

**Lely Civic Association, INC.**  
**A Florida not to profit Corporation**

**RESOLUTION TO ESTABLISH A PROCEDURE FOR THE VIOLATION OF THE GOVERNING DOCUMENTS AND TO LEVY FINES FOR VIOLATIONS**

A meeting of the Board of Directors of Lely civic Association, INC, (The “Association”), was held of the 21 days of November, 2023, at 6p.m., at **Kemp Hall, Lely Presbyterian Church, 110 ST. Andrews Blvd, Naples FL34113**, after duly noticing said meeting in accordance with the Bylaws and Florida law, at which time upon motion duly made, seconded and unanimously carried/ carried by majority vote, the following resolution was adopted:

**WHEREAS**, The Association is a Florida non for profit corporation created and organized for the purpose of managing and administering the community and common areas of the Association.

**WHEREAS**, the Board of Director of the Association, pursuant to its Bylaws and Florida law, us authorized to adopt rules and regulations governing the details of the operation and use of the common elements, the Lots and any other property of the Association:

**WHEREAS**, Section 720.305. Florida Statutes, provides that the Board of Directors may levy reasonable fines not to exceed \$100 a day up to \$1000 per violation against any member, or that member’s tenant, guest, or invitee for violating the Governing Documents of the homeowners’ association, including rules and regulations. Fine amount maybe subject to change in accordance to Florida State Statute Law or the Association Governing Document.

**WHEREAS**, the Board of Directors of the Association has determined that in furtherance of its efforts to protect the general welfare of the Owners and residents of the Lely Civic Association, Inc., it is in the best interest of the Association to adopt a comprehensive procedure and delegation of authority for violations and the levying of fines against Owners, Lessees, and Guest for violating the Governing Documents of the Association:

**NOW, THEREFORE, BE IT RESOLVED**, that the Board of Directors adopts the following procedure for imposing fines:

1. For any person who witness a violation, the goal is to provide the specific violation, date, property address and digital picture (if possible) to Property Management. The Property Manager shall also collect data on violation directly on their tours through the neighborhood. Members of the Board are also authorized to report violations to the

Property Management. Reports from other residents to Property Management must be in writing (emailed permitted).

2. The Board of Directors hereby approve and incorporates herein by reference the attached Covenants Enforcement Process dated **November 21, 2023**. The recommended enforcement procedure and penalties are hereby specifically adopted by the Board and shall be enforced.
3. The Property Manager and the Chair of violation are hereby authorized to receive, and review reported violation and recommend enforcement action based on the approved schedule of violations and proposed penalties set forth in the Covenants Enforcement Process. A recommendation by the Chair or the Property Management shall be deemed Board action to levy a fine pursuant to Florida State Statute section 720.305.
4. In addition to fines and suspension, the Board shall reserve the right to demand pursuit mediation as authorized by law and pursue injunctive relief in court to compel the person's compliance with the Association's Governing Documents.
5. This resolution and Covenant Enforcement Process may be further amended by the Board from time to time at a duly noticed meeting called for that purpose.

**THE FORGOING RESOLUTION** was approved by the Board of Directors by a vote of **12** voting in favor of the resolution and **0 voting** against the Resolution.

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Lisa McGarity

By: \_\_\_\_\_, its President



# Covenant Enforcement Process

## I. Overview:

This proposed process is a guideline for your reference: the objective of the violation process is to ensure compliance with the Association documents in a fair, consistent, and systematic manner. A formally adopted procedure for handling violations will eliminate potential ambiguity and allows for due process.

Due process is a formalized protocol designed to protect the rights of all parties involved. Utilizing this process will ensure that violations are handled in a consistent manner and provided an opportunity for the homeowners to be heard in front of an independent committee upon proper notice.

A fine, or suspension may not be imposed without a minimum fourteen-day advance notice to the person sought to be fined or suspended and an opportunity for a hearing before a Hearing Committee (Committee) of at least three members appointed by the Board. The Committee members cannot be officers, directors, or employees of the Association, or the spouse, parent, child, brother or sister of, or someone residing with an officer, director or employee.

## II Covenant Enforcement Process:

- Management should receive direction from the Board of Directors on the degree of enforcement and frequency of proactive inspections to identify violations.
- The Board may adopt a uniform fine, suspension, and restriction of privilege rates and duration for specific violations and may delegate to a specific Officer, Director or Manager the authority to levy and recommend the appropriate and commensurate penalty to the Hearing Committee.
- A Hearing Committee is to assist with the enforcement process. The role of the committee is limited to determine whether to confirm or reject the fines/suspension levied by the Board after the owner had the opportunity to present statements or other evidence as to why there should not be a fine or suspension.
- If a violation is a curable offense, the warning letter and procedure beginning with Paragraph III (First Letter) below shall be utilized. If the violation is non-curable, the commensurate fine, suspension shall be forwarded directly to the Hearing Committee for hearing and consideration set forth below in Paragraph III (Second Letter). Notwithstanding the above, the Board may, upon written direction to the Manager, elect to consider any violation a non-curable offense based on individual facts and circumstances.

## III Enforcement Steps

- **First Letter** – Written notice (which is referred to as a “Friendly Reminder”) is sent to the owner of the lot and if applicable, any occupant, licensee or invitee of the owner. This letter will state the nature of the violation that was found, the date, and if possible, pictures of violation. The notice will clearly state what rule/rules in the Declaration were violated. This letter will also include a copied section of the Declaration where the rule is actually

stated (i.e., Section 8, subsection 8.4). The letter will give the owner a predetermined amount of time to correct the violation.

