

LAKE LINGANORE ASSOCIATION, INC.

**SECOND AMENDMENT TO DUE PROCESS ENFORCEMENT PROCEDURES
FOR ADDRESSING ALLEGED
VIOLATIONS OF THE GOVERNING DOCUMENTS
05/01/2015**

WHEREAS, Article IV, Section 3 of the Declaration of Conditions, Covenants, Restrictions, Easements and Charges (“Declaration”) governing the Lake Linganore Association, Inc. (“Association”) anticipates that the Association may adopt and publish Rules and Regulations and Article IV, Section 11 of the Bylaws for the Association, as amended, provides that the Board of Directors has both the power and duty to establish and amend rules of procedure for the manner in which cases of alleged violations of the Governing Documents are processed, which rules of procedure shall be consistent with traditional customs of due process; and

WHEREAS, Article IV, Section 11 of the Bylaws, as amended, further provides that the Board of Directors shall be authorized to enforce judgments rendered regarding violations of the Governing Documents of the Association through reasonable and appropriate punitive measures which may include the assessment of financial damages caused by the violation, the assessment of fines, the suspension of rights to use the Common Properties (as such term is defined in Article II of the Declaration) and facilities of the Association and/or the initiation of legal action at law or in equity; and

WHEREAS, Members, as such term is defined in Articles II and III of the Declaration, shall be responsible for the actions and omissions of such Member’s minor children, family and household members and guests as well as such Member’s tenants and tenants’ guests; and

WHEREAS, if the violation was the result of actions or omissions by a tenant or the tenant’s guests, all notices provided for herein shall be sent to both the Member and the tenant to the extent that the Association has contact information for the tenant and the tenant shall be allowed, if requested, to participate in the hearing process; and

WHEREAS, Article IV, Section 11 of the Bylaws, as amended, further provides that financial judgments rendered by the Board of Directors shall be collected as assessments as provided in Article V of the Declaration; and

WHEREAS, the Board of Directors has determined that procedures for addressing the enforcement of violations of the Declaration, Bylaws and Rules and Regulations (collectively referred to herein as the “Governing Documents”) of the Association are necessary and appropriate at this time.

NOW, THEREFORE, BE IT RESOLVED THAT: The Board of Directors hereby adopts this Due Process Enforcement Procedures for Addressing Alleged Violations of the Governing

Documents. These new Procedures shall supersede all previous procedures that may have been adopted and shall be effective from the date hereof.

I. ENFORCEMENT PROCEDURES

- A. Identification of Potential Violation.** It shall be the responsibility of the Board of Directors, the General Manager of the Association, the Compliance Inspector (an employee of the Association that is responsible for the review and oversight of the compliance by Members, residents and guests with the Governing Documents of the Association) or other agent or designee of the Board of Directors or General Manager to identify potential violations of the Governing Documents of the Association and/or to receive information from other sources which identify potential violations of the Governing Documents. There are numerous methods in which potential violations of the Governing Documents may be identified and brought to the attention of the Board of Directors and/or General Manager for action. Such methods include the following:-
1. The Board of Directors or the members thereof, through visual inspections of the Association property or through any other means, may observe or otherwise identify potential violations of the Governing Documents.
 2. The General Manager and/or the Compliance Inspector may bring to the attention of the Board of Directors potential violations of the Governing Documents that have been observed or otherwise identified within the Association.
 3. The Board of Directors or the President of the Association may bring to the attention of the Board of Directors potential violations of the Governing Documents that have been observed or otherwise identified within the Association.
 4. Any Member or resident within the Association may submit a complaint to the General Manager, the Compliance Inspector, or the Board of Directors regarding a potential violation of the Governing Documents within the Association.
- B. Determination of Alleged Violation.** Upon identification of a potential violation of the Governing Documents, the matter shall be referred to the Compliance Inspector to determine if the alleged action or inaction identified may amount to a violation of the Governing Documents. If deemed necessary or appropriate, the Compliance Inspector may make a preliminary investigation to determine if a violation is believed to exist or may have occurred. The Board of Directors or the General Manager shall also be authorized to direct the Compliance Inspector, or if deemed necessary the General Manager, to make such preliminary investigation. If the Compliance Inspector, the General Manager or the Board of Directors

determines that a violation may exist or may have occurred, the enforcement procedures outlined herein shall be pursued. If there is a determination that a violation does not exist or did not occur, the Compliance Inspector shall notify the party who submitted the complaint of such determination.

- C. Notification of Alleged Violation of the Governing Documents. If a determination is made that a violation exists or occurred, a First Notice Friendly Reminder letter will be mailed to the Member by the Compliance Inspector. The First Notice Friendly Reminder will be a courtesy notice advising the member of the violation observed at the property and will request that the member correct the violation within a specific time period. The notice will also provide the member with an opportunity to request additional time to cure the violation.

