

Lake Forest Estate Community Association, Inc.

Community Code No. 5

Procedures for Processing Cases of Alleged Violations of the
Governing Documents

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of the Governing Documents**

I. ENFORCEMENT PROCEDURES

A. Actions Prior to the Initiation of Formal Enforcement Procedures.

1. Any Owner, resident of the Community ("Resident"), Association director or officer, member of the Covenants Committee, the Design Review Entity or the community manager (hereinafter referred to collectively as "Complainant") has the authority to request that an Owner or Resident cease or correct any act or omission which appears to be in violation of the Governing Documents. To the extent reasonably possible, attempts should be made to informally resolve any alleged violations prior to the initiation of formal enforcement procedures.
2. The Covenants Committee will generally not become involved in disputes between Owners or Residents regarding activities within private Living Units or the appurtenant Community Property, unless such disputes involve alleged violations of the Governing Documents.
3. Prior to the initiation of formal enforcement procedures (and in addition to any suspension of privileges that may be imposed in accordance with these procedures), the Community manager and/or Covenants Committee may temporarily suspend the right of an Owner or Resident to use any facility which is part of the Community Property for a period not to exceed ten (10) calendar days if such Owner's or Resident's use of the facility is in violation of the Governing Documents and a verbal request (oral or written) to cease or correct the violation has not been heeded. Prior notice of any suspension of the right to use any facility that is part of the Community Property shall be provided in writing.
4. Notwithstanding anything else contained herein, the Board of Directors, may (without the initiation of formal enforcement procedures) suspend the right of an Owner or a Resident to use any facility which is part of the Community Property for the failure to pay any Assessment or charge (including a fine levied pursuant to the provisions of the Governing Documents after the same becomes delinquent) within thirty (30) days of the due date and such suspension may continue for so long as any such

Assessment or charge shall remain delinquent thereafter. Prior notice of any such suspension of the right to use any facility that is part of the Community Property shall be provided in writing.

5. The Covenants Committee may, but shall not be required to, make initial attempts to secure compliance through correspondence to the offending party ("Respondent") which states the time, date, place and nature of the violation and which sets forth the time period within which the violation must be corrected. If the Respondent is a tenant, the Owner of the Living Unit leased by such tenant shall also be notified at this time. Copies of such correspondence shall be maintained in the Association files, and, if deemed necessary and appropriate by the Covenants Committee or the Board of Directors, a copy shall be sent to the attorney for the Association.

B. Formal Enforcement Action.

1. Identification of Potential Violation. It shall be the responsibility of the Covenants Committee to identify potential violations of the Governing Documents and/or receive information from other sources, which identifies potential violations of the Governing Documents. There are several methods in which violations of the Governing Documents may be identified and brought to the attention of the Covenants Committee for action. Such methods include, but may not necessarily be limited to, the following:
 - a. The Covenants Committee or the members thereof, through visual inspections of the Community or through other means, may observe or otherwise identify potential violations of the Governing Documents.
 - b. The Community manager may bring to the attention of the Covenants Committee potential violations of the Governing Documents that have been observed or otherwise identified within the Community.
 - c. The Design Review Entity may advise the Covenants Committee of potential violations of the Governing Documents, including, but not limited to, failures on the part of Owners to comply with the Design Review Guidelines and/or Community Code No. 3.
 - d. The Board of Directors may bring to the attention of the Covenants Committee potential violations of the Governing Documents that have been observed or otherwise identified within the Community.
 - e. Any Owner or Resident within the Community may submit a written complaint to the Community manager, the Board of Directors or the

Covenants Committee regarding a potential violation of the Governing Documents.

2. Determination of Alleged Violation. Upon identification of a potential violation of the Governing Documents, the Covenants Committee shall determine if the alleged action or inaction identified may amount to a violation of the Governing Documents. If deemed necessary or appropriate, the Covenants Committee may direct the Community manager or members of the Covenants Committee to make a preliminary investigation to determine if a violation is believed to exist or believed to have occurred. If the Covenants Committee determines that a violation may exist or may have occurred, it shall proceed with the enforcement procedures outlined in this Community Code No. 4. If the Covenants Committee determines that a violation does not exist or did not occur, the Covenants Committee shall notify the party that brought the alleged violation to the Covenants Committee's attention of such determination.
3. Notification of Alleged Violation of the Governing Documents. If the Covenants Committee determines that the alleged identified action or inaction may amount to a violation of the Governing Documents, the Covenants Committee shall submit a Notice of Alleged Violation of the Governing Documents to the Owner or Resident involved. If the alleged violator is a Tenant, the Owner of the Living Unit in which the Tenant resides shall also be provided with this notice and all future notices regarding such matter. The Covenants Committee may delegate the sending of the Notice of Alleged Violation to the Community Manager. The following requirements shall apply to the Notice of Alleged Violation:
 - a. If the alleged violation is of a continuing nature (the alleged violation and/or the alleged violating condition continues uninterrupted such as a physical change to a lot), the Notice of Alleged Violation shall identify the violation alleged, the provision of the Governing Documents which has been violated and the time period within which the violation must be corrected without further enforcement action being taken by the Covenants Committee. The time period provided shall be determined by the Covenants Committee based upon the circumstances of the alleged violation.
 - b. If the alleged violation is of a non-continuing nature (the alleged violation was a one-time occurrence and while it may recur it does not continue uninterrupted), the Notice of Alleged Violation shall state the date, time and place of the violation alleged and the provision of the Governing Documents that has been violated. The Covenants Committee may proceed with enforcement (penalties or sanctions) at this stage or may determine that if another violation of similar nature recurs within the next twelve (12)

months, enforcement action will be pursued. The Notice of Alleged Violation shall indicate the intended action of the Covenants Committee in this regard.

