



River Ridge Homeowners Association of
Martin County Inc.

Covenant Violation Policy



BACKGROUND:

The specific authorities for the imposition of fines, suspension of membership privileges, filings of liens and foreclosure, and taking corrective actions can be found in;

- 1) The Amended and Restated Declaration of Restrictions and Protective Covenants of River Ridge (referred to hereafter as "Covenants")
- 2) Florida State Statute - Title XL: Real And Personal Property - CHAPTER 720 - HOMEOWNERS' ASSOCIATIONS
- 3) Florida State Statute - Title XXXVI: Business Organizations - CHAPTER 617 – CORPORATIONS NOT FOR PROFIT

Further guidance on the proper procedures for processing a violation of the Covenants were provided to the River Ridge Homeowners Association of Martin County Inc., Board of Directors by the Association Attorney in a July 16, 2003 letter entitled *The River Ridge Home Owners Association of Martin County, Inc./Fines*.

DEFINITIONS:

Compliance Review Committee (CRC): This committee shall consist of at least three (3) community members appointed by the Board who are not officers, Directors or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director or employee. This committee shall make independent determinations, by majority vote, as to the imposition of fines against community members for violations of the Covenants.

PROCEDURES:

- 1) The Board or their designee (property manager) shall investigate matters observed or otherwise referred to them for the purpose of determining the existence of a violation of the Covenants. Violations may be discovered and reported by Association members via an Issue Report Form or by the property manager during their routine neighborhood checks.
- 2) If the Board or their designee finds that a violation of the Covenants exists telephone contact with the homeowner will be made in an attempt to have the violation quickly remedied. If the violation can be remedied within 7 days, no written notice of violation will be required.
- 3) For violations that can not be remedied within 7 days, the Board or their designee will then make a digital photograph of the violation, bearing date/time stamp, which shall be filed in the violation binder. Photographs of the violation will not be provided to the member. A written notice will then be made, via first class letter, to the property owner advising of the specific section of the Covenants being violated and directing correction/abatement of the violation within a specified, reasonable time period. For violations discovered where the homeowner was served notice more than 21 days prior to a regular Board meeting, the homeowner will have until that Board meeting to cure the violation. For violations discovered where the homeowner was served notice less than 21 days prior to the next regular Board meeting, the homeowner will have until the next subsequent regular Board meeting to cure the violation. Regular Board meetings are held on the third Monday of each month. A listing of all lots served with first violation notice and a description each violation, will be provided to the Board by their designee (property manager) at each regular Board meeting.



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- 4) On the day of each regular Board meeting the Board or their designee shall check the status of all violation that had more than 21 days notice to cure the violation. The status of those violations shall be reported at that day's regular Board meeting. For those violations not cured, the Board may then direct their designee to take a second digital photograph of the violation (bearing date/time stamp) for the file and provide second written notice, via registered mail, to the property owner advising of the specific violation, directing correction/abatement of the violation within fourteen (14) days, specifying the proposed fine and collection approach, and advising the owner they have the right to a hearing before the Compliance Review Committee (CRC) of River Ridge. NOTE: In addition to the letter via registered mail, a copy of this letter will be sent via first class mail with no return address to the property owner to ensure the owner receives notification in the event the registered letter is refused or otherwise not received.
- 5) A fine may not be imposed without notice of at least fourteen (14) days to the property owner, and an opportunity for a hearing before the CRC. The fourteen-day notice is satisfied by the Association sending out the second notice as described in paragraph 3. To secure a hearing the property owner must submit a written request for a CRC hearing to the Boards designee. That letter must be post marked no later than 10 days from the date that the property owner received the 14 day notice of intent to fine.
- 6) **CRC HEARING RULES:**
 - The purpose of the CRC hearing is for the property owner to present information and evidence as to why the fine should be mitigated or not imposed.
 - The property owner may represent them self or may bring an attorney. If the property owner intends to bring an attorney to the CRC hearing they must provide 10 days prior written notice to the property manager indicating such.
 - The property owner may bring witnesses who have direct knowledge relating to the violation.
 - The property owner has 5 minutes to present their case and an additional 5 minutes for each pertinent witness.
 - The property owner may submit written documents and other evidence to the CRC for consideration.
 - The property owner and witnesses must remain calm and respectful while speaking and upon conclusion of the allotted time, must yield to the CRC.
 - The property owner may not knowingly provide false information to the CRC.
 - The property owner may not ask questions of the CRC unless a CRC member is to be called as a witness. Any CRC member called as a witness shall not vote on the outcome of that issue. The Board of Directors may designate an alternate CRC member for purposes of voting on that issue.
 - Upon conclusion of the property owner's case, the CRC may ask questions of the property owner and witnesses. The property owner and witnesses may answer, or chose not to answer CRC questions and the CRC may consider answers and refusals to answer.
 - The CRC will have discussions and vote in private. Property owners will be notified in writing of the CRC decision at a later date.



