

Oakmont Village Association

(Adopted Oct 21, 2014)

(Revised June 16, 2020)

Hearing Procedure, Enforcement and Fine Policy for Violations of the Governing Documents

1. Notice and Hearing Procedures. This Hearing Procedure, Enforcement and Fine Policy (this “Policy”) will be followed whenever the Board meets to consider an alleged governing document violation which could result in disciplinary action against a Member.

a. **Notice of violation.** Upon report of a violation of the Association’s governing documents to the Board, the violating Member shall be given a written Notice of Violation. The Notice of Violation shall contain, at a minimum, the following: (i) a description of the violation; (ii) and (ii) instructions for the Member to dispute, if applicable, the report of violation (record of which, if and when received by the Association, shall be attached to the Notice of Violation and made a part thereof).

b. **Notice of Hearing.** Should the Board determine to hold a disciplinary hearing regarding the violation described in the Notice of Violation, a written Notice of Hearing will be sent to the Member at least ten (10) days prior to the hearing and will be given either personally or by first-class mail to the Member’s most recent address shown in the Association’s records. The Notice of Hearing shall contain, at a minimum, the following: (i) the date, time and place of the hearing; (ii) the nature of the alleged violation for which the Member may be disciplined (including the references to the specific provisions of the governing documents which are alleged to have been violated; (iii) a statement that the Member has a right to attend and may address the Board at the hearing; and (iv) a list of disciplinary measures which may be imposed as a result of the hearing.

c. **Opportunity to Be Heard.** The Member shall have the right to send a letter, appear in person to present evidence, and may bring witnesses concerning the alleged violation. The hearing will be held during an executive session meeting of the Board, unless both the homeowner and the association agree otherwise.

d. **Rescheduled Meetings.** In the event the Member fails to appear for a hearing, the Board will review the evidence presented to date and make its decision accordingly. Upon timely, written request and for worthy cause, the accused Member may be granted a continuance to a new hearing date. The Board is under no obligation to reschedule a hearing to accommodate a Member’s scheduled.

e. **Correction of Violation.** In the event the violation is corrected prior to the hearing date, the Board may, if appropriate and in its sole discretion, discontinue the disciplinary proceedings.

f. **Notice of Decision.** Within fifteen (15) days after the hearing, the Member will be given written notice by personal delivery or first-class mail of the Board’s decision, which will include their finding to support their decision, whether to impose disciplinary measures against the Member, and, if so, what disciplinary measures will be imposed, when, and, if applicable, and for how long. Notwithstanding the foregoing, no disciplinary action against the Member arising from the alleged violation may be effective earlier than five (5) days after the hearing.

g. **Record of Decision.** A copy of the Notice of Hearing, along with a statement of the date and manner of delivery of the Notice of Hearing entered by the Association representative delivering the Notice of Hearing, along with the Notice of Decision, shall be filed with the minutes of the hearing.

h. **Conflicts of Interest.** If a member of the Board has a conflict of interest in a disciplinary matter (i.e., the Board member filed the complaint, or the complaint was filed against the Board member), that Board member may not deliberate or vote on the Board’s decision whether to impose disciplinary measures with respect to that matter.

2 Remedies for Enforcement. To enforce the Association’s governing documents, the Board may impose one (1) or more of the remedies described below, as the Board deems appropriate and in its sole discretion. The selection of one (1) of the following remedies does not preclude the Association from pursuing other remedies permitted under this Policy, the Association’s governing documents, at law and/or in equity.

Possible Remedies / Disciplinary Measures:

- a. Warning letters
- b. Monetary penalties
- c. Suspension of the right to use common area recreational facilities and amenities
- d. Imposition of a reimbursement assessment for (i) damage to the common area or (ii) costs incurred by the Association to bring the owner and his or her separate interest or exclusive use common area into compliance
- e. Internal dispute resolution (“IDR”) or alternative dispute resolution (“ADR”)
- f. Litigation

Suspension of membership privileges, as may be applicable, may be imposed for a period of up to thirty (30) days for a single non-continuing violation. For a continuing violation including, without limitation, delinquencies in the payment of assessments, membership privileges may be suspended for so long as the continuing violation exists and remains uncured.

Failure by a Member to pay any monetary penalty or reimbursement assessment imposed within thirty (30) days of the due date thereof may result in legal action against the Member by the Association to collect such amount. If the Association is forced to retain an attorney to ensure compliance, or collect a monetary penalty or a reimbursement assessment, the Member shall be liable for those attorney fees and costs and all related expenses, in addition to the amount of the monetary penalty or reimbursement assessment.

3. Fine Schedule. Violation of the Association's governing documents may result in the imposition of a monetary penalty, as the Board may determine to be appropriate to the situation and as provided for in the fine schedule below. In addition to or instead of imposing monetary penalties, the Board may pursue other remedies for enforcement described in this Policy.

- 1st violation: fine up to \$100
- 2nd violation, same offense: fine up to \$300
- 3rd violation, same offense: fine up to \$500
- Additional violations, same offense: fine up to \$500

- Health and safety violations: fine up to \$1,500
- Continuing violations: fines up to \$500 per day may accrue until the violation is cured

4. Selection of Remedies. The Association may pursue one (1) or more enforcement remedies simultaneously. The selection of one (1) enforcement remedy does not preclude the Association’s right to pursue any other remedies.

5. Architectural Approval Requirement. As required by the Association’s Governing documents, members must submit and receive approval from the Architectural Committee prior to making any changes to the outside of their homes, their landscaping or any structural change to or within their garages. Failure to do so will result in a penalty of \$100.00 in addition to any subsequent penalty imposed as a result of enforcement proceedings. Failure to do so is also considered a Violation and is subject to the remedies in the fine schedule described above.