

LAKE MONT PINES HOME OWNERS ASSOCIATION

ENFORCEMENT AND FINE POLICIES

(Adopted on November 19, 2022)

Community Association living requires the full cooperation of all residents. It is important that all homeowners, residents and occupants familiarize themselves with Lake Mont Pines Home Owners Association's governing documents, including the CC&Rs, Rules and Regulations and Architectural Guidelines to ensure that all the residents of Lake Mont Pines enjoy the quality of life to which they are entitled. Owners of Lots within the Association are responsible for the actions of their tenants, occupants and guests.

The following enforcement procedures may be utilized by the Association's Board of Directors to address and cure violations of the governing documents and to ensure compliance with said documents for the benefit of all residents. These policies are Operating Rules as defined in the Davis-Stirling Common Interest Development Act and, to the extent they conflict with any previous Operating Rules, supersede and prevail over such previous rules.

ARTICLE 1: COMPLIANCE ENFORCEMENT AND FINE POLICIES

Contingent upon the nature, seriousness and history of the violation, the Association will *generally* adhere to the following enforcement procedures but the Board is **not** required to utilize every remedy in every enforcement action and may, in its sole discretion, subject to the law and the governing documents, determine what remedy to pursue and at what time. Depending on the severity and frequency of the violation, the choice of the enforcement procedure(s) and/or the enforcement remedy utilized may vary. Immediate legal action may be sought in the form of a temporary restraining order ("TRO") and/or preliminary injunction where appropriate.

1.1 Violation Reporting and Procedure.

- a. *Report Violation:* Any Resident, Owner, Director, or rules enforcement personnel claiming a violation should report violations in writing if possible (email is acceptable) and accompany with photographs, if possible, sent to the Association's community manager during regular business hours. Anonymous violation reports will not be considered without corroboration. *All written reports will be held in confidence to the extent practicable and permissible by law.*
- b. *Courtesy Notice.* Upon receipt of a violation report, the responsible Owner may be provided with a courtesy notice of the alleged violation. The courtesy notice will identify the violation and will request that the Owner cure the same within a stated deadline, which shall be a reasonable period of time, considering the nature and seriousness of the violation. *Depending on the seriousness of the alleged violation, no courtesy notice or warning is required to be given before disciplinary action is initiated.*
- c. *Give Notice of Alleged Violation:* If the violation is not cured by the deadline imposed in the courtesy notice, or a courtesy notice was not sent, a notice of intent to impose discipline will be sent to the Owner stating the nature of the

alleged violation(s), the provision(s) of the governing documents violated and the Owner's right to appear before the Board of Directors at a hearing in executive session on at least 10 days' notice by any means authorized under Civil Code §4040 for individual delivery, before imposing a monetary penalty (fine) and/or any other discipline.

- d. *Conduct Hearing in Executive Session:* All disciplinary hearings with the Board of Directors will be held in executive session. The Owner responsible for the alleged violation may be heard, orally or in writing, and may present documents. The Board will determine if the alleged violation has possible merit and, if so, will determine what enforcement action, if any to take. If the alleged violation does not have possible merit or the Board determines not to take enforcement action, the minutes of the executive session meeting will indicate why further action was not taken.
- e. *Take Action:* If the Owner is found to have violated the governing documents, the Board may exercise any appropriate option allowed under the governing documents or the law, including:
 - i. Seek any legal remedy, including, without limitation, imposing a lien and/or foreclosure on the Owner's property, where allowed by law;
 - ii. Impose one or more monetary penalties (fines);
 - iii. Allow the Owner a reasonable period of time to correct any ongoing violations, such as architectural or nuisance violations;
 - iv. Correct (or cause to be corrected) the violation. Then, after a further notice and hearing, impose a reimbursement special assessment upon the Owner for the costs and expenses of doing so, including attorneys' fees, when allowed by law;
 - v. Suspend membership privileges, such as recreational common area use rights (but not member voting rights);
 - vi. Initiate Internal Dispute Resolution and/or Alternative Dispute Resolution as allowed by law;
 - vii. Take the matter under consideration to allow the submission of additional documentary or other evidence, or further investigation to be conducted, after which the decision on whether to impose any discipline will be considered at a future executive session meeting.
 - viii. Take no disciplinary action for a first-time violation when circumstances warrant. However, the violation and justification for taking no action should be noted in the Owner's file.
- f. *Give Notice of Decision:* The Owner will be notified of any disciplinary action rendered by the Board of Directors within 15 days after the decision.

1.2 Monetary Penalty (Fine) Schedule and Policies. The fine schedule for violations will be in the following amounts:

- a. First Offense: Fine not to exceed \$100.00
- b. Second Offense: Fine not to exceed \$200.00
- c. Subsequent Offenses: At the discretion of the Board
- d. Multiple violations may be addressed in one or more notices to the Owner and may be the subject of and heard at one or more executive session hearing(s).

1.3 Reimbursement Assessment. If a violation is found which causes the Association to incur a financial obligation or expense, then the Owner responsible for the violation will be subject to a reimbursement assessment in the amount of the obligation or expense incurred by the Association after proper notice and a hearing to the extent allowed by law.

1.4 Due Upon Notice. All monetary penalties (fines) and reimbursement special assessments are due upon notice given and are delinquent 15 days after they become due.

1.5 Remedies. This violation procedure is separate from, and not a prerequisite to, legal proceedings. The Board shall have the sole discretion to determine whether to pursue discipline or legal proceedings, or both, in any particular case. If a lawsuit is filed, the Owner may be liable for the Association's attorneys' fees and costs. Unless prohibited by other governing documents, and when permitted by law, the Association may take legal action or correct, remedy or cure a violation, and seek a reimbursement special assessment against the Owner, or file a memorandum of costs or motion for attorneys' fees, to recover costs, expenses and attorneys' fees incurred by the Association.