

Kings Deer ACC Fee Deduction Guidelines

Introduction

Project monitors (PM) of the King's Deer Architectural Control Committee review ACC approved projects during construction to ensure compliance with the approved application, and ensure compliance with King's Deer covenants, policies and rules. When variations from the approved application are detected, the PM presents these variations to the ACC during a regular ACC meeting so that the committee members may assess the potential impact of the variation and determine what, if any, corrective action is appropriate.

Depending on the nature of the variation, the ACC may invoke a number of options, including acceptance of the variation, instructing restoration of the project so that it complies with the approved application, imposing a withhold on the project compliance fee, and referring the unauthorized variation to the covenant enforcement process or Board of Directors for further action. The ACC may invoke any combination of these measures based upon the nature, complexity, frequency, severity and overall significance of the unauthorized variation.

Purpose

This document provides guidelines to assist the ACC when imposing compliance fee withholds in a wide variety of situations. While a wide variety of situations are described, this document is not all-inclusive. For infractions not explicitly listed, the ACC should use these guidelines to select a Category that best encompasses the infraction.

Three categories are defined to reflect increasing severity of non-compliance:

- Category I: Minor Infractions
- Category II: Moderate Infractions
- Category III: Major Infractions

Procedure

Using the description of the categories, the ACC selects the category and "Code" that most closely represents the nature of the infraction. Then, the ACC considers a variety of related issues such as the impact of the infraction on the project and on the community, the potential to achieve compliance, the potential effect on future compliance enforcement, the potential to achieve future compliance, and the overall number of infractions. After a complete review of the circumstances, the ACC may increase or decrease the category to which the infraction was assigned. The final category assignment then gives the ACC suggested monetary ranges for a compliance fee withhold. The ACC is not obligated to stay within that range—they may impose less, they may impose more, based on the unique circumstances for each case.

The ACC will normally evaluate any unauthorized project variations or infractions during the regularly scheduled ACC meeting immediately following the identification of the infraction by an ACC project monitor. When the ACC decides action against an infraction is needed the Association will send the property owner a letter advising of the ACC determination, corrective actions required by the ACC, and of any compliance fee deduction amount that the ACC assessed. A compliance fee withhold is imposed immediately when invoked by the ACC. The ACC may release the withheld amount back to the compliance fee account if the owner provides appropriate justification or resolution with-in the allotted time given for violation correction, provided that the nature of the violation has a potentially refundable fee associated with it.

In addition to Category classifications, violations will normally be classified into two types of infractions. Static violations or Dynamic violations.

A Static violation would be a one-time violation such as the removal or addition of a door or window or overhang variation. The violation could just be "bought off" by the Owner or it could be corrected and the compliance fee deduction could be partially or fully refunded. Either way, it would be a "one time" violation.

A Dynamic violation would be a violation that has the potential of being repeated, such as a debris-laden Lot. Multiple citations over numerous visits could occur for the same violation. These are violations that normally require immediate action on the part of the Owner to correct and the compliance fee deductions are not normally refundable. For instance, an on-site visit finds debris strewn over the Lot. The Owner is fined a compliance fee deduction and the Lot is cleaned up, effectively correcting the violation. In this case, the compliance fee deduction is not refundable. The same violation has the potential of being cited again because of negligence, thus making it a Dynamic violation.

The Owner also has the option to "appeal" the violation. The appeal must be in writing with-in the specified time given for the appeal to be made. A "no response" will be interpreted by the ACC that the Owner agrees with the assessment and the subsequent action required for correction of the violation, in which case the compliance fee will be withdrawn from the Owners compliance fee fund. In addition, whatever action the ACC has determined the Owner must take to correct the violation, will be completed by the date the ACC has specified for the corrective action to be accomplished to avoid potential further action from the ACC.

CATEGORY I: MINOR INFRACTIONS

General description: Creates minor impact on the overall project appearance or overall value. The location and size of the project remains as approved. Substituted materials are generally as approved, or higher quality. Colors are unchanged from approved or extremely close. It does not generally present a safety, health or environmental issue.

Range of compliance fee withhold: **\$50 to \$250 per occurrence.**

Sample infractions that would likely be classified as Category I:

CODE AND DESCRIPTION:

