

Policy for the Enforcement of Covenants, Architectural and Landscape Designs

1. Purpose. The purpose of this Policy is to provide transparency to Owners regarding the enforcement of the Declaration of Covenants, Conditions, and Restrictions for Yarrow Gardens (“**Covenants**”) by the Yarrow Gardens Metropolitan District (“**District**”).

2. Content of Notice of Violation. All Notices of Violation shall contain and be provided to the Owner as follows:

- a. The nature of the alleged violation;
- b. The action or actions required to cure the violation;
- c. Notice of the Owner’s right to a fact-finding hearing regarding the alleged violation; and
- d. The fine schedule and late fees if not paid.
- e. In addition, the Notice of Violation shall:
 - i. Be made in English or the previously indicated language preference of the Owner;
 - ii. Sent via certified mail, return receipt requested, and one of the following methods:
 - 1) First-class mail;
 - 2) Text message to the number on file for the Owner; or
 - 3) E-mail to the e-mail on file for the Owner; and
 - iii. Be posted on the Owner’s property.

3. Violations/Notification of Violation. In the event the alleged violation(s) constitute an immediate threat to the health, safety and welfare of the public or property within the District, the District may pursue any remedy available to it in law or equity to abate the violation, including, for example, an injunction; the assistance of law enforcement, the fire department, animal control, or other enforcement authorities. Upon request by an Owner contesting the alleged violation, a hearing shall be held as soon as practicable thereafter to determine the nature of the violation(s) and any applicable fines.

With respect to any other violation of the Covenants, the District shall send the Owner a notice identifying the nature of the violation, providing that the Owner has forty-five (45) days to cure the violation, action(s) required to cure such violation, opportunity to request a hearing, and risk of the imposition of fines. In the case of Improvements being built without prior approval of the Architectural Control Committee (“**ACC**”), the Owner shall be allowed to submit as-built plans and specifications to the ACC within ten (10) days for potential review and approval, and

further enforcement action will be stayed until the ACC has concluded its review process and made its final determination.

4. Notice of Cure. Once the Owner cures the violation, Owner may notify the District of the cure and may provide visual evidence of the cure. If no visual evidence is provided, the District shall inspect the property as soon as practicable to determine if the violation has been cured. If cured, a Notice of Cure shall be provided to the Owner confirming that the violation has been cured, no additional fines will be imposed, providing the Owner the outstanding fine balance and late charges owed, as well as additional late charges that will be imposed if not timely paid. Until paid, a new statement of amounts owed will be provided on a monthly basis.

5. Hearing Request.

a. Hearing Request. A Hearing must be requested in writing and received by the District within twenty-one (21) days of initial receipt of a Notice of Violation. Such request must be made in writing and can be made via e-mail or regular mail at the address provided in the Notice of Violation.

b. Failure to Request a Hearing and to Correct Violation – Waiver and Fines. If a Hearing Request is not timely received, then the Owner shall be deemed to have waived their right to a Hearing and conceded to the violation. If the violation has not been timely cured, fines and enforcement shall be imposed as set forth in the Covenants and the Fine Schedule attached as Schedule A.

6. Hearing Procedures.

a. Scheduling. A Hearing shall be scheduled as soon as practicable after receipt of a Request for a Hearing, but in any event no later than the District's next regular meeting.

b. Procedure. A Hearing is an informational, administrative procedure with the District Board, the Owner, and an impartial decision-maker as delegated by the District Board, acting impartially with regard to the alleged violation. Rules of evidence do not apply and either party may have an attorney present. Hearings are open to the public. Any party with an interest in the matter may present testimony. The impartial decision-maker may exercise its discretion as to the specific manner in which a hearing shall be conducted and may question witnesses, review evidence, and take such reasonable action during the course of a hearing as it deems appropriate to reach a just decision. The Hearing shall be a fair and impartial process to determine whether the violation actually occurred and the Owner's responsibility for the violation.

c. Decision. The impartial decision-maker shall render its decision and issue a "Decision" regarding the violation within fourteen (14) days following the Hearing. A copy of the Decision shall be provided to the Owner. In the event the Owner fails to appear at the Hearing, or at any re-scheduled Hearing, the impartial decision-maker will proceed based on information available at that time, render its decision and issue a "Decision" within fourteen days following the Hearing.

