

**ELDORADO COMMUNITY IMPROVEMENT ASSOCIATION, INC.
(ECIA)**

COMPLIANCE POLICY

The following Compliance Policy was adopted by the Board of Directors ("Board") of the Eldorado Community Improvement Association ("Association" or "ECIA") pursuant to the New Mexico Homeowners Association Act, §47-16-1, et seq., NMSA 1978 (the "HOA Act"), at a regular meeting of the Board of Directors. The Policy is effective as of _____.

The Board wishes to adopt this Compliance Policy to encourage compliance with the community's Governing Documents (defined and listed below). The Board values working cooperatively with owners to ensure the community standards are preserved. Therefore, the Board will continue to promote communication about the community standards specified in the Governing Documents; educate owners who may not realize they are out of compliance with those standards; and then - after giving owners a fair opportunity to participate in the process of covenant and rule enforcement - authorize staff to enforce those standards. To achieve this goal, the Board makes the following findings and adopts the following policy.

WHEREAS, the ECIA is charged with the responsibility for ensuring Member compliance with the Governing Documents, which include the Declaration Of Covenants for the Association dated July 10, 1972, (the "1972 Declaration"), the Amended and Restated Protective Covenants and Building Restrictions For Eldorado At Santa Fe, recorded April 24, 1996 (the "Restated Declaration"), and the rules, regulations, policies and guidelines approved by the ECIA Board, including but not limited to the Architectural Guidelines, Stable Amenity Rules, Pool Rules and all other amenity use rules adopted by the Board under the authority of the Declarations; and

WHEREAS Article III Section 1 of the Restated Declaration states that the "Board of Directors...is empowered to adopt and enforce written rules, regulations and guidelines for the interpretation, implementation and enforcement of this Restated Declaration;" and

WHEREAS Article III Section 2 of the Restated Declaration states that the "Board of Directors has the power to levy fines against violators of this Restated Declaration"; Article III Section 3 states that the Board may "recover a reasonable attorney fee" plus costs from violators, if judicial action is taken; Article IV, Section 3(c) of the 1972 Declaration states that the Board has the power to suspend Members rights to use and enjoy the common areas and amenities for up to 30 days for "any infraction of the published rules and regulations," and

WHEREAS, §47-16-18 (b) of the HOA Act gives the Association the power to enforce the Governing Documents, by providing that "the association may, after providing written notice and an opportunity to dispute an alleged violation...:(1) levy reasonable fines for violations of or failure to comply with any provision of the community documents; and (2) suspend, for a reasonable period of time, the right of a lot owner or the lot owner's tenant, guest or invitee to use common areas and facilities of the association," and

WHEREAS the Board promotes compliance with the Association's governing documents to maintain, preserve, enhance, and protect the lot owner property values, and assets of the Association consistent with the authority granted in the Governing Documents; and

WHEREAS the Board does not intend for the Association's enforcement powers be used to initiate or inflame neighbor-to-neighbor disputes; and

WHEREAS the Board finds it to be in the best interest of the Association to adopt a uniform and systematic process for restoring Member compliance with the Governing Documents, as they may be amended from time to time; and

WHEREAS the Board, management staff, and ECIA member volunteers want to foster a participatory and cooperative environment that encourages all members to be fully informed about the Governing Documents which they are subject to, when they purchased property in Eldorado; and

WHEREAS the Board desires to resolve violations in as timely a manner as possible;

NOW, THEREFORE, IT IS RESOLVED, that the following procedures and practices are established for the purpose of restoring compliance with the Governing Documents; and providing an escalating mechanism of enforcement when violations of the Governing Documents:

The Board adopts the following Compliance Policy:

A. Procedure for Handling Routine Violations.

[See Section D below for specific processes for expedited, urgent, or repeat violations]

