

# **WESTCHASE COMMUNITY ASSOCIATION, INC.**

## **VIOLATION NOTICE PROCEDURE**

Enforcement of both Deed Restrictions and Building/Modification Guidelines consists of sending a written notice of violation based on a written complaint or upon observation of a violation. Violations may be observed by the Property Manager (“Manager”) in a routine drive-through or they may come to the attention of the Manager via information provided by members, preferably in written form. However, to avoid neighbor conflicts and for everyone’s safety, we discourage members from becoming “neighborhood inspectors”. Notices will be sent by the Manager to the property owner at the address reflected in the official records of the Association. The property owner will be deemed to have received notice at this address regardless of whether this address is correct. It shall be the property owner’s responsibility to keep the address listed in the official records current.

The following policy has been adopted by the Board of Directors of the Association for handling violations:

1. When a property is determined to be in violation of the Association’s governing documents, the Manager shall provide a person or entity in violation with notice and opportunity to cure the violation.
2. A *first notice* is sent to the person or entity in violation when the Manager observes or otherwise has sufficient evidence of the violation. It typically includes:
  - A. The nature of the alleged violation, including a reference to the Association documents relative to the violation.
  - B. A reasonable period of time within which the alleged violator must remedy the alleged violation or submit to the Association a proposed plan for remedying the alleged violation. The schedule attached to this Violation Notice Procedure as Exhibit “A,” as the same may be amended from time to time by the Board, lists

the time periods deemed reasonable for the remedy of the violations listed thereon.

- C. At the bottom of the violation letter, a section labeled "Notice of Corrective Action" must be completed by the person or entity in violation, indicating when and how the violation was corrected or proposing a plan to correct the violation, and same letter must be mailed, emailed, or personally delivered to the property management office.
3. Whether a proposed plan for correction is reasonably acceptable shall be determined in the discretion of the Board or its delegate.
  4. A *second notice* is sent if no response is received, the violation is not remedied, if the violation is temporarily remedied and then repeats itself within a three month period, or a reasonably acceptable Corrective Action Plan is not submitted. The second notice will provide the following:
    - A. A reference to the first notice and a description of the nature of the violation including a reference to the Association documents relative to the violation.
    - B. A statement that the Association may take the following actions to enforce the covenants and restrictions of Westchase: impose a fine in an amount not greater than \$100 per day per violation for a continuing violation, not to exceed \$1,000 in any thirty (30) day period; suspend, for a reasonable time, the violator's right to use the Common Areas; bring a suit at law or in equity to enjoin any violation and to recover monetary damages, unpaid fines, and reasonable attorneys' fees and costs incurred in the action; enter the violator's Unit or any portion of the Common Area to abate or remove, any structure, thing, or condition that violates the Declaration, the Bylaws, or the rules and regulations and charge all costs of such action to the violator as a Special Assessment; and/or take any other action which the Association deems necessary to enforce the governing documents.

- C. The fine and/or sanction proposed by the Board or its delegate.
  - D. A statement that the alleged violator may request an opportunity to be heard at a meeting of the Covenants Committee, before any fine, sanction, or other remedy is imposed, by submitting a written request to the Manager within ten (10) days of the date of the second notice.
  - E. The date, time, and location of the meeting of the Covenants Committee at which the alleged violator may be heard, which meeting shall not occur less than fourteen (14) days from the date of the second notice.
  - F. The Covenants Committee will review the violations, consider the proposed fines or other sanctions, and enter its findings in the minutes of the meeting.
5. The Covenants Committee must be composed of at least five and no more than seven 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.
  6. The Covenants Committee shall review each fine or other sanction levied by the Board and determine whether to confirm or reject the fine or sanction. Approval by a majority of the members of the committee is required for the imposition of any proposed fine or sanction. The decision by the Covenants Committee to reject a fine or sanction is final and not reviewable.
  7. If the violation is not corrected and no appeal of the Covenants Committee decision is made to the Board in accordance with the appeal provisions hereof, the Board may direct the WCA Attorney to proceed as appropriate.
  8. Following a hearing before the Covenants Committee, the person or entity in violation shall have the right to appeal or challenge the imposition of a fine or other sanction to the Board of Directors. To perfect this right, a written notice of appeal must be received by the Manager or the President or Secretary of the Association within thirty (30) days after the

date of the hearing before the Covenants Committee. A timely appeal shall stay the effective date of any penalty or the due date for payment of any fine. The failure of a person or entity in violation to timely appeal or challenge the imposition of a fine or other sanction shall be deemed a waiver of the right to appeal and a waiver of any and all basis for challenging the violation, including but not limited to, any claim that the violation has been cured, any claim that the violation did not take place, and any claim that enforcement actions taken by the Association are improper, unreasonable, or arbitrary.

9. The Board of Directors shall hear the timely appeal or challenge from a person or entity in violation at the next meeting of the Board of Directors which occurs not less than fourteen (14) days after receipt of the written notice of appeal or challenge. The Manager, President, or Secretary of the Association who receives a timely written notice of appeal shall provide a copy of such notice to the Chairman of the Covenants Committee not less than five (5) days before the meeting of the Board of Directors at which the appeal will be considered. The Chairman of the Covenants Committee will have the option to explain the Committee's reasoning for approving the imposition of a fine or sanction either in writing or in person at the meeting of the Board of Directors. The Board of Directors may, at its discretion, affirm or amend the decision to impose a fine or other sanction. However, the Board of Directors shall not increase the amount of any fine or the severity of any sanction beyond what has been approved by the Covenants Committee. The decision of the Board shall be final and shall not be subject to any further appeal.
10. The Association, acting through the Board of Directors, may elect to enforce any provision of the Declaration, the Bylaws, or the rules and regulations of the Association by self-help or by suit at law or in equity to enjoin any violation or to recover monetary damages, or both, without the necessity of compliance with the procedure set forth above. However, under no circumstances may the Board of Directors impose a fine or sanction for any violation without providing at least fourteen (14) days' notice and an opportunity for a hearing before the Covenants Committee.

11. In the event of an emergency or a violation which may adversely affect the safety of persons or property (e.g., parking in a fire lane, blocking ingress or egress in a neighborhood, storage of flammable materials or use of a firearm within the community, etc.) the WCA President, or his/her designee, may authorize the immediate referral of the matter to the WCA Attorney.
12. Nonmaterial or technical violations of the procedures set forth herein will not invalidate any sanction or fine imposed pursuant to the Declaration or By-Laws.

**APPROVED BY THE WCA BOARD OF DIRECTORS ON 07/14/11; AMENDED BY THE  
WCA BOARD ON 10/09/14; AMENDED BY THE WCA BOARD ON 8/13/15.**