

COVENANT ENFORCEMENT AND FINE POLICY  
FOR  
CIMARRON HOMEOWNERS ASSOCIATION OF SAMMAMISH

**RECITALS**

A. The Covenants. The Declaration and Covenants, Conditions, Restrictions, Easements and Reservations for Cimarron Division I (the "Covenants") were recorded on December 15, 1983, King County Recording No. 8312150600. The Covenants have been amended once by the First Amendment recorded on July 24, 1996 under King County Recording No. 199607241158. This makes them part of every deed to every Cimarron home. The Covenants themselves provide that, by accepting the deed to a Cimarron home, you are accepting all the responsibilities the Covenants create.

B. The Common Plan Purpose. Cimarron is an attractive, pleasant place to live. This adds value to Cimarron homes and enriches the lives of those who live here. Retaining these neighborhood characteristics is important. These neighborhood characteristics are a product of community wide standards put in place at Cimarron's inception. These community wide standards are embodied in Cimarron's "Governing Documents." Cimarron's Governing Documents are the Covenants, the Articles of Incorporation, the Bylaws, the rules and regulations and any amendments to these documents.

C. The Governing Documents Embody a Common Plan Purpose. A Common Plan Purpose is a term used to describe what the creators of a development set out to create. Those who developed Cimarron set out to create what now exists - an attractive, pleasant neighborhood of well-designed homes, nicely landscaped yards, with clear expectations about each Owner's responsibility to preserve what now exists.

D. Means of Advancing the Common Plan Purpose. The Governing Documents serve to preserve and advance this Common Plan Purpose. They do so in two ways. They assign to each Owner certain responsibilities meant to preserve and advance the Common Plan Purpose. Moreover, they delegate to the Association certain authority to make decisions and take actions meant to preserve and advance this Common Plan Purpose. The Governing Documents make each Owner responsible for complying with specific restrictions found in the Governing Documents, for getting prior written approval from the Association before doing certain things described in the Governing Documents and for following rules and regulations the Board adopts from time to time.

E. The Importance of Voluntary Compliance. The chief means for preserving and advancing the Common Plan Purpose is for each Owner to voluntarily perform the responsibilities of an Owner. Cimarron has achieved its existing neighborhood character largely because individual Owners take seriously the responsibilities that come with ownership of a Cimarron home. The Board believes that the actions of responsible Owners will continue to minimize the need for the Board to force compliance with the Governing Documents through enforcement action.

F. The Need to Create This Policy. Owners are human, so performing the responsibilities of an Owner will naturally be imperfect on occasion. The reasons may vary. Maybe an Owner

forgets or misunderstands what the Governing Documents require. Maybe a personal crisis causes some obligations under the Governing Documents to go temporarily undone. Alternatively, maybe an Owner believes that, regardless of what the Governing Documents say, no one has the right to say what can or cannot be done on his or her property. So sometimes something more than clear expectations are needed to bring an Owner into compliance with the Governing Documents. This Policy is meant to guide the Board in acting to restore an Owner's compliance with the Governing Documents.

G. The Board's Authority. RCW 64.38.020 and the Governing Documents (specifically Articles 16 and 19 of the Covenants) give the Cimarron Homeowners' Association Board ("Board") broad authority and many tools to use in preserving and advancing the Common Plan Purpose. The Board is authorized to create and enforce rules and regulations to insure compliance with the Governing Documents and promote the comfortable use and enjoyment of the Cimarron property. The Board is authorized to resort to various remedies to restore compliance with the Governing Documents, including:

1. Imposing a fine;
2. Curing the violation itself and charging all costs of the cure to the Owner;
3. Charging the Owner for all legal fees the Association has incurred;
4. Assessing the Owner for all fines, costs and fees described above;
5. Placing a lien on the Owner's property for all items assessed;
6. Bringing a lawsuit to foreclose the lien against the property; and/or
7. Bringing a lawsuit to get a court order requiring compliance, as well as a money judgment for all damages, attorneys' fees and costs incurred.

H. The Purpose This Policy Serves. This Covenant Enforcement and Fine Policy ("Policy") is meant to restore an Owner's compliance with the Governing Documents through a process that is fair, efficient and effective, so that the Common Plan Purpose is preserved and advanced.

