

## **Architecture Control Committee Enforcement and Fine Policy**

This section establishes the policies and procedures for enforcement of the Edelweiss Maintenance Commission (EMC) Architectural Control Committee and its governing documents. The EMC Architectural Control Committee (ACC) adopted this Enforcement and Fine Policy on November 15th, 2022, and was approved by the EMC Board of Directors on November 15th, 2022.

### **A. General**

1. Governing documents subject to enforcement may be found on the EMC website: [CC&R's](#) , [By-Laws](#), [Architectural Guidelines](#)
2. A violation by any owner, resident, occupant, and/or tenant of a lot(s) shall be treated as a violation by the entire ownership of the lot.
3. Failure of EMC to take action on any violation shall not constitute a waiver on the part of EMC to take action for such violations or future similar violations as the ACC deems appropriate.
4. Nothing contained herein shall prevent EMC from taking any action to recover the cost of damages or to obtain injunctive relief, or both. In the event EMC does commence a lawsuit or undertake other legal action, it shall seek from the Owner reasonable attorney fees, expenses, and costs incurred for such action as provided by law.

### **B. Reports and Notices of Violation**

1. Email correspondence is the preferred method of communication. If email communication is not available by either party; Return Receipt Mail / certified mail is acceptable.
2. Any owner, resident, occupant, tenant, and/or property manager may report an alleged violation by submitting an EMC Report of Alleged Governing Documents Violation ([Form One](#)) to the EMC Administrative Manager at (209 Goat Creek Rd, Winthrop, WA, 98862 or [manager@edelweissmethowvalley.org](mailto:manager@edelweissmethowvalley.org)). The source(s) of any such report will remain anonymous, except only as needed, to ACC members, Edelweiss Administrative Manager and the Edelweiss Board, unless they expressly choose to reveal their identity and, except in such cases, all identifying information about the source(s) shall be redacted in any records provided for owner review.
3. Upon receipt of the report of alleged violation, the Edelweiss Administrative Manager will informally notify the reportedly responsible owner(s) by phone call or email, gather evidence, and then determine the appropriate course of action, if any, and issue a Violation Letter.
4. As necessary, the ACC will determine whether a violation is ongoing or finite in duration, as well as whether it is a repeat occurrence of a governing documents violation by the same owner.
5. Should the ACC determine that there is a violation(s), it will notify the responsible owner(s) with a written Notice of Governing Documents Violation ([Form Two](#)) for each separate infraction, sent via email and Return Receipt mail. The Notice will, if applicable, specify corrective actions, a compliance schedule and will in all cases request the owner's Response to Notice of Governing Documents Violation ([Form Three](#)) in addition to issuance of a Variance Request Form.

### **C. Appeals**

1. Except as limited herein for repeat infractions, an owner who has received a Notice of Governing Documents Violation may exercise their right to an appeal before the ACC. Such requests must be postmarked and/or emailed within 14 days of the owner's receipt of the Notice of Violation and must indicate whether

the owner intends to have an attorney present at the appeal. The owner should use email and/or Return Receipt mail if he/she wants confirmation of EMC receipt of the request prior to scheduling of the appeal. Repeat occurrences of the same governing documents violation will not be eligible for an appeal as to whether a violation occurred. Failure to notify EMC that an attorney will accompany the owner to the appeal may result in unannounced postponement of the appeal until EMC can arrange for attorney representation as well.