1. **Courtesy Communication.** When, via an inspection or upon investigation of a complaint, the ECIA's General Manager or other designated management staff (collectively any community management staff person including but not limited to the General Manager, are referred to in this Policy as the "General Manager") determines that a violation of the Association's Governing Documents appears to exist, the General Manager may, in their discretion, send one or more courtesy reminders to an Owner describing the violation and requesting the violation be cured within a reasonable time as specified in the Courtesy Communication. The Courtesy Communication may be sent via email or regular US mail.
2. **First Notice.** If after the period specified in the Courtesy Communication, the violation is determined to exist -- or in the case of an expedited, urgent or repeat violation, without a Courtesy Communication -- the General Manager will send the Owner a First Notice by regular first class mail, and by email, if available.
 - 2.1. **Discretion to continue communicating.** Before or after sending the above-described First Notice, the General Manager may, in their discretion, send one or more reminders to the Owner encouraging the Owner to come into compliance. However, no fines or other formal enforcement action may be taken until after this First Notice of has been sent and the deadline specified in the First Notice has passed.
 - 2.2 **Contents of the First Notice.** The First Notice must contain:
 - 2.2.1 a statement in reasonable detail describing the circumstances of the violation as known by the General Manager;
 - 2.2.2 an explanation that the Owner has the opportunity to make a written statement refuting the complaint or request a hearing before an arbitration panel to refute the complaint, before fines are imposed or other enforcement action is taken;
 - 2.2.3 a description of the potential enforcement actions;
 - 2.2.4 the deadline (see Section 2.3 below for details) by which the Owner must either: cure the violation, submit a written statement refuting the complaint, or request a hearing;
 - 2.2.5 an explanation that the Owner must make any request for a hearing or a statement refuting the complaint in writing, addressed to the ECIA office address, or via email to the address specified in First Notice. A request via voicemail, in person or over the phone is not sufficient notice to the General Manager; and
 - 2.2.6 a statement that if the Owner fails to cure the violation, submit a written statement, or request a hearing by the date specified, then fines may be imposed as specified in the Fine Schedule below, or other enforcement action may be taken, without a hearing.
 - 2.3 **Deadline to Cure Routine Violations.** The minimum deadline by which routine violations must be cured is 14 calendar days from the date of the First Notice, unless the matter is an expedited, urgent, or repeat

violation. If the matter is an expedited, urgent, or repeat violation, then the General Manager will establish the deadline by which the Owner has to take one of the actions specified in Section 2.2 above. Attached Exhibit A provides examples of deadlines for common types of violations and their deadlines to cure. The deadline to cure can be extended as the General Manager in their discretion deems appropriate.

3. Notice of Enforcement Action. If after the deadline specified in the First Notice, and any subsequent communications, the violation still exists and the Owner has not requested a hearing, or in the case of an expedited, urgent, or repeat violation as discussed in Section D, then General Manager must send a “Notice of Enforcement Action” at the time the enforcement action is taken.

3.1 Contents of Notice of Enforcement Action. This “Notice of Enforcement Action” must:

- 3.1.1 specify the violation;
- 3.1.2 the amount of the fine being imposed (see Exhibit B for the Fine Schedule) or other enforcement action being taken;
- 3.1.3 the process to make an appeal or request an extended deadline to come into compliance, which must be made by the Owner in writing;
- 3.1.4 the date the fine will be assessed or other action will be taken (14 days from the date of the letter, unless another date is specified); and
- 3.1.5 a statement that if the violation is not cured by the final deadline of a specific number of calendar days from the date of the letter, then the Owner may be subject to additional enforcement actions, including additional fines or legal action.

3.2 Discretion to Continue Communicating. The General Manager has the discretion to send additional communications following this Notice of Enforcement Action before an Attorney Referral Notice is sent.

4. Notice of Referral to Attorney. If after the most recent deadline has passed, the violation still exists and the Owner has not requested a hearing, a Notice of Referral to Attorney will be sent by, U.S.P.S. certified mail.

4.1 Contents of the Notice of Referral to Attorney. The Notice of Referral to Attorney must contain:

- 4.1.1 the details of the violation;
- 4.1.2 the amount of the fine or other enforcement action imposed thus far;
- 4.1.3 the fact that the Owner’s Member in Good Standing (MIGS), status as defined in the ECIA Bylaws, has been revoked; and
- 4.1.4 a statement informing the Owner that the matter is being referred to legal counsel for filing a lawsuit.

B. Alternative Dispute Options

- 1. Arbitration panel.** If an Owner requests a hearing before an arbitration panel, the panel will be selected via the process required by Article III Section 2(c) of the Restated Declaration. Both the Association and the Owner must cooperate with the arbitration process in good faith, which includes providing the names of proposed arbitrators to the other party within a reasonable period of time, promptly paying the arbitrator they select and splitting the cost of the third, neutral arbitrator, and appearing at the hearing scheduled by the arbitration panel. If the Owner fails to comply with the process in good faith, then the Owner will be in default and the Association may proceed with enforcement as if no hearing was requested.
- 2. Agreement to participate in mediation or other forms of alternative dispute resolution.** If the parties agree, then they may voluntarily enter into an agreement to participate in alternative forms of dispute resolution to resolve the complaint, such as, but not limited to, mediation. Such an agreement should include deadlines for holding the mediation or other form of alternative dispute resolution, the name of the mediator,

and the way the mediator's fees will be paid. Failure of the Owner to participate in the alternative dispute resolution process as agreed upon will result in the Owner being in default. In that case, the Association may proceed with enforcement as if no alternative dispute resolution process had been requested.