- 1001. Erosion. Erosion on adjacent properties is evident, has not become serious, but there is no evidence of controlling it.
- 1002. Road Drainage. Drainage along the road is not being maintained or erosion is beginning to occur that eventually could affect drainage.
- 1013. Trespassing. Incidental and minor trespassing on a neighboring property or common areas that has not become repetitive in nature but has been previously cautioned by the Association.
- 1014. Trash and Debris Containers. Approved, enclosed containers are not used or overflowing (first violation after an initial verbal or written warning). Site Appearance. Project site is not kept clean or free of loose debris after work hours, or debris is beginning to scatter to neighboring properties after an initial warning from the Association, although no complaints are generated.
- 1017. Disturbed Area. Construction traffic not constrained to the designated disturbed construction area and authorized site access lane(s) after an initial verbal or written warning.
- 1020. Foundation. Foundation dimensions differ from original site plan by more than one (1) foot but less than three (3) feet. Or foundation location differs from approved site plan by two feet but not more than four feet, and no setback encroachment, or view corridor impact occurs.
- 1025. Architectural. Add, change, delete an architectural feature that would have been approved by the ACC.
- 1028. Cultured Stone on an elevation has been reduced from the approved amount but would likely have received approval. Or stone quantity has not been reduced but has been moved around on the elevation from the ACC approved plan.
- 1030. Color and Finishes. Color or finish change to exterior, or roof, that is close to the approved color and would have been approved by the ACC.
- 1031. Roof Material. Exterior material change that is very similar in quality and cost to the approved material, yet would have received ACC approval.
- 1037. Roof pitch is increased with no consequent view obstruction nor violation in overall height constraint; or the roof pitch is reduced but it likely would have received ACC approval if requested in advance.
- 1040. Final Grade. A final unapproved grade contour change of more than two feet but less three feet if confined to a relatively small area, such as a portion of one side of the house.
- 1044. Driveway location, size, surface material, or finish does not comply with the ACC approved project plan, but likely would be approved by the ACC.
- 1050. Interior Finished Space. Reducing the interior finished space up to 200 square feet, however the covenant-specified minimum finished space is still in compliance.
- 1051. Clean Up. Manufacturers' adhesive labels are not been removed from windows upon project completion.
- 1070. Mailbox. Without ACC approval, install a mailbox monument that would otherwise be approved by the ACC.
- 1071. Driveway Monuments. Without ACC approval, add a driveway monument that would otherwise be approved by the ACC.
- 1094. Vegetation. Noxious weeds are taking root in disturbed areas despite ACC warnings to control them.
- 1099. Other (be specific)

CATEGORY II: MODERATE INFRACTIONS

General description: Detracts from the project appearance, or contributes to the active construction project appearing unnecessarily distracting or disruptive to the surrounding community. Safety, health or environmental conditions that, if allowed to remain unresolved, pose a reasonable potential of causing injury, disease, or contamination. Repetitions of lower category infractions.

Range of compliance fee withhold: **\$250 to \$500 per occurrence.**

Sample infractions that would likely be classified as Category II:

CODE AND DESCRIPTION:

- 2001. Erosion. Erosion on adjacent properties is beyond incidental, but has not become serious. Possibly will create damage, or likely will become disturbing to the neighbor(s).
- 2002. Road Drainage. Drainage along the road is not blocked, or erosion is evident; water is unable to drain through the normal channels, due to blockage or unintended channels from erosion.
- 2008. Drainage. Surface drainage patterns are altered without ACC approval, and it is affecting other properties.
- 2013. Trespassing on a neighboring property or common area that has become repetitive in nature and generated complaints from the owner.
- 2014. Trash and Debris Containers. Approved, enclosed containers are not used or are overflowing (a repeat violation) Trash container is inadequate for the scope of the work being accomplished with resulting unsightly appearance of job or trash is getting to other properties. Site Appearance. Project site is not kept clean; debris or trash not contained as observed from public roads or neighboring properties after work hours debris is scattering to neighboring properties or common areas; or complaints from other property owners are coming to the Association.
- 2017. Disturbed Area Construction traffic not constrained to the designated disturbed construction area and authorized site access lane(s) despite previous ACC warning.
- 2020. Foundation. Foundation dimensions differ from site plan by more than three (3) feet but less than five (5) feet. Or foundation location differs from approved site plan by more than three feet but not more than six feet, and no setback encroachment, or view corridor impact occurs.
- 2021. Project location has been moved up to ten feet, but presents no impact on neighboring properties and no easement or setback encroachment results.
- 2023. Architectural. Adding a prominent structural feature without prior ACC approval that would otherwise receive ACC approval (e.g.: courtyard wall, driveway monuments).
- 2025. Architectural. Adding, changing, or deleting an architectural feature that would not have been approved by the ACC.
- 2027. Architectural. Delete a window or door, or reduce the size from the approved plan without ACC approval.
- 2028. Cultured Stone on an elevation has been reduced in quantity from the ACC approved design, and the reduction would not likely have been approved by the ACC.
- 2030. Color and Finishes. An unapproved exterior color or finish alteration to any exterior surface which the ACC would unlikely approve.
- 2040. Final Grade. Differs from authorized grade by more than 3 feet, but likely would have been approved by ACC.
- 2050. Interior Finished Space. Reducing the interior finished space more than 200 square feet.
- 2060. Clean Up. Unauthorized piles of dirt, rock, gravel, wood, or other bulk materials on the property after project completion.
- 2062. Trees. Unauthorized removal of a healthy tree that measures 4 to 6 inches in diameter, 4 feet above ground
- 2070. Mailbox. Installed an unauthorized mailbox.
- 2071. Driveway Monuments. Installing driveway monument that would not be approved by the ACC.
- 2091. Restoration. Minimal effort to re-establish natural ground cover in disturbed areas upon construction project completion, resulting is stressed and unhealthy growth that will unlikely survive in the natural environment.
- 2094. Vegetation. Noxious weeds not controlled despite verbal or written warnings from Association.
- 2099. Other (be specific)

