

BEAVER CREEK VILLAGE LIGHTING RULES & REGULATIONS

Adopted Effective 10/1/23

1. Lighting Rules and Purpose

The Beaver Creek Design Review Board (“DRB”) has adopted updated guidelines for lighting (the “Rules”). The goals for the lighting plan are the following:

- a. Lighting is to be routinely and consistently maintained including cleaning, repairing, replacing, and re-lamping as required to comply with the design guidelines and have fully operation, functioning lighting throughout the resort.
- b. All non-decorative lighting sources are to be 3000K warm white LED with 90+ CRI (color rendering index). All decorative lighting sources (i.e. candelabra lamps) within decorative fixtures such as lanterns are to be 2700K warm white with 80+ CRI.
- c. Lighting shall not be installed where its direct source is visible from neighboring properties, or where it produces excessive glare to pedestrian or vehicular traffic.

The specific Rules for the lighting guidelines are described in the Beaver Creek Village Design Guidelines & Regulations (the “Village Design Guidelines & Regulations”). Specifically, the lighting guidelines are in Section 7 of the Village Design Guidelines & Regulations. These Rules are enacted for the purpose of ensuring compliance with Section 7 of the Village Design Guidelines & Regulations. Ignorance of these Rules and/or the Village Design Guidelines & Regulations is neither a waiver of liability nor responsibility. All violations will be assessed in accordance with these Rules.

2. Compliance

The “DRA” is the Design Review Administration staff retained by the Design Review Board and Beaver Creek Resort Company which are responsible for the administering and enforcement of the Rules. If there is a violation of these Rules, the DRA shall provide the violator with a written “Notice of Violation” letter. The Notice of Violation letter shall be issued to both the owner and their tenant, if applicable. Therefore, the term violator, as used herein, shall include both the owner and their tenant. A Notice of Violation may include more than one violation if there is more than one violation of these Rules. For example, if the violation involves more than one light fixture, then each light fixture that is in violation of these Rules is a separate violation.

- a. The written Notice of Violation shall:
 - i. State with reasonable detail the circumstances of the claimed violation as known by the DRA;
 - ii. State the action or actions required to cure the alleged violation;
 - iii. State the interval upon which fines may be levied for the violation;

- iv. Provide the violator with an opportunity for a hearing before the DRA to refute the complaint as provided below.
- v. Inform the violator that the violator has an initial thirty (30) days period in which to cure the violation, or the DRA may, after conducting an inspection and determining that the violator has not cured the violation, fine the violator, and
- vi. Inform the violator that the DRA may continue to fine and pursue legal action against the violator if the violation remains uncured after a second thirty (30) day period and inspection by the DRA.
 - 1. Fines imposed for violations may not exceed \$500.00.
 - 2. The Association shall not pursue foreclosure against the violator for based on fines owed for violations of the Rules.

b. Cure.

- i. If the violator cures the violation within the period to cure referenced above, the violator may notify the DRA of the cure and, if the violator also provides visual evidence that the violation has been cured, the violation is deemed cured on the date that the violator sends the notice. If the violator's notice does not include visual evidence that the violation has been cured, the DRA shall inspect as soon as possible to determine if the violation has been cured.
- ii. If the DRA does not receive notice from the violator that the violation has been cured, the DRA shall inspect the violation within 7 days after the expiration of the 30-day cure period to determine if the violation has been cured. If after the inspection and whether or not the DRA received notice from the violator that the violation was cured, the Association determines that the violation has not been cured:
 - 1. a second 30-day period to cure commences if only one 30-day period to cure has elapsed; then
 - 2. the Association may take legal action pursuant to this section if two 30-day periods to cure have elapsed
- iii. Once the Violator cures a violation, the DRA shall notify the violator in writing that:
 - 1. the violator will not be further fined regarding the violation; and
 - 2. of any outstanding fine balance that the violator still owes the Association

3. Fines

Violations of these Rules will result in assessment to the violator of the following fines:

- First violation: Notice of Violation
- Second violation of same or similar nature: \$200
- Third violation of same or similar nature: \$300

Each lighting fixture which violates these Rules is a separate violation. For example, if there are two lighting fixtures which violate these Rules, each lighting fixture is a separate violation.

The maximum fine for violations of the same covenant or rule are capped at \$500.

All fines contained herein shall have the same force and effect as any assessment levied by the Association.