3. **Additional courtesy communications, deadlines, and compliance agreements.** At the General Manager's discretion, at any time during the compliance process the General Manager may send additional courtesy communications. Additionally, the parties may enter into a written compliance agreement at any time to give the Owner an extension of the deadline to cure or agree to other resolutions to come into compliance, during which time fines or other enforcement action may be waived or suspended. Failure of the Owner to comply with such a compliance agreement will result in the Owner being in default. In that case, the Association may proceed with enforcement as if no compliance agreement had been entered into.
4. **Enforcement continues after arbitration or mediation.** If the Owner fails to respond and request an arbitration or mediation, or if the Owner fails to reasonably comply with the arbitration or mediation process, or after resolution of an arbitration proceeding, the General Manager may continue enforcing the provisions of the Governing Documents as provided for in this Policy.

C. **Schedule of Fines and other Enforcement Action.** The General Manager may take any or all of the following actions if appropriate to assist them in restoring compliance:

1. require the Owner to cease and desist the activity,
2. impose fines according to the Fine Schedule in Exhibit B,
3. suspending the Owner's (and all the Owner's guests and tenants, if any) privileges to use some or all of the common areas for a period not to exceed 30 days per violation,
4. for urgent architectural violations, withdraw architectural approval of the project,
5. take action to remove a structure, personal property, or restore damage done to or in any common area owned by the ECIA,
6. remove the Member in Good Standing (MIGS) status, as defined in the ECIA Bylaws.

D. **Procedure for Handling Expedited, Urgent, or Repeat Violations.**

1. **Definitions.**
 - 1.1 An "**Expedited or Urgent Violation**" is any violation of a rule that occurs in the common areas, or that may be expensive for the Association or the owner to remedy, or may cause damage or injury to the Association, its members, other persons or property. Examples include, but are not limited to, bringing glass into the pool, propping open amenity gates, or beginning construction of an unauthorized structure on a lot.
 - 1.2 "**Repeat Violation**" is any violation that is cured, but occurs again within six (6) months of the original violation. Examples include, but are not limited to: uncovered RVs, excessive weeds, unshielded lights, barking dogs, etc.). Failure to cure a violation after deadline has passed or after breach of a compliance agreement may be considered a repeat violation.
2. **Process.** In the case of Expedited, Urgent or Repeat Violations, depending on the severity of the circumstances, the compliance process may start with the Owner being sent a First Notice, and the deadline by which to come into compliance and requesting an arbitration hearing may be shortened. However, the General Manager must send a notice which contains all the requirements of the Notice of Action in Section A 3.1 above. The General Manager or the Board may vary from the procedures in this Policy if deemed necessary to restore compliance promptly.

E. **Other Remedies.** Notwithstanding anything in this Policy to the contrary, the Board has the right, at any time and without proceeding through the steps outlined in this Policy and without regard to the fine schedule, to bring an action at law or in equity to compel compliance with the terms of the Association's governing documents. Before

invoking any such remedy, the Board must give the Owner notice as provided in the Covenants or by law. Nothing in this paragraph constitutes an election of remedies nor precludes the Board from levying fines as described above while at the same time seeking injunctive relief for serious violations of a continuing nature or violations that affect the health, safety, or welfare of the residents or the community.

F. **General Provisions.**

1. **Impact of Enforcement Fine.** Imposition of a fine does not relieve the Owner of responsibility to correct the violation.
2. **Other Remedies.** At any time, the Board may decide to pursue any other remedy available under law or at equity that is allowed under the Governing Documents.
3. **Time Frames.** The Board reserves the right to extend any deadline based on individual circumstances.
4. **Notification.** Notices will be mailed to the property address, and, if there is another mailing address for the property owner, to the second address in addition to the property address. If the Association has an email address for the Owner, the Association may provide notification to the Owner via email. If the Owner replies to the Association's email, that reply constitutes acceptance of notice via email for all purposes under this Policy.
5. **No Waiver.** The failure of anyone to report, or the Association to become aware of, an alleged violation of any Governing Documents within a given period of time does not constitute a waiver of the Association's right to seek compliance under this Policy.
6. **Collection of Fines.** All fines may be collected in the same manner as any other assessment or monetary penalty as provided for by the Association's Assessment Collection Policy.
7. **Attorney Fees.** The substantially prevailing party to any action under this Policy is entitled to recover costs, expenses and reasonable attorneys' fees.
8. **Effect of this Policy.** This Policy replaces and supersedes all previous policies, rules, and regulations regarding the subject matter of this Policy.
9. **Full force and effect.** In the event that a court finds any portion of this Policy void or otherwise unenforceable, the other provisions will remain in full force and effect.

This Compliance Policy will go into effect on **ENTER DATE**.

