

## **LAKE ST. CHARLES MASTER ASSOCIATION, INC. ASSOCIATION FINES AND DUE PROCESS**

Purpose: Florida statutes and Lake St. Charles community documents allow fines to be levied for violations of community standards. The Association has adopted fines as a vehicle to enhance enforcement authority. This process serves to deter and prevent violations; helps promote timely correction of violations; and provides a means to recover Association costs incurred through the enforcement process.

This section addresses the procedure for fining owners, tenants, guests and other persons who violate the Declaration of Covenants, Bylaws, or Rules and Regulations of the Association and the Architectural Committee. Fines are an alternative to other means of enforcement provided for in the Declaration and Bylaws. Fines will be adopted in accordance with the following procedure.

1. The Board of Directors or its appointed agents is charged with determining whether there is probable cause that any of the provisions of the Declaration, the Bylaws, or the Rules of the Association regarding the use of the unit, common elements, or Association property are being or have been violated.

2. The Lake St. Charles HOA Board has chartered its contracted management company with enforcing adherence to community restrictions, rules and regulations for the Homeowners Association. The manager's specific responsibilities are:

A. Observing and/or receiving verbal and written complaints about violations of general restrictions, rules and regulations.

B. Confirming that a complaint is valid.

C. Notifying residents, verbally or in writing, that they are in non-compliance and the corrective steps, and the time interval needed for compliance.

D. Ascertaining whether the violation has been corrected or not. The Management Company, at their discretion, may notify the resident multiple times in an effort to resolve issues which are not corrected. If violation is not corrected, the Management Company forwards the information to the Board of Directors for their review and resolution.

E. Fines may be imposed for:

-Violations that have not been corrected after reasonable contact with the resident/homeowner

-Repeat violations

-Violations where the normal process of notification, as determined by the Board of Directors, would nullify enforcement actions

The Board of Directors may adopt a proposed fine, up to the maximum amount allowed by law. A fine may be imposed based upon each day that a violation continues, and for each specific violation. The fine will not become final until a hearing has been held, or waived by the alleged violator. Failure to respond to the Board's notification within the allotted time frame constitutes waiver.

3. The Lake St. Charles HOA Board has established a formal appointed committee (Due Process Committee "DPC") to review penalties that are proposed by the Board of Directors. The purpose of the Due Process Committee is to provide any alleged violator, who feels he/she is being improperly faulted, a process of being heard by an independent group of community peers. The DPC, consists of a committee of three (3) to five (5) persons, which shall consist entirely of lot owners other than members of the Board of Directors, or persons related to Board members. Alternate members of the Committee may be appointed, to be available to serve if a committee member resigns or is unavailable for a hearing. (Three members must be present at hearings to

constitute a quorum.) The committee process provides for a hearing where both sides of the issue will be heard and investigated and a final decision is rendered with regard to the levy of a proposed fine.

4. The process will follow the steps noted below:

A. The Board of Directors will adopt a proposed fine, and the violator shall be notified by regular and certified mail. A copy of these rules shall be provided, along with a notice that the violator may request a hearing before the Due Process Committee within fourteen (14) days of the date of the violation letter. The notice to the alleged violator shall also include a short and plain statement of the matters asserted by the Association, as well as a statement of the provisions of the Declaration, Bylaws, or Rules, which have allegedly been violated. Failure to request a hearing within this fourteen (14) day time frame shall constitute a waiver of the right to a hearing, and the fine shall be payable within 30 days of the certified mail notification.

B. If requested, the Due Process Committee shall hold a monthly hearing at a time mutually agreed by the Committee and the alleged violator, but within fourteen days of the hearing request. Management shall provide the alleged violator written notice of the hearing date, time, and place at least three days prior to the scheduled hearing.

C. If the Board has not directly appointed a Chairman, or if the Chairman is absent, the Committee shall appoint a Chairman and shall conduct hearings in accordance with the following rules, in addition to such other rules and procedures as may be established by the Committee, to hear any charges and defenses.

1) A representative of the Association shall be heard first, in order to summarize the basis for the proposed fine, and to present any witnesses or documents in support of the proposed fine. 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, which might make improper the admission of such evidence over objection in civil actions.