4. Hearing

- a. Request for Hearing. In the event any violator desires to attend a hearing or DRB or DRA meeting to challenge or contest any alleged violation and possible fine, said violator must, within 14 days from receipt of the Notice of Violation, request such hearing by notifying the DRA, in writing, of such hearing request. In the event a proper and timely request for a hearing is not made as provided herein, the right to a hearing shall be deemed forever waived. If a hearing is not requested within the aforementioned 14-day period, the DRA shall determine if there was a violation, and if so, may continue to assess a reasonable fine within the guidelines contained in these Rules, all within 60 days of the expiration of the aforementioned 14-day period. The fine assessment is due and payable immediately upon receipt of notice of the said assessment. The DRA shall give notice of said assessment to the applicable violator as provided in these Rules. In requesting a hearing before the DRA or the DRB, a violator shall state and describe the grounds and basis for challenging or denying the alleged violation as well as such other information the violator deems pertinent.
- b. Discovery. Upon written request to the DRA, but not later than ten days prior to the date of hearing, the violator shall be entitled to: (a) obtain the names and addresses of witnesses, to the extent known to the DRA, and (b) inspect and make copies of any statements, writings, and investigative reports relative to the case contained in the DRA's records. Nothing in this section shall, however, authorize the inspection or copying of any writing or other thing which is privileged from disclosure by law or otherwise made confidential or protected, such as attorney work product.
- c. DRB or DRA to Conduct Hearing. The DRB or the DRA shall hear and decide cases set for hearing pursuant to these Rules. The DRB or the DRA may appoint

an officer or other owner to act as the presiding officer (the "Presiding Officer") at any of the hearings.

- d. Hearing. Each hearing shall be held at the scheduled time, place, and date, provided that the Presiding Officer may grant continuances for good cause. At the beginning of each hearing, the Presiding Officer shall explain the rules, procedures, and guidelines by which the hearing shall be conducted and shall introduce the case before the DRB or DRA by reading the notice of hearing. The general procedure for hearing shall consist of opening statements by each party; presentation of testimony and evidence, including cross-examination of witnesses by each party; and closing statements by each party. Notwithstanding the foregoing, the DRB or DRA may exercise its discretion as to the specific way a hearing shall be conducted and shall be authorized to question witnesses, review evidence, and take such other reasonable action during the hearing which it may deem appropriate or desirable to permit the DRB or DRA to reach a just decision in the case. Rules of law regarding trials and presentation of evidence and witnesses shall be applicable to the hearing insofar as the Presiding Officer deems adherence to such rules of law to be in the interests of justice; provided that any relevant evidence should be admitted if it is the sort of evidence on which responsible persons are accustomed to relying on in the course of serious affairs. The decision of the DRB or the DRA at each hearing shall be based on the matters set forth in the notice of hearing, request for hearing and such evidence as may be presented at the hearing. Unless otherwise determined by the DRB or the DRA, all hearings shall be open to attendance by all members of the Association.
- e. Decision. After all testimony and other evidence have been presented at a hearing, the DRB or the DRA shall render its decision thereon within ten (10) days after the hearing. A decision, either a finding for or against the violator, shall be by a majority of the DRB or the DRA. The DRB or the DRA shall issue written findings of fact and conclusions, and, if applicable, shall impose a reasonable fine as provided in these Rules. The DRB or DRA may also issue and present for recording with the Clerk and Recorder of Eagle County, Colorado, a notice of finding of violation. Upon satisfactory compliance with the Association's governing documents, the notice may be released by the Association issuing and recording a release of notice of findings of violations.
- f. Enforcement and Attorney's Fees. In accordance with the Association's governing documents, it is hereby declared to be the intention of the Association to enforce the provisions of these Rules by all means available to the Association at law or in equity, and to seek recovery and reimbursement of all attorney's fees, Association expenses and costs incurred by the Association in connection therewith.

5. Variances

If the DRA deems it appropriate, in the DRA's sole discretion, the DRA may grant a variance to these Rules based upon the following considerations:

- a. If the violator is delayed by the DRB or the DRA to provide alternative solutions (i.e. researching appropriate fixtures, their bulb specifications and vendors).
- b. The violator provides evidence that the violator is actively pursuing solutions but experiences challenges with vendors, lead time, or similar reasons to procure or resolve the violation.
- c. The solution for the violation is unreasonably expensive (i.e. greater than \$1,000.00 for a single violation), however, the violator must submit a plan and timeline for resolution which is acceptable to the DRA.