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- Members may attend CRC hearings but Board members may not attend the meeting in order to protect the independence of the CRC. A Board member may attend the hearing if called as a witness by the property owner.
 - All Board meeting rules relating to the recording of meetings, enforcement of rules, and ejection from meetings apply to CRC meetings/hearings.
 - CRC hearing minutes shall be kept and posted in the same manner as Board Meeting minutes. All votes shall be recorded in the minutes and none can be anonymous.
 - If a property owner does not show up for a requested hearing the CRC may proceed with a vote on the matter.
- 7) A fine may be disallowed if a majority of the CRC votes against the fine. The Board may not overrule a CRC decision not to impose a fine.
 - 8) A fine may be levied if a majority of the CRC votes to approve the fine. A fine may be levied on the basis of \$100.00 per violation per day for as long as the violation exists, except that no fine shall exceed \$1,000.00. The Board may, by majority vote, waive a fine that is levied by the CRC but may not re-impose a fine not approved by the CRC.
 - 9) The CRC shall report its findings and votes/decisions to the Board, or their designee before or at the next regular monthly meeting. The Board, or their designee, shall then review action taken by the CRC and then direct their designee to notify the property owner of the CRC's decision in a Failure to Rectify Notice, via registered mail. This letter shall again specify the section of the Covenants being violated and the amount and manner of fine that is being imposed. The letter shall specify the date the fine is to begin accruing. The letter shall further state that pursuant to the Covenants the fine is considered an assessment, and that if the fine is not paid by a specified date, the Association can file a lien against the property and a foreclosure action/lawsuit that could result in the property being sold at a foreclosure sale.
 - 10) If any fine for a non-continuing violation is not paid, or if a fine for a continuing violation reaches the \$1000.00 maximum, the Association Attorney will file a lien and ultimately may pursue foreclosure action/lawsuit and reimbursement for any and all legal costs (See Assessment Collection Policy).
 - 11) After a fine reaches \$1000.00 for a violation and the violation remains uncorrected, the Board, by majority vote, may then direct their designee to take a third digital photograph of the violation (bearing date/time stamp) for the file and provide an Intent to Rectify Notice, via registered mail, to the property owner advising of the Boards intent to enter the property to rectify the violation in accordance with Paragraph XVIII of the Covenants. The Intent to Rectify Notice will provide at least 15 days notice prior to entering the property to take corrective action except in the event of an emergency situation that may pose a threat to people or property. The Board should weigh the risks and potential liability of entering a property against the need to rectify the problem prior to making the decision. The Boards designee shall notify the community attorney of the out-of-pocket cost incurred to rectify the



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violation so the community attorney may include this amount in the lien or other proceedings. The Associations accounting firm will add this individual assessment to the property owner's next Association quarterly assessment.

NON-MEMBER VIOLATIONS:

In addition to dealing with the property owner whose non-member guest or service provider commits a violation of the Covenants, the following actions can be taken against non-members;

- If a non-member is observed committing a violation of the Covenants (e.g., Realtor posting For-Sale signs in the community; Yard maintenance personnel dumping debris on an empty lot; Service providers or other guests parking vehicles in prohibited areas) they should be warned verbally and a follow-up letter to the owner of the company shall be sent by the property manager. That letter shall advise the owner of the violation, the date and location of violation, and the need for his/her employees to abide by the community rules.
- Upon observing the second violation of the Covenants by a service provider, a second written notice shall be forwarded to the owner of the company by the property manager. The letter shall advise the owner of the second violation, the
- date and location of violation, and that if a third violation occurs they will receive written notification of that violation and they will no longer be granted access to the community.
- Upon observing the third violation of the Covenants by a service provider, a third written notice shall be forwarded to the owner of the company by the property manager. The letter shall advise the owner of the third violation, the date and location of violation, and that they no longer have access to the community. The property manager shall then provide the name of the company to the Gatehouse and advise the guards to refuse this service provider entry.