2) Each party shall have these rights: to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; and to rebut the evidence against him/her.

3) Each case shall be heard in public. If requested by any member who is brought before the DPC, and if all members in attendance at the DPC meeting consent, the member allegedly in violation may be heard by the committee privately. The results of any hearing shall, however, be reflected in the minutes of the DPC meeting.

4) The Committee may:

-Uphold the proposed fine

-Reduce the proposed fine

-Conditionally defer the proposed fine. Failure of the violator to meet the imposed conditions shall result in an immediate cancellation of the deferment.

D. Following the conclusion of the hearing, the Committee shall render a decision on the matter, and will prepare a written summary of the decision, which is to be provided to the Association and the alleged violator. All fines shall be payable to the Association within thirty (30) days from the date that written notice of the decision is sent to the alleged violator(s). For conditionally deferred fines, the Board of Directors shall send notice of failure to comply and payment shall be due within thirty (30) days of such notice.

E. Subsequent to the hearing, or if no hearing is requested within fourteen (14) days from the date of the letter notifying the violator of the fine, any further enforcement action will be taken by the Board of Directors.

F. Any violator(s) will be responsible for interest, costs and attorney's fees incurred in the enforcement of the fine, including costs and attorney's fees in connection with any correspondence or hearings, provided that the Committee upholds the fine, in whole or in part. Fines not paid by the due date shall be subject to interest at a rate of 18% per annum, compounded monthly.

5. Violation Categories: There are three categories of violations that may be subject to fines.

A. Class A Violations: Violations that have not been addressed/corrected within a reasonable time after formal notification to the owner/resident by certified mail. Examples could include weeds in the lawn or failure to trim trees. In determining the amount of the fine, considerations should include the nature of the violation, the time period since the homeowner/tenant was first notified, any subsequent notifications and correspondence/conversations with the homeowner/tenant, and the total association expenses incurred in trying to correct the violation.

B. Class B Violations: Violations of a repetitive nature, where corrective action is usually taken, only for the violation to re-occur, requiring repeated notifications to the owner/resident. Examples could include failure to mow lawn or leaving trash cans in the driveway. In determining the amount of the fine, considerations should include the recency and frequency of similar past violations, previous notifications and responses, and the total association expenses incurred in trying to correct the violation.

C. Class C Violations: One-time occurrences that clearly violate the provisions of the Declaration or Rules and Regulations, which cannot adequately be addressed through normal enforcement procedures. Examples could include RV parking or vandalism. In determining the amount of the fine, consider the specifics of the violation and an amount that would preclude repeat violations.

6. Forms Prescribed: Use the Due Process Violation Summary that follows. A separate summary should be completed for each alleged violation.

### Due Process Violation Summary

#### THIS SECTION FOR MANAGEMENT COMPLETION

<b>Address of Violation</b>	
<b>Homeowner Name:</b>	
<b>Resident of Premises:</b>	
<b>Other Persons:</b>	
<b>Description and Duration of the Violation:</b>	

*Notices and contacts: List Dates and Nature of Contact (Letter, certified mail, attorney demand letters, phone conversations, e-mail, etc.)*

Type	Date	Summary

*Association Costs: List costs associated with enforcement actions (postage, certified mail, process server, attorney fees, filing fees, etc. Also include the cost of management representation at due process hearings)*

Type	Date	Summary

*Past violations: include past violations that are relevant to the existing violation*

Date	Violation	Summary

#### *Board of Directors summary*

**Comments:**

**Proposed Fine:**

**Date of Notification of Proposed Fine:**

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*This section for due process committee*

<b>Date Of Hearing:</b>	
<b>Management Representative</b>	
<b>Defendant:</b>	
<b>Witnesses:</b>	
<b>Summary of Proceedings:</b>	
<b>Committee Findings:</b>	
<b>Disposition:</b> (Include amount of fine or if deferred, conditions for deferral)	

*This section for management follow-up*

Due Process Committee Decision Notification: (Should Be Sent Certified Mail)	
Date:	
Due Date of Fine:	
Other Comments	

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