2. Upon receipt of a timely appeal request, the EMC Administrative Manager will notify the ACC within 48 hours of appeal request, the appeal will occur during the next regular ACC meeting. In the event that such scheduling is not possible, the appeal will occur on the earliest date practical for all involved parties. Participation by any party may take place by telephone or other remote meeting tool. Once the appeal is scheduled, the EMC Administrative Manager will provide the Notice of Appeal on Governing Documents Violation (**Form Four**) to the requesting owner via email and/or Return Receipt mail. Notice of the appeal shall be provided to all other owners in accordance with the notification requirements for ACC meetings, as detailed in the governing documents.
3. The EMC Administrative Manager will provide the ACC with the elements of the Notice of Violation within 48 hours of receipt of owner's requesting appeal with written summary of their position. The owner(s) requesting the appeal must not communicate directly with any members of the ACC about the case prior to the meeting.
4. The appeal meeting will be informal, but orderly and respectful, with an ACC member acting as chair and the EMC Administrative Manager acting as sergeant-at-arms. The ACC will observe the appeal. All parties will represent themselves. The ACC will read the elements of the Notice of Violation into the record, after which the person requesting the appeal will present evidence and/or testimony in support of their position. The ACC may limit the time allowed for such evidence and testimony. ACC members may ask questions of the owner, the ACC, or any other person in attendance. Minutes of the appeal will be kept by an ACC member, member to be determined prior to the meeting. All evidence presented at the appeal shall become the property of EMC.
5. If the person who requested the appeal fails to appear, the ACC will base its findings on whatever information is presented at the appeal or other-wise available to it.
6. The ACC will review all evidence and testimony presented and, if possible, provide its findings and recommendations to the owner, resident, occupant, and/or tenant of a lot(s) immediately following the appeal meeting. If the ACC determines that its review and recommendations will take additional time, the ACC shall provide written findings and recommendations to the owner, resident, occupant, and/or tenant of a lot(s) no less than 10 days prior to the next regular ACC meeting or special meeting called for that purpose.
7. The ACC will consider the findings and accept, reject, or modify the compliance recommendations, or take other appropriate action. EMC will provide any written findings and recommendations of the ACC, as well as the written ACC determination (**Form Five**) to both the person who requested the appeal and the person who reported the violation.

#### **D. Fines**

1. An owner may be fined for a violation of EMC's governing documents. Any such fine shall be assessed against both the lot(s) and the owner(s) thereof.

- a. Once a violation is identified by the ACC and communicated by the EMC Administrative Manager via Return Receipt Mail / certified mail and email to the property owner by the ACC, the property owner will have 2 weeks to submit an appeal/response via email and/or ; Return Receipt Mail / certified mail to the EMC Administrative Manager with a plan outlined and proposed maximum timeline of 2 months to ameliorate the violation.
  - b. If an extension to the violation (of no more than 6 months) is approved by the ACC, the property owner will not be charged a violation fee during the time the extension is granted to ameliorate the violation.
  - c. If the property owner does not respond to the ACC within 2 weeks of the violation email and letter being sent, the property owner will be charged a fee/month, (see Violation Fine Amount chart for current level) beginning the 31<sup>st</sup> day after the violation is identified by the EMC Administrative Manager and communicated to the property owner.
  - d. Property owner will be charged the monthly violation fee/month (see Violation Fine Amount chart for current level) for every month the violation continues until it is ameliorated.
2. If, during any approved extension timeline, no action is taken by the property owner to ameliorate the violation, the property owner will be charged a retroactive fee/month (see Violation Fine Amount chart for current level) beginning the first month after the initial violation was communicated to the property owner by the ACC.
  3. If, following any appeal that may occur under [Section C](#), corrective actions are not completed as directed and/or in the case of repeat occurrences of the same governing documents violation by an owner, the ACC will set a fine and notify the owner(s) with a written Notice of Fine for Governing Documents Violation ([Form Six](#)), sent via email and Return Receipt mail. The Notice will also describe how additional fines shall accrue for ongoing noncompliance (i.e., continuing violation and/or failure to pay the original fine).
  4. Additional fines for issues of ongoing noncompliance shall begin to accrue on the day following the specified compliance deadline. EMC will pursue collection of unpaid fines in the same manner as delinquent assessments, as detailed in the governing documents.

Violation Notice Phase	Violation Fine Amount
Initial Notice of Violation	No Fine
Initial Notice of Fine for non-compliance / amelioration	\$250
Ongoing Noncompliance	\$250 per month

## **E. Resolution**

When an owner believes that he/she has completed all prescribed corrective actions and paid all applicable fines, he/she should notify the EMC Administrative Manager who will make inspection of the site and confirmation of payment. Once the ACC determines that all required corrective actions have been completed and any fines paid, EMC Administrative Manager will provide the owner with a Notice of Resolution of Governing Documents Violation ([Form Seven](#)).