RESPONSIBILITIES – BOARD OF DIRECTORS:

- Concur, modify or disapprove all Intent to Fine Notices and Intent to Rectify Notices presented by the Property Manager.
- Appoint a Compliance Review Committee (CRC) of at least 3 persons consisting of community members who are not officers, Directors or employees of the Association or the spouse, parent, child, brother or sister of an officer, director or employee.
- See that all policy and procedure is adhered to.
- Set the proposed fine to be levied on a Covenant violation, which will not exceed \$100 per day and \$1000 in total per violation.
- Make a determination of subsequent actions to be taken when the fines have failed to bring about compliance with the Covenants.
- Initiate legal action when selected as the next step to bring about compliance with the Covenants.



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RESPONSIBILITIES – PROPERTY MANAGER:

- Conduct property reviews, assess Covenant compliance, address and track violations, and report to the Board as directed by the Board and established in any policies and contracts.
- Oversee the procedure and see that all involved are carrying out their responsibilities in a timely manner.
- Maintain a complete file of all written material associated with a violation.
- Prepare first warning letter, digital photographs of violations, and Intent to Fine Notices for Board approval on all valid violations of the Covenants.
- If approved by the Board, coordinate the Intent to Fine Notice with the CRC Chairman and the member alleged to have violated the Covenants and set a date for the fine decision meeting
- Upon approval by the Board, mail the Intent to Fine Notices to the member alleged to have violated the Covenants.
- Track compliance action(s) required by Intent to Fine Notices, prepare, and mail an appropriate Failure to Rectify Notice on the required correction date if the violation is not corrected.
- Determine the actual correction date and notify the Association's accounting firm of this date.
- Advise the Board when the maximum fine has been imposed and request direction on the next step.
- When directed by the Board, prepare Intent to Rectify Notice for Board approval when the full fine had been levied and the violation has not been corrected.
- As directed by the Board, mail the Intent to Rectify Notice and take the appropriate steps to rectify the violation.
- See that all interested parties receive copies of all letters, photographs, and notices associated with these procedures including, the Board, and the Associations accounting firm, and the chairperson of the CRC when applicable.

RESPONSIBILITIES – ASSOCIATIONS ACCOUNTING FIRM:

- Upon receipt of a Failure to Rectify Notice, add the daily fine to the Quarterly Assessment until the actual correction date or the sum of daily fines reaches \$1000, whichever comes first.
- Add all costs incurred by the Association to correct a violation as a Special Individual Assessment to the Violator's Quarterly Assessment.
- Collect the fines and violation correction costs using the normal Quarterly Assessment procedure.

RESPONSIBILITIES – ASSOCIATIONS LEGAL FIRM:

- When directed by the Board, take legal action to enforce the Covenants and process lien and foreclosure actions.



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RESPONSIBILITIES – COMPLIANCE REVIEW COMMITTEE:

- Hold hearings on proposed fines when requested to do so by the alleged violator.
- Vote on each proposed fine and communicate the results in writing to the Property Manager and the President.

DEVIATION FROM PROCEDURES:

The foregoing procedures are intended to provide for the fair and uniform processing of covenant violations. While these procedures are the established and preferred method for processing covenant violations it should be anticipated that from time to time unintentional administrative errors or mailing delays will cause a deviation from the procedures established time frames. Such deviations will not render the process invalid.

AMMENDING RULES:

The aforementioned rules were ratified by vote of the Board on August 25, 2003. The Board reserves the right to amend these rules from time to time as deemed necessary. All of these Covenant Violation Policies are made in accordance with the Boards various authorities, including but not limited to those found in the Amended and Restated Declaration of Covenants, Conditions and Restrictions of River Ridge.

RULE AMMEDNING HISTORY:

Rule revisions were passed by a unanimous vote of the Board on March 21, 2005.