- A follow-up inspection, is performed by either the Management company or Chair of violations based on the time allocated to cure the violation. A table of standardized times to cure should be adopted as part of this process.
- After the follow-up inspection has been performed based on time allocated to cure the violation in first letter has not been cured, the Board should then meet at a duly-noticed meeting to review the matter and levy the fine, suspension or other permissible sanction if deemed appropriate
- **Second Letter** – The final notice informs owner and, if applicable, any occupant, licensee or invitee of the owner sought to be fined, suspension, or other permissible sanction to attend a Hearing Committee meeting. The notice must provide a minimum fourteen- day advance notice and identifies where and when the hearing will be held. The notice should be sent via certified mail, return receipt requested, and via regular mail. The Hearing Committee meeting is required to take place regardless of whether or not the owner or person sought to be fine actually attends the meeting.
- At the Hearing Committee meeting, the committee will approve or reject the fine, suspension, or other permissible sanction that the Board of Directors has levied. At the Hearing Committee meeting the owner and if applicable, any occupant, licensee or invitee of the lot owner sought to be fined or suspended may present statements or other evidence as to why there should not be fine or suspension. If the Committee by majority vote, does not approve a proposed fine or suspension, then it may be not imposed. If the Committee, by majority vote, approves a proposed fine or suspension, it may then be imposed.
- **Third Letter** - (if a fine, suspension or restriction is approved) – The third letter informs the owner, and if applicable, any occupant, licensee or invitee of the lot owner sought to be fined or suspended that the Hearing Committee has approved a fine, suspension, or other permissible sanction and will include the details of that fine or other permissible sanction. Any fine payment is due after the date of the committee meeting at which the fine was approved.

#### **IV Additional Notes:**

- All letters include a description of the alleged violation, a picture of violation if possible/applicable, Homeowner's name and address, and timeframe to cure.
- First letter is sent via regular mail only, The Second letter (Final letter) required a minimum fourteen-day (14) advance notice prior to hearing be sent via regular mail as well as certified mail with return receipt requested.
- The Board should establish a predetermined day, time, and location for the Hearing Committee meeting to determine whether a fine or suspension will be imposed.

- The Hearing Committee should have a chair person appointed by the Board of Directors. That Chair person is a Board member. There should be at least three Committee members who are not members of the Board or related to a Board member. During the committee meeting the members of the committee can only ask question about that violation in question to determine their vote. They cannot give the person being sought to be fine any advice.
- After each case is heard, the Committee should make a motion to confirm or reject the fine, suspension, or other permissible sanction, and the appropriate amount per day and/or occurrence previously approved and imposed by the Board of Directors. The committee does not have the authority to either reduce or increase the proposed fine.
- To ensure consistent enforcement, the Board of Directors should predetermine a schedule of fines for common and/or recurring types of violations.
- Fines may be as much as \$100 per day, up to a maximum of \$1,000 per violation unless a higher amount is otherwise provided in your governing documents and approved by the Board of Directors.
- For violations related to maintenance, if the violation is not corrected after demand, the Association may enter the owner's lot and perform the maintenance on behalf of the owner after 10 days written notice to the owner. The cost of any maintenance performed by the Association can then be assessed against the owner and if unpaid, become a lien against the owner's property.

**IV Number of Days to Comply Chart and Schedule of Fines (Common Violation):**

(Some restriction may not apply to all section)

Schedule below is for Board use only for purpose of discussion in the resolution period. Definitions below are suggested, but not limited to:

<b>Description</b>	<b>Days to Correct from 1<sup>st</sup> Notice</b>	<b>2<sup>nd</sup> Notice Fine</b>	<b>Restrictions reference</b>
(Failure to obtain ARC approval)	0 days	\$100	
Exterior changes	3 days	\$100 per day up to \$1,000	Owner must still submit ARC for approval. Owner may be required to put back to original.
Motor Vehicle, Boat, and trailer Violations	1 days	\$50 per day up to \$1,000	Parking overnight on street or grass etc.
Motor Vehicle, Boat, and trailer Violations	2 days	\$75 per a day up to \$1,000	Commercial vehicles, boats and or trailers must be stored inside an enclosed garage. No parking overnight in street, driveway or lot.

Trash/Garbage or Debris violation	2 days	\$25 per day	Garbage cans must be stored in garage or side of home. Debris may not accumulate etc.
Landscaping	5 days	\$50 per day up to \$1,000	The Board may also perform the maintenance needed on behalf of owner after 10 days written notice and assess the cost against the owner.
Lighting	3 days	\$25 per a day	Must be in good condition and lite from dusk to dawn
Construction	10 days	\$100 per a day up to \$1,000	After allotted time for permitted work the Board may take steps to correct condition after notifying Owners of its intent. The Owner will be responsible for all cost incurred.
Improper Leasing	7 days	\$100 per day up to \$1,000	No short-term rentals, and failure to fill out Leasing application, etc.
Maintenance	7 days	\$50 per day	The Board may also perform the maintenance needed on behalf of owner after 10 days written notice and assess the cost against the owner.
Miscellaneous violations	2 days	\$ 25	General violation: signs, nuisance, etc.