CATEGORY III: MAJOR INFRACTIONS

General description: A significant overall change to project appearance or location. Safety, health or environmental conditions that, if not resolved quickly, pose a significant potential of causing injury, disease, or contamination. Repetitions of lower category infractions.

Range of compliance fee withhold: **\$500 or more per occurrence.**

Sample infractions that would likely be classified as Category III.

CODE:

- 3001. Erosion. Erosion on adjacent properties from uncontrolled drainage on this property is severe, or substantial amounts of soil washing onto neighboring properties from erosion on this property.
- 3002. Road Drainage. Erosion to road shoulder, or other damage to roadway is resulting or imminent, or significant blockage of down-stream drainage is occurring due to silt or debris from this project.
- 3007. Community Property. Damage to roads, utilities or community trail system.
- 3008. Drainage. Altered surface drainage patterns are adversely impacting adjacent property or common areas.
- 3013. Trespassing. Trespassing on other properties, including common areas, despite prior warnings.
- 3014. Trash and Debris Containers. Trash and debris uncontrolled and scattered on the job site, with significant quantities leaving the property, generating complaints to the association from neighboring property owners. Trash containers overflowing, or debris is not adequately contained against winds, resulting in debris across this or other properties.
- 3017. Disturbed area construction traffic not constrained to the designated disturbed construction area and authorized site access lane(s) despite repeated previous ACC warnings.
- 3020. Foundation. Foundation dimensions differ from approved site plan by more than five (5) feet in any location..
- 3021. Project location has changed more than ten feet, or it has been moved any amount and thereby creates either an unauthorized easement or setback encroachment, or a view obstruction for a neighboring property.
- 3022. Architectural. Altering overall architectural appearance of an elevation from the ACC-approved plans.
- 3024. Project footprint has been altered or “flipped” without ACC approval.
- 3026. A designated vehicular surface area (i.e. driveway and parking) has not been completed to the approved scope, or with the approved materials.
- 3028. Cultured Stone has been eliminated from an elevation, thus violating the design standard.
- 3029. Unauthorized project dimension change that results in a set back or easement encroachment.
- 3030. Color and Finishes. Unapproved change in exterior material, finish, or color that would not receive ACC approval.
- 3031. Color and Finishes. Unapproved change in exterior material with a product “down grade,” as determined by the ACC, from the original ACC approved material and finish of the project.
- 3032. Color and Finishes. Failure to obtain ACC approval prior to applying finish materials.
- 3036. Roof Material. Change in roofing material, resulting in a “down grade,” as determined by the ACC, from the original ACC approval.
- 3037. Roof pitch does not comply with ACC approved plans and would not likely receive ACC approval.
- 3039. Roof overhang does not comply with the ACC-approved plans.
- 3040. Final grade would not have been approved without additional architectural features that are not presently included.
- 3044. Driveway location, size, surface material, or finish does not comply with the ACC approved project plan, and would not likely be approved by the ACC.
- 3050. Interior Finished Space. Reducing the overall structure floor area so that it falls below the minimum covenant requirements, or is reduced more than 200 sq. ft., or is reduced more than 10% from the approved application.
- 3062. Trees. Unauthorized removal of a healthy tree that is more than six (6) inches in diameter, measured four (4) feet above ground. Failure to transplant a tree as agreed with the ACC. Failure to replace trees as directed by the ACC.
- 3080. Activity on project prior to ACC approval, including clearing trees or any grading for property access.

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3081. Any work on the property in support of an improvement that has not been approved by the ACC. (E.g. clearing or grading for a future unapproved detached garage, is accomplished during construction of an approved house.)
3090. Restoration. Failure to repair and reseed all disturbed areas of the project site soil upon completion of project.
3091. Restoration. No effective effort to re-establish natural ground cover in disturbed areas upon construction project completion.
3094. Noxious weeds are prevalent across the job site.
3096. Landscape. Failure to meet the minimum landscaping requirements within the prescribed time guidelines.
3098. Failure to comply with an ACC-stipulated condition for obtaining the project approval.
3099. Other (be specific)