

YARROW GARDENS METROPOLITAN DISTRICT

Policy for the Enforcement of Covenants, Conditions and Restrictions for Yarrow Gardens

Recitals

A. The community of Yarrow Gardens¹ is located within the Yarrow Gardens Metropolitan District (the “**District**”) and is subject to the Declaration of Covenants, Conditions and Restrictions for Yarrow Gardens dated June 4, 2019 and recorded in the Jefferson County real property records on June 5, 2019 at reception no. 2019045517 (the “**Covenants**”); and

B. The District is authorized pursuant to § 32-1-1004(8), C.R.S., its Service Plan dated August 13, 2018 and Chapter 10.1 of the Covenants, to provide enforcement of the Covenants and design review services within the District; and

C. The District is further authorized pursuant to Chapters 2.4 and 10.1 of the Covenants to adopt rules and regulations, and policies and procedures for the enforcement of the Covenants and design review guidelines, send demand letters and notices, to levy and collect fines, to charge interest and/or late charges, to impose liens, and to negotiate, settle or take any other actions in law or equity with respect to any such violations; and

D. The District desires to adopt this Policy for the Enforcement of Covenants, Conditions and Restrictions for Yarrow Gardens to formalize and supplement the enforcement policy set forth in the Covenants and to provide a clear and fair process for the enforcement of the Covenants.

NOW THEREFORE, the Board of the Yarrow Gardens Metropolitan District adopts the following Policy for the Enforcement of Covenants, Conditions and Restrictions for Yarrow Gardens:

1. Definitions. All words and phrases used herein shall have the meanings provided for them in the Covenants.

2. Content of Notice of Violation. All Notices of Violation (including Public Safety or Health Violations; First Notice and Second and Final Notice) 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

¹ See Covenants, Chapter 1.4; Exhibit A

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

a. Public Safety or Health Violations. With respect to any violation of the Covenants or other governing documents that is reasonably determined to threaten the public safety or health, a written notice shall be provided to the Owner regarding the violation and providing the Owner with seventy-two hours to cure, and if not timely cured, the imposition of a fine every other day until cured.

b. Other Violations. With respect to any other violation of the Covenants or other governing documents other than a violation that is reasonably determined to threaten the public safety or health:

i. First Notice. The First Notice shall state that the Owner has thirty days to cure the violation, and if not timely cured following inspection, 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 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.

ii. Second and Final Notice. A Second and Final Notice shall state that the owner has an additional and final sixty days to cure the violation, and if not timely cured following inspection, the imposition of fines. The Owner will have twenty-one days from receipt of the Final Notice to either Request a Hearing or correct the violation.

4. Notice of Cure/Payment Owed.

a. Owner Notice. 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.

b. No Owner Notice. The District shall inspect the property within seven days after the expiration of each cure period to determine if the violation has been cured.

5. Notice of Cure. 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.

6. Hearing Request

i. Hearing Request. A Hearing must be requested in writing and received by the District on or before: (1) for Public Safety or Health Violations, the date that is no later than seven days after the date of the violation; and (2) for Other Violations, the date that is no later than thirty days after the Second and Final Notice. Such request must be made in writing and can be made via e-mail or regular mail at the address provided in the Final Notice.

ii. Failure to Request a Hearing and to Correct Violation— Waiver and Fines. If a Hearing Request is not timely received, then the right to a hearing shall be waived and 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 Exhibit A.

7. 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 or other such committee, if any, as delegated by the District Board, acting impartially with regard to the alleged violation. Rules of evidence do not apply and any party may have an attorney present. Hearings are open to the public. Any party with an interest in the matter may present testimony. The District Board or the committee 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 District Board shall render its decision and issue a "Decision" regarding the violation within fourteen 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 District Board or committee will proceed based on information available at that time, render its decision and issue a "Decision" within fourteen days following the Hearing. A copy of the Decision shall be provided to the Owner.

8. Notice of Delinquency and Collection Actions.

a. Notice of Delinquency. Prior to seeking collection of a delinquent account of an Owner by a collection agency or attorney, an Owner shall receive a Notice of Delinquency, provided by certified mail, return receipt requested, in English or the language previously requested by the Owner, specifying:

i. The Total Amount due, with an accounting of how it was calculated;

ii. The opportunity to enter into a payment plan and instructions on how to set up a payment plan;

iii. Contact information for the review of the accounting records to verify the amount due;

iv. Specify whether the delinquent amounts owed are for (1) unpaid assessments; (2) unpaid fines, fees, or charges; or (3) both. If it concerns unpaid assessments, the notice must also include a notice that failure to pay the assessment may result in foreclosure;

v. A description of the steps that must be taken before legal action can be taken against the Owner;

vi. The steps required for cure of the violation; and

vii. A description of the types of legal action that can be taken against the Owner, including actions in small claims court or an injunction to comply with the declaration, bylaws, covenants, or other governing documents.

b. Collection Actions. No less than thirty days after the Notice of Delinquency is provided which included an offer for a payment plan, an action for collection of unpaid amounts owned may be commenced if:

i. Owner declined the payment plan; or

ii. Owner failed to make payment under an agreed upon payment plan for at least three of the monthly payments owed within fifteen days after they were due.

9. Foreclosure. Foreclosure is not an available remedy if the amounts owed by the Owner consist solely of fines or costs of collection, including attorney fees, that were incurred solely related to the fines.

10. 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 make sure that the District has correct and up-to-date contact information regarding Owner's present address, and tenant information, if applicable.

11. 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.

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

13. 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.

Adopted this 14 day of June, 2022.

YARROW GARDENS METROPOLITAN
DISTRICT

Stephen Myers

Name: Stephen Myers

Title: _____
President

Attest:



Name: David Solin

Title: _____
Secretary

EXHIBIT A

Schedule of Fines, Interest, Late Charges and Liens

	<u>Fine</u>	<u>Interest</u>	<u>Late Charge</u>
<u>Public Safety or Health Violation</u>	\$100 for initial violation, with an additional \$100 owed every 72-hours violation is not cured	8% on Fine amount	\$15 or 5% of the Fine amount owed, which ever 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>			
<u>First Notice/Courtesy Notice</u>	\$0	0%	N/A
<u>Final Notice</u>	\$100 owed in not cured within initial 30-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, which ever 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. § 32-1-1001(1)(j)(I), C.R.S. No recordation of the District's statutorily created lien is required, with such lien arising on the date on the violation and continuing in perpetuity until the associated fees, rates, tolls, charges and penalties are paid in full. 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.

3. Attorney Fees/Charges. In the event the District determines to foreclose on its lien, or takes other actions regarding the violation, including the filing of any claims in law or equity, mediation, arbitration or settlement discussions, the District is entitled to the recovery of its reasonable attorney fees and costs if it is the prevailing party in the dispute.