## **COVENANT ENFORCEMENT POLICY**

1. Adoption of the Policy. It is therefore resolved by the Board that the following Policy is adopted to govern actions by the Association, the Board and the Owners regarding the enforcement of the Governing Documents.

2. Authority Reserved to Association and to Each Owner. This Policy is a general approach. It exists to advance the purpose of restoring compliance with the Governing Documents. It is not meant to impair the Association's ability to pursue this purpose. The Board retains whatever authority they otherwise have to employ any available means or remedy in pursuit of this

purpose. This Policy is also not meant to impair an Owner's ability to bring about compliance with the Governing Documents by another Owner. This Policy reserves to each Owner the right of an Owner under Article 18 of the Covenants to enforce the Governing Documents directly against another Owner.

3. Maintaining Awareness. To lower the chance that an Owner will violate a Covenant through ignorance or inadvertence, the Board may take actions to periodically remind all Owners of the responsibilities which the Governing Documents assign to each Owner.

4. Identifying Possible Violations. A possible violation of the Governing Documents may be identified by a periodic drive through inspection done to monitor compliance, by Board investigation, by an Owner's written complaint, or by other reasonably reliable means.

5. Monitoring Compliance. The Board may periodically monitor Governing Documents compliance by drive through inspections. Someone from the Association may drive through Cimarron and make a written record of each Covenant violation that person observes from the street. That person will promptly create a list of homes observed to be in violation of the Governing Documents (the "List"). For each home identified on the List, the violation will be described. This description will include a reference to the specific Covenant, rule or regulation being violated. This List will be used by the Association in issuing Compliance Requests described below.

6. Written Complaint. A person may bring a possible violation to the Board's attention through a written complaint. The complaint must identify the complainant, the property involved, describe the violation and include a reference to the specific Governing Document provision being violated. The Board may designate a Board Member or the Association to check to see if the condition described still exists. The home will be added to the List if the Association or the designated Board Member independently verifies the violation described exists. The person who submitted the written complaint shall be notified in writing if the existence of the violation described cannot be independently verified. A person who receives written notification that the existence of the violation described cannot be independently verified is nonetheless free to pursue enforcement directly against the alleged violator through exercising an owner's rights under Article 18 of the Covenants.

7. Courtesy Notice. Prior to sending a formal Compliance Request as described below, the Board, in its sole discretion, may send a "Courtesy Notice" to the Owner violating the Governing Documents.

8. Compliance Request. A written "Compliance Request" may be sent to the Owner of each home identified on the List described above. The written Compliance Request will:

- 8.1. Describe the non-compliance;
- 8.2. State the Governing Document provision it violates;
- 8.3. State what must be done to restore compliance;

8.4. State the date by which compliance must be restored (“Restoration Date”);

8.5. State the fine (if applicable) that will result if compliance is not restored by the Restoration Date; and

8.6. State that the Owner has five (5) days to request in writing that the Owner be given an opportunity to be heard on the matter.

9. Hearing. Upon receiving a timely request from the Owner, the Board will provide notice of the date, time and location of the “Hearing” which Hearing date will be not less than ten (10) days from the date of the request for a Hearing. At the Hearing, the Owner has the right, personally or by a representative, to give testimony orally, in writing, or both, and to otherwise present evidence. The rules of procedure here described may be supplemented by additional rules of procedure the Board may adopt to promote a prompt and orderly resolution of the matter. If so adopted, and if provided to the person before the Hearing, such additional rules will apply to the Hearing. The evidence received will be considered in making a decision. The Owner shall be notified of the decision in the same manner in which notice of the Hearing was given. Multiple Hearings are not required for individual or continuing violations.

10. Fine. Violations not corrected by the Restoration Date given in a Compliance Request will result in a \$100.00 fine. That fine applies for the first thirty (30) days after the date the fine is imposed. Continued existence of the violation on the day following the thirtieth (30th) day will result in an additional \$225.00 fine. Continued presence of the violation on the day following the sixtieth (60th) day after the Restoration Date will result in an additional \$350.00 fine with additional \$350.00 fines continuing to accrue monthly thereafter until the violation is cured.