c. The Notice of Alleged Violation shall advise the Respondent of the opportunity for a hearing before the Covenants Committee upon the submission of written request made by the Respondent within ten (10) days of the Notice of Alleged Violation. The Notice of Alleged Violation shall further advise the Respondent that penalties or sanctions, including but not limited to, the assessment of charges and/or fines or the suspension of rights to use the Community Property may be imposed for a non-continuing violation (if applicable) or may be imposed for a continuing violation if the Respondent fails to correct the violation within the time period allowed.

d. The Notice of Alleged Violations shall also advise the Respondent that in lieu of requesting a hearing, the Respondent may respond to the complaint within ten (10) days of the date of the Notice of Alleged Violation with a "Notice of Compliance" which acknowledges, in writing, that the violation occurred as alleged and promises that the violation will immediately cease and will not recur. Receipt of such Notice of Compliance and performance by the Respondent in accordance therewith may, in the sole discretion of the Covenants Committee, terminate the enforcement procedure of the Covenants Committee. In determining whether the Notice of Compliance and performance therewith is sufficient to terminate the enforcement procedures, the Covenants Committee may consider other Notices of Alleged Violations that may have been issued to Respondent.

e. The Notice of Alleged Violation shall be sent to the Respondent (and Owner if Respondent is a Tenant) involved in the following manner:

- Hand-delivery or certified mail return receipt requested at the address appearing on the books of the Association; and
- Regular mail also to the address appearing on the books of the Association.
- Failure on the part of the Respondent involved to pick up certified mail or failure on the part of such Respondent to notify the Association of a changed address shall be no excuse or defense.
- Copies of the Notice of Alleged Violation shall be maintained in the Association files by the Community Manager, and a copy may be sent to the attorney for the Association, if deemed necessary by the Covenants Committee or the Board of Directors.

f. Nothing herein shall preclude the Covenants Committee from sending warning notices before proceeding with the Notice of Alleged Violation, if determined appropriate. However, warning notices shall not be required.

4. Constraints on the Covenants Committee. It shall be incumbent upon each member of the Covenants Committee to make a determination as to whether that member is able to function in a disinterested and objective manner in consideration of a case before it. Any member incapable of objective consideration of the case shall disclose this fact and shall not participate in the proceedings. Any member of the Covenants Committee has the right to challenge any other member that such member believes is unable to function in a disinterested and objective manner.
5. Hearing. If the Respondent fails to timely request a hearing or Respondent fails to timely submit a Notice of Compliance and perform in accordance therewith (subject to the discretion of the Covenants Committee as outlined in subparagraph 3.d. above), the Covenants Committee shall determine if there is sufficient evidence of a violation or violations. If the Covenants Committee determines that there is sufficient evidence of a violation or violations, it may take disciplinary action in accordance with paragraph 6 below. If a timely request for a hearing is made, a hearing shall be held before a majority of the members of the Covenants Committee in accordance with the following procedures:
 - a. A Notice of Hearing shall be issued by the Covenants Committee stating the date, time and place of the hearing.
 - b. The Notice of Hearing shall be submitted in accordance with the same procedures applicable to the Notice of Alleged Violation as contained in subparagraph 3.e. above.
 - c. The shall be scheduled no sooner than ten (10) days from the Notice of Hearing.
 - d. The Covenants Committee shall select one of its members to serve as a hearing officer and preside over the hearing. At the beginning of the hearing, the hearing officer shall explain the rules and procedures by which the hearing is to be conducted. The Covenants Committee may determine the manner in which the hearing will be conducted, so long as the rights set forth herein are protected. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Generally, any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless

of the existence of any common law or statutory rule that might make the admission of such evidence improper.

e. It is not required that a complaining party or the Respondent be in attendance at the hearing. At the request of either a complaining party or the Respondent, the Covenants Committee may agree to conduct the hearing in closed session, subject to provisions of applicable law.

f. Each party shall have the right to do the following, but may waive any or all of these rights. If the complaining party is the Covenants Committee, the Board of Directors or other governing body of the Association, a representative of such governing body shall present any evidence, oral or written, regarding the alleged violation.