If the violation is not cured within the stipulated time frame, and the member has not requested an extension then a Second Notice of Alleged Violation shall be sent to the member by the Compliance Inspector. The following requirements shall apply to the Second Notice of Alleged Violation:-

1. The Second Notice of Alleged Violation shall state the specific violation alleged, the provision of the Governing Documents which has been violated and the specific time period within which the violation must be corrected to avoid further enforcement action being taken by the Association. The time period provided shall be determined by the Compliance Inspector unless directed by the Board of Directors and shall be based upon a reasonable assessment of the amount of time that may be necessary to correct the violation. The Second Notice of Alleged Violation shall further advise that failure to correct the violation within the stipulated time period will subject the Member to fines and penalties as stated in Addendum A - Fine Schedule.

Options available to the member(s) are as follows:-

- (i) Appeal the violation by requesting a hearing before the Compliance Committee.
 - (ii) Provide a date for curing of the violation.
2. The Second Notice of Alleged Violation shall be sent to the Member involved in the following manner:-
 - (i) Regular mail to the address appearing on the books of the Association; and
 - (ii) Certified mail return receipt requested to the address appearing on the books of the Association.
 - (iii) Failure on the part of the Member involved to pick up the certified mail or failure on the part of such Member to notify the Association of a changed address shall be no excuse or defense.

- (iv) Copies of the Second Notice of Alleged Violation shall be maintained in the Association files by the General Manager, and a copy may be sent to the Association's attorney at the discretion of the Board of Directors or the General Manager.

D. Notice of Hearing. If a Hearing is requested by the Member, or is scheduled for non-compliance, one shall be scheduled for the member at the next monthly meeting of the Compliance Committee. The member will be mailed a Notice of Hearing in the same manner and subject to the same conditions as the Second Notice of Alleged Violation. The Notice of Hearing shall provide that he or she may be present at the Hearing, may be represented by legal counsel at the Hearing, may present any relevant evidence, including witnesses and will be given an opportunity to examine and cross-examine witnesses. The Notice of Hearing shall also advise the Member that he or she is not required to be present at the Hearing but that a judgment may be entered in his or her absence, which may include the imposition of various penalties or sanctions, including but not limited to, the assessment of charges and/or fines or the suspension of rights to use the Common Properties and facilities if a violation is found to exist or have occurred.

Copies of the Notice of Hearing shall be maintained in the Association files by the General Manager, and a copy may be sent to the Association's attorney at the discretion of the Board of Directors or the General Manager.

E. Hearing Schedule.

1. The Hearing shall be scheduled no sooner than ten (10) days from the date of the Notice of Hearing.
2. If the member cannot attend the scheduled hearing date then upon request from the member the hearing date will be rescheduled to the next Compliance Committee's hearing date. The member will then be issued a new Notice of Hearing.
3. The member will only be allowed two (2) opportunities to reschedule the hearing date.

F. Hearing.

1. Hearings shall be held before at least a quorum of the members of the Compliance Committee. A majority of the quorum shall be required for any decision or judgment at the Hearing.

2. The Compliance Committee Chairperson shall preside at the Hearing. At the beginning of the Hearing, the Chairperson shall explain the rules and procedures by which the Hearing is to be conducted.
3. The member is not required to be in attendance at the Hearing. The Compliance Committee will review the violation and any supporting documents and make a decision based on the information provided. If the member is found to be guilty then the appropriate fine will be assessed as reflected in Addendum A - Fine Schedule.
4. The procedure of the Hearing shall be that the party alleging the violation shall be allowed to present evidence first. If the basis for the alleged violation is a complaint by another Member or resident, such party shall be allowed to present evidence at this time. If the basis for the alleged violation is information provided or discovered by the Association, through the Compliance Inspector, the General Manager or the Board of Directors, designated representatives of such party shall be allowed to present evidence at this time. Upon completion of the evidence presented by the party alleging the violation, the Member alleged to be in violation or have committed a violation shall be allowed to present his or her evidence in response.
5. Each party shall have the right to do the following, but may waive any or all of these rights:-
 - (i) Make an opening statement;
 - (ii) Introduce evidence, testimony and witnesses;
 - (iii) Cross-examine opposing witnesses;
 - (iv) Rebut evidence and testimony; and
 - (v) Make a closing statement.
6. The Compliance Committee 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.
7. Upon the conclusion of all of the evidence presented, the members of the Compliance Committee shall deliberate in a private session; the member will be excused.
8. The member will be notified of the Compliance Committee's decision in writing within fifteen (15) days of 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.