7. Failure to Cure or Pay Fine/Liens. If Owner fails to cure the violation(s) following a determination that a violation occurred and/or fails to pay the fine imposed, the District may pursue any remedy available in law or equity to the District under the Covenants or Colorado law. Until paid, any fee, rate, toll, fine, penalty, or charge assessed according to this Policy shall constitute a perpetual lien on and against the property unit for which the covenant enforcement and design review services were provided. Further, the Board, by resolution and at a public meeting held after notice has been provided to an affected Owner, may elect to have certain delinquent fees, rates, tolls, fines, penalties, charges, or assessments made or levied for covenant enforcement and design review services certified to the county treasurer to be collected and paid over in the same manner as taxes are authorized to be collected and paid.

The prevailing party in any court proceeding shall be entitled to recover from the other party their reasonable attorney fees and costs incurred in prosecuting or defending the court proceeding.

8. Notices. All notices under this section are presumed to have been received upon personal delivery or within three days after the notice has been sent, postage prepaid, by 1st Class U.S. Mail. It is the Owner's responsibility to provide the District with correct and up-to-date contact information regarding Owner's present address, and tenant information, if applicable.

9. Owner Complaints. Allegation of an alleged violation of the Covenants or architectural guidelines submitted by another Owner must be in writing to the District. The complaint must include the nature of the violation including the date and time if applicable, the name or address of the alleged violation, and any material facts supporting the complaint. The complaint must also contain the printed name and signature of the person lodging the complaint. It is the general policy of the District to maintain confidentiality of complaints, if possible. However, if a complaint becomes the subject of a Hearing or litigation or is otherwise required to be produced pursuant to the law, the original complaint and the name of the person lodging the complaint will be disclosed.

10. Definitions. Any terms not defined herein shall have the same meaning as set forth in the Covenants.

11. No Waiver. Nothing in this Policy shall be deemed to waive the District's right to pursue any other legal action available to it in addition to, in lieu of, or in conjunction with, the notification and fine process.

12. Enforcement of Building Restrictions. Notwithstanding any law to the contrary, an action shall not be commenced or maintained to enforce the terms of any building restriction contained in the Covenants to compel the removal of any building or improvement because of a violation of the terms of any such building restriction, unless the action is commenced within one year after the date that the District first knew or, in the exercise of reasonable diligence, should have known of the violation forming the basis of the action.

13. Option to Mediate. Any controversy between the District and an Owner that arises out of the enforcement of Covenants may be submitted to mediation by agreement of the parties prior to the commencement of any legal proceeding. Either party to the mediation may terminate such mediation process without prejudice. If a mediation agreement is reached between the District and Owner, the mediation agreement may be presented to a court as a stipulation. The stipulation shall not include a requirement that the Owner pay additional interest or unreasonable attorney fees. If either party subsequently violates the stipulation, the other party may apply immediately to the court for relief.

14. Compliance with Law. Notwithstanding any provision in the Covenants or any other related rules and regulations of Yarrow Gardens, the District shall not enforce requirements as prohibited by Section 32-1-1004.5(6), C.R.S.

SCHEDULE A

Schedule of Fines

	<u>Fine</u>	<u>Interest</u>	<u>Late Charge</u>
<u>Public Safety or Health Violations</u>	\$100 for initial violation, with an additional \$100 owed every other day that the violation is not cured	8% on Fine amount	\$15 or 5% of the Fine amount owed, whichever is less, per month if not paid by due date, not to exceed a total of 25% of the Fine amount
<u>Other Violations</u>	\$100 owed if not cured within initial 45-day cure period; thereafter \$100 every 30-day period, not to exceed a total of \$500	8% on the Fine amount owed	\$15 or 5% of the Fine amount owed, whichever is less, per month if not paid by due date, not to exceed a total of 25% of the Fine amount

1. Liens: As provided in Chapter 3.3 of the Covenants, the District has the right and authority to impose and collect fees, rates, tolls, charges and penalties, and until paid, such lien constitutes a perpetual, statutory lien against the property. Any fine is considered delinquent if not paid by the due date.

a. If the District determines, in its discretion, to record a statement of lien against the property, such costs of preparing and recording the lien shall be included with the charges owed by the property due to the violation.

2. Additional Charges: Additional charges may be allocated to the property as set forth in the Covenants, including, but not limited to, Chapter 3.4.