11. The Chronic Offender. A "Chronic Offender" is defined as an Owner who has been sent a total of three (3) or more Compliance Requests in the previous twelve (12) months. Compliance Requests included in this total include all Compliance Requests sent to the Owner in this time period, no matter what it was sent for. A Stop Work Order issued under Section 12 shall be counted as a Compliance Request in this total of Compliance Requests. Each Compliance Request sent to a Chronic Offender shall contain the information described in Section 8 above; except that a fine of \$100.00 will be assessed immediately at the time the Compliance Request is sent, plus an additional fine of \$225.00 if the violation is not corrected within thirty (30) days of the date of the Compliance Request, with an additional \$350 fine every thirty (30) days thereafter until the violation is corrected.

12. Issuing a Stop Work Order. The Association or the Board may issue a Stop Work Order to any Owner engaged in an Unauthorized Activity. An "Unauthorized Activity" is any activity which requires the prior written approval of the Board or a committee acting on behalf of the Association, but which has not received prior written approval of the Board or the appropriate committee. A Stop Work Order will:

12.1. Identify the property address;

- 12.2. Describe the Unauthorized Activity;
- 12.3. Identify the specific prior approval requirement being violated;
- 12.4. Require the immediate cessation of the Unauthorized Activity;
- 12.5. State that this serves as a determination that the violation has occurred;
- 12.6. State that this determination is final unless the Owner requests a Hearing within five (5) days of the date of the Stop Work Order; and

12.7. State that failure to immediately comply with the terms of the Stop Work Order will cause an initial \$100.00 fine to be imposed and that for each day thereafter during which noncompliance with the Stop Work Order takes place, a separate fine of \$100.00 per day will be imposed.

13. Paying Fine Does Not Cure a Violation. Paying a fine does not relieve an Owner from responsibility to cure a violation. Likewise, exercise of any mediation, hearing or appeal rights does not waive or suspend a duty to immediately cure a violation or pay a fine.

14. Voluntary Compliance Agreement. The Association or the Board may reach a "Voluntary Compliance Agreement" with an Owner in which the Owner admits the violation exists, agrees to take specific actions to cure the violation within a specific time frame acceptable to the Association or the Board and agrees that failure to perform the specified actions within the specified time frame will entitle the Association or the Board to impose a fine or fines in a specified amount.

15. Collection Agency. At any time the Board deems reasonably appropriate, the Board may employ a Collection Agency or attorney of their choice to collect unpaid fines and/or to start a lawsuit or lien foreclosure proceedings.

16. Mediation. At any time, a party may request a mediation. To do so, the party desiring mediation ("Initiating Party") shall initiate the process by giving the other party or parties a written "Request to Mediate" with a copy to the Board if the Association is not to be a party to the mediation. In the Board's discretion, the Association may intervene as a party in interest in the mediation. The Request to Mediate will describe the issues involved and invite the other party or parties ("Recipient Party") to join with the Initiating Party in mediation and to name a mutually agreeable mediator and a timeframe for the mediation session to be held in King County, Washington. The Recipient Party will have ten (10) days during which to agree to mediate and to mutually agree upon a mediator and date for the mediation. If the Recipient Party does not agree to mediate, no mediation will be held. If the Recipient Party does agree to mediate but the parties cannot agree on a mediator, either party may submit the matter to mediation with Judicial Dispute Resolution in Seattle, Washington ("JDR"). Once submitted to JDR, JDR shall appoint a mediator and set a date for the mediation session. The parties agree to abide by JDR's rules and procedural format. The parties shall pay equally the mediator's fees and costs. Each party shall bear their own attorney fees and costs at mediation.

17. Fees and Costs. In the event of any legal action (other than a mediation) arising out of a Compliance Request or Stop Work Order, the substantially prevailing party shall be entitled to all fees and costs connected with such legal action, including attorneys' and accountant's fees and costs actually incurred. If there is no substantially prevailing party because all parties prevail on major issues, then each party shall bear its own attorney fees and other fees and expenses.


18. Board's Discretion to Waive Fines. A fine or fines imposed under this Policy may be partly or entirely waived by the Board upon its determination that special circumstances exist in the particular instance to warrant the granting of such a waiver.

19. Effective Date. The Covenant Enforcement and Fine Policy set forth herein shall take effect on April 2<sup>nd</sup>, 2017.

Approved this 9<sup>th</sup> day of March, 2017.

Cimarron Homeowners Association of Sammamish:

  
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President

  
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Secretary