

WILLOW CREEK COMMUNITY ASSOCIATION, INC.

Policy Resolution #4
Procedures for Notice of Non-compliance

Dated: February 12, 2013
Adopted: February 15, 2013
Effective: Immediately

WHEREAS, the Association is charged with certain responsibilities regarding the care, maintenance, and service of certain portions of the Willow Creek community located in Sweetwater, Tennessee; and

WHEREAS, the Board of Directors of the Association desires to adopt a uniform, non-discriminating and systematic procedure for notice of non-compliance; and

WHEREAS, it is the intent that this resolution shall be applicable until otherwise rescinded, modified, or amended by a Majority of the Board of Directors.

NOW, THEREFORE, BE IT RESOLVED that the Board does hereby adopt the following procedures and policies:

ARTICLE 1

Notice to the Association of Alleged Non-compliance

1. **Emergencies or Violation of Law:** If an Owner or occupant is aware of an emergency situation or of violation of a law, such as a break-in or generally suspicious behavior, call Emergency 911 FIRST. A subsequent telephone call may be made to the Association's office and/or the gatehouse. However, for the purposes of this resolution, an "emergency" response by the Association does not include situations that would come under the purview of E911 personnel.

2. **Notice in Writing:** All notices or concerns regarding any alleged incident, problem or violation of rules, regulations, the Declaration or any other Governing Documents are to be made **in writing** to the Association's office. Notice via fax or email are acceptable written formats. The notice is to include:
 - the complainant's name and contact information
 - the date and time of the alleged incident, problem or violation
 - location of the alleged incident, problem or violation
 - positive identification of the offending person (vehicle, animal, etc.), and
 - an account of the incident prompting the notice

The Association will acknowledge receipt of a notice in writing within five [5] Days which will include a brief description of its response to the issue, i.e. a notice of non-compliance has been sent; the issue is being reviewed; the issue is not an infraction of the rules; or other appropriate description.

3. **Alleged Non-compliance:** The Association will use its best judgment in dealing with each situation on a case by case basis.
 - The situation may need to be viewed or otherwise verified by a member of the Association's staff
 - A photograph of the alleged violation may need to be taken
 - The situation may be resolved by just a telephone call from a member of the Association's staff
 - Written notice of the alleged violation may be sent to the alleged violator and, if applicable, to the Owner and rental agent, if known
 - Further action may be taken in accordance with the Governing Documents

4. **Common Area Non-compliance:** If the situation creates an emergency or potentially dangerous situation, call the Association's office. Otherwise, follow the procedures for written notification to the Association's office. The Association will use its best judgment in dealing with each situation on a case by case basis.

ARTICLE 2

Association's Notice to an Alleged Violator

Enforcement: Methods of enforcement, notice, hearing and appeal procedures are stipulated in Article 3.23, *Enforcement* of the By-Laws of the Willow Creek Community Association, Inc. All Persons are advised to review said Article in conjunction with this resolution parts of which are restated, supplemented or clarified as follows:

1. **Types of Non-Compliance:** The Board shall determine in its sole discretion, on a case by case basis if necessary, the degree of severity of an infraction of the Governing Documents. As an example only:
 - a. Minor infractions may include, but are not limited to, such things as a pet not being walked on a leash, trash cans not properly stored
 - b. Intermediate infractions may include, but are not limited to, parking of vehicles in unapproved areas, not meeting community-wide standards, posting of unapproved signs, unauthorized tree removal
 - c. Severe infractions may include, but are not limited to, non-compliance with DRB guidelines, making unauthorized changes to DRB approved submittal, health or safety issues regarding pets, failure to promptly make necessary exterior home repairs, failure to promptly repair discharge from the Owner's sewer system, discharge of a firearm, speeding, allowing unlicensed children to drive within the community

The Board may, at its discretion, increase the degree of severity of an infraction for repetition of the same or similar offense.