Approved by Board of Directors,

President: _____ Date: _____

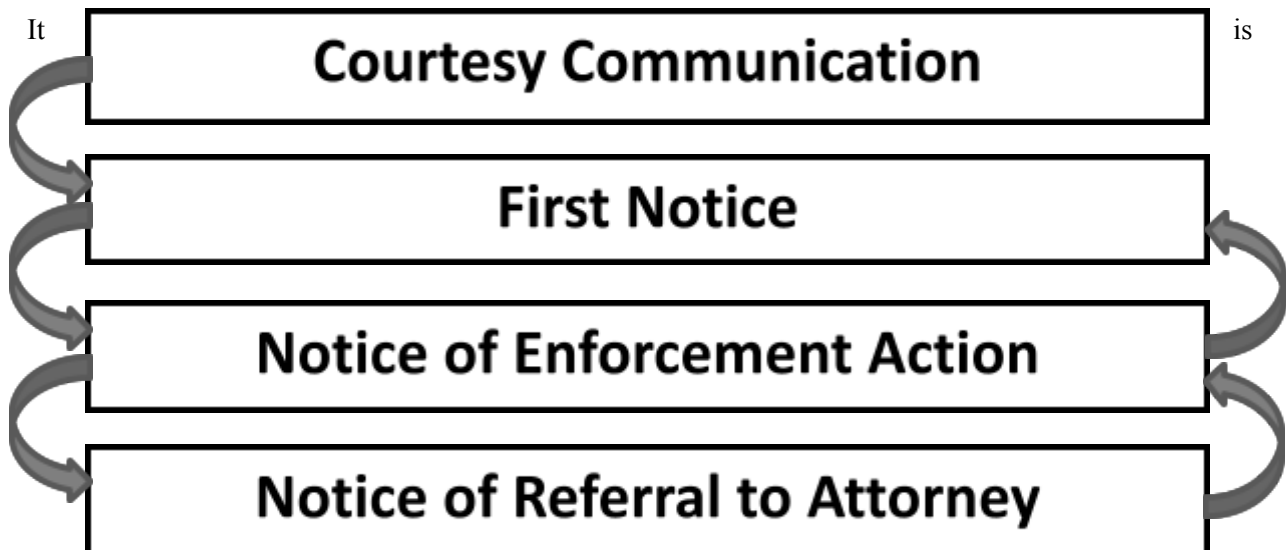
Secretary: _____ Date: _____

EXHIBIT A TO COMPLIANCE POLICY
DRAFT Chart of Types of Violations and Grace Periods
Updated 10/6/23

Violations that are expedited, urgent or repeat will not use ECIA's standard, 14 day deadline to cure. Specifically, see below for examples of common violations and their deadlines to cure. This chart is not exhaustive and does not address all possible violations of the ECIA's governing documents:

| Example of Violation | Deadline to Cure | Type of Violation |
|-------------------------------------------------------|-------------------------|--------------------------|
| Pool rules | 2 days | Expedited or Urgent |
| Dog park rules | 2 days | Expedited or Urgent |
| Sport court rules | 2 days | Expedited or Urgent |
| Barking or roaming dogs | 7 days | Expedited or Urgent |
| Excessive noise or glare | 7 days | Expedited or Urgent |
| Unscreened RVs or trailers | 7 days | Expedited or Urgent |
| | | |
| Stable Rules | 14 days | Routine |
| No approval for any structure | 14 days | Routine |
| Re-stucco without approval | 14 days | Routine |
| Installation of new windows or doors without approval | 14 days | Routine |
| Non-compliant fences or other structures | 14 days | Routine |
| Excessive weeds | 14 days | Routine |

Stages of The Compliance Process



possible to return to a previous stage by demonstrating a good faith effort to remediate the violation. Also, the General Manager may continue communicating with the Owner before moving to the next stage.

EXHIBIT B TO COMPLIANCE POLICY

DRAFT Schedule of Enforcement Fines

Updated 10/3/23

| MILESTONE | FINE | NUMBER OF VIOLATIONS |
|--------------------------------|-----------------|------------------------------------------------------------------------------|
| Courtesy Communication | None | For the first violation |
| First Notice | None | For the first violation |
| Notice of Enforcement Action | \$50/violation | For the first violation |
| Notice of Referral to Attorney | Add \$100 | For the first violation |
| | | |
| Repeat Violations: | | For the 2 nd or subsequent violation of same type within 6 months |
| First Notice | \$50 | |
| Notice of Enforcement Action | \$100/violation | |
| Notice of Referral to Attorney | Add \$100 | |
| | | |

Fines will be tracked in the ECIA's Caliber database, and will be considered due as of the date indicated on the Notice of Action. Fines will be billed monthly, and may be collected in the same manner as any other debt owed by a member to the ECIA, according to the ECIA's collection policy.