

# Eighth Street Square Townhouse Association

## Violation Enforcement Policy

WHEREAS, Eighth Street Square Homeowners Association, a Planned Community, has the authority pursuant to the Declaration of Covenants, Conditions and Restrictions (“CC&Rs”) and the Bylaws (“Bylaws”) of Eighth Street Square Townhouse Association (“Association”) to determine, in its reasonable discretion, the manner in which it will enforce Violations of the provisions set forth in the CC&R’s and/or By-Laws and/or Community Handbook and/or Rules (the “Governing Documents”);

WHEREAS, The Board of Directors of the Association (“Board”) finds there is a need to establish procedures for the enforcement of the Use Restrictions and Architectural and Design Standards of the Governing Documents, and for the elimination of Violations which may be found to exist within the Association;

NOW THEREFORE, IT IS RESOLVED that the following procedures and practices are established for the enforcement of Violations of the Use Restrictions and Architectural and Design Standards of Association and for the elimination of Violations of such provisions found to exist in, on or about any property within Eighth Street Square Townhouse Association and the same are to be known as the “Violation Enforcement Policy” of the Association in the discharge of its responsibilities for determination and enforcement of remedies for violations within Eighth Street Square Townhouse Association.

### 1. Establishment of a Violation

- a. **Architectural** - Any prohibited Improvement or alteration of any kind or nature erected, placed or altered on any Lot which has not been first approved by the architectural committee or which does not in all respects conform to that which has been so approved is deemed a “Violation” under this Violation Enforcement Policy for all purposes.
- b. **Use Restrictions** - Any activity or condition allowed to continue on any Lot that is in opposition to Governing Documents, which is not expressly authorized by the Board is deemed a “Violation” under this Violation Enforcement Policy for all purposes.

### 1. Notice of a Violation

A courtesy warning letter will be sent (Courtesy Letter) and followed up, if necessary, with a second letter (Intent to Fine). If necessary, a third letter (Fine Letter) will be sent if violation is not cured after receiving the second letter. Each correspondence will include the following items:

- a. **Courtesy Letter** – Upon verification of the existence of a Violation by the management staff (“Management”) of the Association, Management will send to the Owner a written notice of the discovery of the Violation (“Courtesy Letter”). The Courtesy Letter will inform the recipient as follows:
  - (i.) The nature of the Violation and inspection date
  - (ii.) A request to remedy the Violation
  - (iii.) Notice that if the Violation has already been corrected or plans and specifications for a subject Improvement have been submitted to the architectural committee to disregard the notice
  - (iiii.) If necessary, work on any Improvement must cease immediately and may not resume without the expressed written approval of the architectural committee.

**a. 1<sup>st</sup> Fine Letter** – If the Owner fails to remedy the Violation or fails to submit plans and specifications for the offending Improvement to the architectural committee or if the architectural committee has denied approval of the plans and specifications submitted, and the Violation is continuing, no earlier than ten (10) days from the Second Notice, Management shall send to the Owner a Fine Letter informing the recipient as follows:

- (i.) The nature of the Violation, initial date of Violation, and the failure of the Owner to correct the Violation, as previously requested
- (ii.) Notice that if the Violation is corrected or eliminated within ten (10) days from the delivery of the Second Notice & Fine, no further action will be taken
- (iii.) If necessary, work on any Improvement must cease immediately and may not resume without the expressed written approval of the architectural committee
- (iiii.) Description of the process to contest the Violation
- (v.) The amount of the proposed fine (and interval of the fine) if the Violation is not remedied.

**c. Failure to Remedy** - Failure to cease all work immediately after the first fine or remedy the current violation existing upon the Lot within ten (10) days of the date of the Fine Letter, shall constitute a continuing Violation and result in one or more of the following:

- (i.) Another fine being levied by the Association against the Lot Owner
- (ii.) Any other remedy in law or equity, the Governing Documents or this Violation Enforcement Policy, including but not limited to injunctive relief. Management shall send to the Owner a formal Notice of Fine informing the recipient of the continuing Violation and the remedy chosen as a result thereof. The date of the Fine Letter shall be the “Notice of Fine Date.”

**d. Fine Schedule** – Any fine imposed pursuant to the provisions of Section 2 shall be imposed per the Fine Schedule beginning to accrue immediately as of the Notice of Fine Date. 1<sup>st</sup> Fine - \$25; 2<sup>nd</sup> Fine - \$50; Third and Continuing Fine - \$100.

**e. Owner Response** – Each letter shall advise the Owner of the Owner’s right to contest the Violation by sending a written response to the Association, by certified mail, at the address stated in its notice, within ten (10) business days after the date of the letter. Should the owner exercise his/her writing to contest the violation and/or be heard by the Board prior to a fine being imposed, a hearing will be scheduled.

### **3. Referral to Legal Counsel**

Where a Violation is determined to exist and is referred to the Board of Directors of the Association pursuant to any of the provisions of this Violation Enforcement Policy and where Management deems it to be in the best interests of the Association, the Board may, at any time during the enforcement process, refer the Violation to legal counsel for action seeking injunctive relief against the Owner to correct or otherwise abate the Violation, or to pursue any other legal or equitable remedy that may be available to the Association.

#### 4. Notices

- a. Any Notice of Fine required by this Violation Enforcement Policy to be given, sent, delivered or received in writing will be deemed to have been given, sent, delivered or received, as the case may be, upon the occurrence of the following.
  - (i.) When the notice is placed into the care and custody of the United States Postal Service, the notice is deemed delivered as of the date the notice is deposited into a receptacle of the United States Postal Service with postage prepaid and addressed to the most recent address of the recipient according to the records of the Association.
- b. Where the interests of an Owner have been handled by a representative or agent of such Owner or where Owner has otherwise acted so as to put the Association on notice that its interests in a Lot has been and is being handled by a representative or agent, any notice or communication from the Association or Management pursuant to this Violation Enforcement Policy will be deemed full and effective for all purposes if given to such representative or agent.

#### 5. Cure of Violation During Enforcement

An Owner may correct or eliminate a Violation at any time. Upon verification by Management that the Violation has been corrected or eliminated, the Violation will be deemed no longer to exist and the Notice of Violation closed. The Owner will remain liable for all costs and fines under this Violation Enforcement Policy, which costs and fines, if not paid upon demand thereof by Management, may be referred to the Association for collection by appropriate procedures.

If a Violation has been cured but reappears (recurrence of the same violation) within three (3) months of the last date of Violation, the Violation process will continue to the Notice following the stage at which the most recent Notice was closed.

This Resolution was adopted by the Board at the Board meeting held on the 9<sup>th</sup> day of March, 2016.



President, Eighth Street Square Townhouse Association