- Make an opening statement;
- Introduce evidence, testimony and witnesses;
- Cross-examine opposing witnesses;
- Rebut evidence and testimony;
- Make a closing statement.

g. The Covenants Committee members sitting at the hearing shall be allowed to ask questions of any party or witness presented to the extent it is deemed necessary and appropriate to his or her consideration of the facts and arguments involved in the case.

h. Upon the conclusion of all of the evidence presented, the members of the Covenants Committee present at the hearing shall deliberate. Time permitting, such deliberation may take place immediately following the hearing or at any time agreed upon by such members within ten (10) days thereafter in order to reach a decision on the matter. If a violation is found to exist or have occurred, during such deliberations, the Covenants Committee shall also determine the appropriate disciplinary actions (penalties or sanctions) that shall be imposed in accordance with the paragraph 6 of this of this Section I.B.

i. Written Notice of the Hearing Decision of the Covenants Committee shall be submitted to the Respondent within a reasonable period of time from the date of the completion of the hearing. If a violation was found to exist or have occurred, the Notice of Hearing Decision shall include an explanation of the penalties or sanctions imposed. The Notice of Hearing Decision shall

be provided in the same manner as the Notice of Alleged Violation in accordance with subparagraph 3.e. above.

j. Whenever the Covenants Committee has commenced to hear the matter and a member of the Covenants Committee withdraws prior to a final determination, the remaining members shall continue to hear such matter.

6. Suspension of Privileges and Levying of Fines. Disciplinary action imposed by the Covenants Committee may include, for example, one or more of the following: a) suspending or conditioning the Respondent's right to use any Community Property; b) imposing a reasonable fine not to exceed one hundred dollars (\$100.00) for a first offense and such other increased amounts deemed reasonable by the Covenants Committee for subsequent offenses. A violation that continues after the provision of written notice shall be treated as a continuing violation and shall result in a fine of ten dollars (\$10.00) per day until the violation ceases; and c) imposing charges incurred or to be incurred by the Association to repair, replace or correct conditions caused by the violation. All such charges imposed by the Covenants Committee shall be considered as an assessment against the Living Unit owned or resided in by the Owner or Resident in violation and shall be collectible to the same extent as any other Assessment of the Association. Such charges shall not be imposed for the nonpayment of assessments. For any non-continuing infraction, suspension of the right to use any or all Community Property shall be for a period of not more than sixty (60) days. For a continuing infraction, suspension may be imposed for so long as the violation continues.

II. ACTION OF THE BOARD OF DIRECTORS; APPEALS

- A. No Covenants Committee. If the Board of Directors or the Declarant, as the case may be, has not appointed a Covenants Committee then the Board of Directors shall perform the duties of the Covenants Committee in accordance with the procedures set forth herein.
- B. Appeals.
 1. Rights of Owner or Resident. Final decisions of the Covenants Committee may be appealed to the Board of Directors, provided that no such appeal shall be available if the Board of Directors acts as the Covenants Committee pursuant to Section II.A above. The Board of Directors may make a preliminary review of the case and make a determination as to whether it will hear the appeal. The Board of Directors may, on the basis of the preliminary review, elect not to hear the appeal, in which case the Board of

Directors will so inform the Respondent, the complaining party and, if applicable, the Owner of the Living Unit leased by the Respondent, in writing and the decision of the Covenants Committee shall stand.

2. Petitions. Appeal petitions must be written and must be submitted to the Board of Directors within ten (10) days of the Notice of Hearing Decision of the Covenants Committee, in substantially the following form:

(I) (We), _____, hereby petition the Board of Directors to hear an appeal of the decision of the Covenants Committee (Application) (case) No. _____. (I) (We) further understand that within the Association, the decision of the Board of Directors on this issue is final.

3. Notice of Hearing. Notice of Hearing shall be submitted by the Board of Directors in the same manner as the Notice of Alleged Violation outlined in I.B.3.e. above.
4. Procedures. All of the rights and procedures established in Part I above shall apply to appeals.
5. Effect of Decision. The Board of Directors may modify, reverse or uphold the decision of the Covenants Committee in whole or in part.
6. Further Action. An Owner or Resident must exhaust all available remedies of the Association prescribed herein before resorting to a court of law for relief with respect to any alleged violation by another Owner or Resident of any provision of the Governing Documents. The foregoing limitation pertaining to exhausting administrative remedies shall not apply to the Association or the Declarant. The Association or the Declarant may at any time seek relief from a court of law with respect to alleged violations of the Governing Documents.

III. INTERPRETATION

These procedures are intended to ensure that due process is provided to Owners and Residents in proceedings before the Covenants Committee and the Board of Directors.

The Covenants Committee or the Board of Directors, as appropriate, may determine the specific manner in which the provisions of these procedures are to be implemented, provided that due process is protected.

Any inadvertent omission or failure to conduct proceedings in exact conformity with these procedures shall not invalidate the results of such proceedings, so long as a prudent and reasonable attempt has been made to ensure due process according to the general steps set forth herein.

"Due process", as used in these procedures refers to the following basic rights:

1. The charges shall be provided to the Respondent.
2. A hearing shall be held at which witnesses may appear and be cross-examined and at which evidence may be introduced.
3. Basic principles of fairness shall be applied.

IV. MISCELLANEOUS

- A. The use of the masculine gender includes the feminine and neuter genders and the use of the singular includes the plural and vice versa, whenever the context so requires.
- B. Capitalized terms used herein, unless otherwise defined herein, have the meanings specified for such terms in the Declaration.