the Board member shall be disqualified from all proceedings with regard to the hearing or violation.

2.15 Decision After all testimony and other evidence has been presented to the Board at a hearing, and as soon as possible thereafter, the Board shall meet in executive session to deliberate and reach a decision. A decision shall be

reached by a majority of the Board members present The Board shall render its decision in writing within ten (10) days after the hearing and if the Board finds a violation, the Board shall state the particular violations(s) found and, if applicable, impose a fine or other sanction.

If the Board decides that a violation has occurred, the Board may order the Owner responsible to do or refrain from doing any act necessary to comply with the Declaration and/or any decision of the Board.

If the Board imposes a fine, the fine shall be reasonable and appropriate to the type of violation and shall not exceed the amounts set by resolution of the Board. The Board may impose a fine for each day the violation has existed past the compliance date specified in the Notice of Violation and for each day the violation continues.

The Board may pursue injunctive relief or exercise right of entry to correct the violation if the violation remains unabated thirty (30) days past the compliance date specified in the Notice of Violation.

The decision of the Board shall be delivered in person or mailed to each party to the matter. A copy of the decision and order shall be included in the books of the Association.

2.16 Changes

The Board may change and update this policy at any time by resolution of the Board.

Article 3 Roles and Responsibilities of Owners

3.1 Responsibilities

Owners are responsible to abide by the Declaration of Conditions, Covenants, and Restrictions for Forest Trails and to follow the processes outlined therein.

3.2 Initiating a Complaint

In order to begin the enforcement process, any Owner or inspector designated by the Board, including any member of the Board or any Association Committee, shall file a complaint, in writing, about any violation of the Declaration. The Owner or designee making the complaint must be identified in the complaint. The complaint shall state, in simple and concise language, the acts or omissions with which the alleged violator is charged. The complaint shall state as many of the specifics as are applicable regarding date, time, location, nature of violation, persons involved, etc. The complaint shall also state the efforts which were made to resolve the matter informally. If requested, the Board will make every effort to preserve the confidentiality of the complainant.

3.3 Hearing Request

Upon written request to the Association, postmarked not later than thirty (30) days after the date of the Notice of Violation, an Owner may request a hearing. The Board shall set the date for the hearing. Requesting a hearing does not preclude the owner from compliance. If the violation remains until the hearing and the Board confirms at the hearing there to be a violation, a fine may be imposed from the compliance date forward.

3.4 Rescheduling a Hearing

If an Owner has a conflict with the date set for the hearing, the hearing may be rescheduled provided the Board receives a request to reschedule the hearing at least three (3) working days prior to the hearing. A hearing may only be rescheduled once.

3.5 Consequence of Failure to Appear for Hearing

If an Owner fails to attend a hearing, the Board will make a determination based on information available to the Board at the time of the hearing, including information submitted to the Board in writing at least three (3) working days prior to the hearing. Upon failure of the complainant to appear, the Board may, in its discretion, drop the matter.

3.6 Habitual Violation Three written Notices of Violation and any subsequent violations regarding the same restriction in any one hundred eighty (180) day period will constitute a separate offense, subject to this enforcement policy and, if appropriate, may incur a one-time defiance fine as described in Article 6 Fine Schedule. This fine may be in addition to any fine imposed for the violation of a restriction in the Declaration.

3.7 Burden of Proof If a Notice of Sanction is delivered to an Owner, it shall be the Owner's responsibility to notify and prove to the Board that the violation has been remedied and specifically when the violation was remedied.

Article 4 Applicable Rules

4.1 Applicable Rules This policy is intended to enforce, but is not limited to, the following list of the covenants, conditions, and restrictions. For a complete description, see the referenced section in the Forest Trails Covenants, Conditions, and Restrictions filed with King County, recorded under Auditor's File No. 8502150615 and 8504230147, Article 7, page 16 and Article 14, pages 31 through 35.

Article 5 Additional Policy

5.1 Process Violation Exterior alterations without approval of the ACC will constitute a violation of Section 7.1 of the Declaration and will constitute a failure to comply with the process described in the Declaration. Process violations may incur a one-time process fine as described in Article 6 Fine Schedule. A process fine may be in addition to any fine imposed for the violation of a restriction in the Declaration. If alterations are still in progress when the Board receives the complaint, the Board shall also deliver a Stop Work notice to the Owner.

5.2 Defiance Violation Failure to abide by an enforcement order or to comply with a decision of the Board will constitute a violation of Section 7.1 of the Declaration and will be considered a Defiance Violation. Defiance violations shall incur a one-time defiance fine as described in Article 6 Fine Schedule. A defiance fine shall be in addition to any fine imposed for the violation of a restriction in the Declaration. Failure to respond to a Notice of Violation by either: 1) coming into compliance with the CC&Rs by the compliance date specified in a Notice of Violation, or 2) failing to request a hearing within 14 days of the compliance date shall also constitute a Defiance Violation.

5.3 Disapproval Violation Exterior alterations made after disapproval by the ACC will constitute a violation of Section 7.1 of the Declaration and a failure to comply with the decision of the ACC. Disapproval violations shall incur a one-time defiance fine as described in Article 6 Fine Schedule. A defiance fine shall be in addition to the fine imposed for the violation of a restriction in the Declaration.

**5.4
Judicial
Enforcement**

Failure to comply with a provision of the Declaration or to comply with a decision of the Board following a Notice of Violation and an opportunity for a hearing, shall be sufficient grounds for an action to recover sums due for damages, which shall include any fines levied by the Board and any costs incurred by the Association in connection with the proceedings before the Board, maintainable by the Association (acting through the Board on behalf of the Owners). Such failure shall further be grounds for the issuance of injunctive relief in such an action. Nothing contained in the Declaration shall be deemed or construed as a waiver of the Association's right to bring an action as provided in this Section without first exhausting the Association's internal enforcement procedures in cases where the Board deems immediate legal action to be necessary or appropriate. In any action brought as provided in this Section, the prevailing party shall be entitled to recover as part of its judgment, a reasonable sum for its attorney fees, costs and expenses of proceeding. The Board specifically reserves the right to impound, the right of entry to a property, and the right to reimbursement of all costs incurred as a result thereof.

**Article 6
Fine Schedule**

Governing Document Violations	\$50 per day
Process Fine	\$500
Defiance Fine	\$500

Fines may be imposed for each day the violation has existed past the compliance date and for each day the violation continues, except for Process and Defiance fines, which are one-time fines that may also accompany fines for governing document violations.

Any fine not paid within thirty (30) days is delinquent and subject to late fees and/or interest consistent with the governing documents and applicable Washington law. Collection of any fines and penalties may be enforced against any Owner in the manner consistent with the governing documents and applicable Washington law.