2. **Monetary Fines:** The Board may impose sanctions including, but not limited to, monetary fines which shall constitute a lien and are a Specific Assessment upon the Member's Parcel. Such fines may vary for the degree of severity of the infraction and other factors and may continue until the violation is cured. The following samples are meant as a guideline only:
 - a. Monetary fines for minor infractions may begin at \$10.00 per diem
 - b. Monetary fines for intermediate infractions may begin at \$25.00 per diem
 - c. Monetary fines for severe infractions may begin at \$50.00 per diem

The Board may also impose a "per occurrence" fine in addition to or in lieu of the per diem fine. By way of example only, the Board may impose:

- a. \$25.00 - \$100.00 fine for minor infractions
 - b. \$50.00 - \$200.00 fine for intermediate infractions
 - c. \$200.00 - \$1,000.00 fine for severe infractions
3. **Interest/Finance Charge:** The Association may impose interest of eighteen percent (18%) per annum on unpaid monetary fines beginning thirty (30) days from the first notification of non-compliance.
4. **Filing of a Lien:** The Board may cause the filing of notice of a violation (commonly known as a "lien") in the Public Records. Unless the Board determines the need for an immediate filing of a lien in the Public Records, a lien may be filed if the alleged violation continues for thirty (30) Days from the date of the first notification of non-compliance.
5. **Suspension of Sanction:** The Board may, but shall not be obligated to, suspend any proposed sanction (including monetary fines) if the violation is cured within fifteen (15) Days of the notice of non-compliance.
6. **Self-Help:** The Board may elect to enforce any provision of the Governing Documents by entering the Parcel and exercising self-help to correct violations as stated in Article 11.8(b) of the CC&R's. (Refer to Article 1.34 for a description of "Parcel".)
7. **Notice:** Notice to an alleged violator is to be provided in writing. As stated in the By-Laws, such notice is to include, but is not limited to, the following:
 - a. The nature of the alleged violation
 - b. The proposed sanction to be imposed and when it may start

- c. A statement that any proposed monetary sanction shall be imposed as contained in the notice unless the violation is cured within fifteen (15) Days of the notice
 - d. A statement that the alleged violator may present a written request for a hearing
 - e. A statement that the proposed sanction shall be imposed as contained in the notice unless a request for a hearing is received within fifteen (15) Days of the notice
8. **Plan of Action:** The alleged violator may provide a written Plan of Action within the fifteen (15) Days detailing when alleged violations will be cured if extenuating circumstances preclude a prompt cure. As an example only, rectifying violations involving landscaping may need to wait for the proper time of year. Any Plan of Action must be approved by the Board in writing. Such approval shall state the conditions of the approval.
9. **Hearing Procedures:** Article 3.23, Section (b) *Hearing* of the By-Laws states: “If a hearing is requested within the allotted fifteen (15) Day period, the hearing shall be held before the covenants committee, or if none has been appointed, then before the Board in executive session. The alleged violator shall be afforded a reasonable opportunity to be heard.”
- A hearing is to be held within fifteen [15] days of the Association’s receipt of a request for a hearing. All sanctions will be held in abeyance until a decision is reached by the covenants committee or the Board.
- Article 3.23, Section (b) *Hearing* of the By-Laws is supplemented as follows: “A default hearing may be held in the absence of an alleged violator. Notification of the decision of the covenants committee or the Board shall be in writing within five (5) Days of the hearing.”
10. **Appeal Procedures:** Article 3.23, Section (c) *Appeal* of the By-Laws states: “If a hearing is held before a covenants committee, the violator shall have the right to appeal the committee’s decision to the Board. To exercise this right, a written notice of appeal must be received by the manager, president, or secretary of the Association within fifteen (15) Days after the hearing date.
- Article 3.23, Section (c) *Appeal* of the By-Laws is supplemented as follows: “Notification of the decision of the Board shall be in writing within five (5) Days of the hearing.”
11. **Referral to Attorneys:** The Board may, but shall not be required to, refer non-compliance issues to its attorneys.
12. **Costs to the Association:** As an additional expense permitted under the Declaration, By-laws and statutes, the Association shall be entitled to recover its costs as a Specific

Assessment, including but not limited to reasonable attorney's fees, administrative expenses, any costs incurred for self-help compliance and any other costs incurred in bringing about compliance from an Owner.

13. **Absentee Owner:** Absence from the Properties does not exempt an Owner from the response time frames established in this Resolution.

Article 3

Waiver

The Association may grant a waiver of any provision herein upon petition in writing by an Owner showing a personal hardship. Such relief granted an Owner shall be appropriately documented in the files with the name of the person or persons representing the Association granting the relief and the conditions of the relief. In addition, the Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association shall determine appropriate under the circumstances.

Article 4

Definitions

The definitions referenced by Article 1.3 *Definitions* of the By-Laws apply herein.

End of Resolution.