9. Notice of the Hearing Decision shall be sent to the Member in the following manner:-
 - (i) Regular mail to the address appearing on the books of the Association; and
 - (ii) Certified mail return receipt requested to the address appearing on the books of the Association.

G Penalties and Sanctions.

1. Notwithstanding any of the procedures outlined herein, the General Manager and/or the Board of Directors, and/or the authorized agents or designees of the General Manager or the Board of Directors, may temporarily suspend the right of any Member or such Member's minor children, family or household members, guests and/or such Member's tenants and tenants' family and household members and guests, to use any facility which is part of the Common Properties for a period not to exceed ten (10) days if such individual's use of the Common Properties is believed to be in violation of the Governing Documents and there is reasonable belief that such violation may endanger the health and safety of any person, the Common Properties of the Association, the property of any Member, or may create a substantial and undue disturbance to the quiet enjoyment of the community, and an oral request to cease or correct the violation has not been heeded. In effecting such immediate suspension, the General Manager, Board of Directors or authorized agent or designee shall request and receive the individual's membership card that shall be held temporarily. Additionally, notice of any such immediate suspension of the right to use the Common Properties or any facility thereon shall be provided in writing to the Member. In addition, promptly thereafter, the Board of Directors may proceed with the procedures outlined herein.
2. If, after the Hearing, the Compliance Committee renders a judgment that a violation exists or occurred, other than the fines as stated in Addendum A - Fine Schedule, additional penalties or sanctions may be imposed to include the following:-
3. To the extent the violation caused financial damages to the Association, such financial damages, including legal fees incurred, increased insurance cost and administrative costs may be assessed against the violating Member and such amounts shall be collectible in the same manner as assessments pursuant to the Bylaws, as amended.

4. Fines may be assessed against the Member. The fine for any one (1) non-continuing violation shall not exceed \$1,000.00 and shall be collectible in the same manner as assessments pursuant to the Bylaws, as amended. The fine for any continuing violation shall be assessed on a daily basis until the violation is corrected. Each day the violation continues after the judgment is entered by the Board of Directors shall be considered a new violation. The daily fine for such continuing violations shall not exceed \$10.00 and shall commence on the date in the Notice of Hearing Decision and shall be capped at the non-continuing violation penalty amount. Such fines may be in addition to the assessment of financial damages incurred by the Association. The Board of Directors may establish a fine schedule for particular types of violations.
5. Suspension of rights to use Common Properties and facilities of the Association until the violation(s) has been corrected. The suspension of rights may be the sole sanction or may be in addition to other sanctions that may be imposed pursuant to this Resolution.
6. As the Member shall be responsible for the actions and omissions of his or her minor children, family and household members, guests, tenants and tenants' guests, the sanctions and penalties herein may apply to the Member as well as the violating individual.

H Appeal Rights and Procedures.

1. Rights of Member. The imposition of penalties rendered with or without a Hearing may be appealed to the Board of Directors by the Member found in violation or the party alleging the violation.
2. Notice of Appeal. The party appealing the decision of the Compliance Committee must submit a written Notice of Appeal to the Board of Directors within ten (10) days of the date the penalty was imposed. The Notice of Appeal shall include the following information:-
 - (i) The names and addresses of the party seeking the appeal and whether such party was found to be the violating party or was the party alleging the violation.
 - (ii) A brief statement of the reason for the appeal.
3. 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 party

requesting the appeal and the decision of the Compliance Committee shall stand.

4. If the Board of Directors determines to hear the appeal, the following procedures shall apply.

- I** Notice of Hearing. Notice of Hearing shall be given in the same manner as that required for the Notice of Hearing applicable to the violation Hearing held by the Compliance Committee.
- J.** Hearing Procedures. All of the rights and procedures applicable to the Compliance Committee Hearings shall apply to appeals by the Board of Directors. Therefore, the procedures outlined in Paragraph E and F of these Procedures shall be applicable to appeals.
- K** Effect of Decision. The Board of Directors may modify, reverse or uphold the Compliance Committee's decision in its entirety.
- L** Further Action. A Member must exhaust all available remedies of the Association prescribed by these Procedures before resorting to a court of law for relief with respect to an alleged violation of the Governing Documents. The foregoing limitation pertaining to exhausting administrative remedies shall not apply to the Board of Directors.

II. INTERPRETATION

- A.** These Procedures are intended to ensure that due process is provided to Members in proceedings before the Compliance Committee and Board of Directors.
- B.** The Compliance Committee or the Board of Directors, as applicable, may determine the specific manner in which these Procedures are to be implemented, provided that the due process is protected.
- C.** 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.
- D.** The use of 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.