

RESOLUTION AND RULES AND REGULATIONS FOR ENFORCEMENT OF BY-LAWS
AND DECLARATION OF COVENANTS AND RESTRICTIONS FOR
LAKE OAKLAND ESTATES

1. DUE PROCESS PROCEDURES

A. Actions Prior to Initiation of Formal Special Resolutions Process.

1) Any MEMBER of the Lake Oakland Estates Association has the authority to request that a Lake Oakland Estates PROPERTY OWNER cease or correct any act or omission which appears to be in violation of the LOEA By-Laws and/or Declaration of Covenants and Restrictions and other resolutions that are implemented from time to time. Such informal request should be made to the LOEA President and/or the LOEA Enforcement Officer for a preliminary investigation before any formal process can be initiated.

2) The LOEA PRESIDENT may make initial attempts to secure compliance through correspondence to the OWNER and/or RESIDENT which states the time, date, place and nature of the violation and which sets forth the time period in which the violation must be corrected. Copies of such correspondence shall be maintained in the Association files, and a copy shall/may be sent to counsel for the Association.

B. Written Complaint. If the actions described in Paragraph 1 prove unsuccessful, the Special Resolutions Process shall be initiated upon the filing of a written complaint with the Lake Oakland Estates Board of Directors. (hereinafter referred to and will serve as the "Rules Committee:). Five out of the Nine LOEA Board Members will serve on the committee at the direction of the LOEA Enforcement officer. Any Board member that is the subject of the complaint shall refrain from serving on the committee. The complaint shall be a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the OWNER (hereinafter referred to as "respondent") is charged, to the end that the respondent will be able to prepare his defense. The complaint shall specify the specific provisions of the By-Laws and/or Declarations of Covenants and Restrictions for Lake Oakland Estates or other resolutions and policies enforced at the time, which the OWNER is alleged to have violated and shall contain supporting facts. The complaint must be as specific as possible as to times, dates, places, acts or omissions and persons involved.

C. Investigation. Upon receipt and consideration of the written complaint, the Rules Committee shall make their investigation as to the validity of the complaint and report the findings to the entire LOEA Board. If the violation has been corrected or the complaint is invalid for any reason, the Rules Committee shall determine the appropriate disposition of the matter and respond in writing to the complainant. If the investigation indicates the need for further action, then the Rules Committee shall establish a hearing date. The Rules Committee shall serve the respondent with a complaint, Notice of Hearing and Notice of Defense and shall serve the complainant with a Notice of Hearing.

D. Notice of Hearing. The Rules Committee shall serve a Notice of Hearing on all parties at least fourteen (14) days prior to the hearing by either of the following means: (1) personal service or (2) registered or certified mail, return receipt requested, and addressed to the parties at the address appearing on file with the Association. Service by mailing shall be deemed effective two (2) days after such mailing in a regular depository of the United States mail. The Notice of Hearing sent to the parties shall be substantially in the following form but may include other information:

"You are hereby notified that a hearing will be held before the Committee at _____ on _____ day of _____, _____, at the hour of _____, upon the charges made in the complaint served upon

_____. You may be present at the hearing, may, but need not be represented by counsel, may present any relevant evidence, and you will be given full opportunity to examine and cross-examine all witnesses." If any party can promptly show good cause as to why they cannot attend the hearing on the scheduled date and indicate times and dates on which they would be available, the Committee may reschedule the hearing and promptly deliver notice of the new hearing date.

E. Service of Complaint. The Rules Committee shall serve a copy of the complaint on the respondent along with the Notice of Hearing.

F. Notice of Hearing. Service of the Notice of Hearing and complaint shall be accompanied by a Notice of Defense. The Notice of Defense shall state that the respondent may:

- 1) Attend a hearing before the Committee as hereinafter provided;
 - 2) Object to the complaint on the grounds that it does not state the acts or omissions upon which the Committee may proceed;
 - 3) Object to the form of the complaint on the grounds that it is so indefinite or uncertain that the respondent cannot identify the violating behavior or prepare proper defense;
- or
- 4) Admit to the complaint in whole or in part. In such event, the Committee shall meet to determine appropriate action or penalty, if any.

Any objections to the form or substance of the complaint shall be considered by the Rules Committee within ten (10) days of their receipt. The Rules Committee shall make its determination and notify all parties within said ten-day period. If the complaint is found insufficient, the complaining party shall have seven (7) days within which to amend the complaint to make it sufficient. The same procedure as set forth above shall be followed with respect to any amended or supplemental complaint. If it is determined by the Rules Committee that the complaint is still insufficient, then the Rules Committee dismiss the complaint.

G. Cease and Desist Request. If the Rules Committee, after receipt and investigation of the complaint, makes a finding of fact in writing that the public interest of the Lake Oakland Estates Association or the health, safety and/or welfare of its OWNER will be irrevocably harmed by delay, it may issue a temporary cease and desist order. Prior to issuing the temporary cease and desist order, the Rules Committee shall give notice of the proposal to issue a temporary cease and desist order to the person. The temporary cease and desist order shall include in its terms a provision that upon request a hearing will be held promptly to determine whether or not it becomes permanent.

If the Rules Committee determines, subsequent to the notice and hearing, that a person has violated any provision of the By-Laws and/or Declarations of Covenants and Restrictions for Lake Oakland Estates or other policies as approved by the Association from time to time, it may issue an order requiring that person to cease and desist from such unlawful violation.

H. Amended or Supplemental Complaints. At any time prior to the hearing date, the Rules Committee may file or permit the filing of an amended or supplemental complaint. All parties shall be notified thereof in the manner provided herein. If the amended supplemental complaint presents new charges, the Rules Committee shall afford the respondent a reasonable opportunity to prepare proper defense thereto.

I. Discovery. Upon written request to the other party, made at least five (5) days prior to the hearing, either party is entitled to: (1) obtain the names and addresses of witnesses to the extent known to the other party; and (2) inspect and make a copy of any statements, writings and investigative reports relevant to the subject matter of the hearing. Nothing in this Section, however, shall authorize the inspection or copying of any writing or thing which is privileged from disclosure by law or otherwise made confidential or protected as the attorney's work product. Any party claiming his request for discovery has not been complied with shall submit a petition to request discovery to the Board. The Board shall make a determination and issue a written order setting forth the matters or parts thereof which the petitioner is entitled to discover.

J. Statements. Sworn statements may be introduced into evidence by a party if a copy of the statement is mailed or delivered to the opposing party at least five (5) days prior to the introduction of the statement (sworn statement), if introduced in evidence, shall be given the same effect as if the author had testified orally unless the opposing party, within three (3) days after receipt of the statement, mails or delivers to the party seeking to introduce the statement a request to cross-examine the statement's author. If an opportunity to cross-examine the statement's author is not afforded after request is made as herein provided, the statement may not be introduced in evidence.

K. Constraints on the Rules Committee. Any member of the LOEA Board in violation shall exclude themselves from being on the rules committee. It shall be incumbent upon each member of the Rules Committee to make a determination as to whether that member is able to function in a disinterested and objective manner in consideration of the base before it. Any member incapable of objective consideration of the case shall disclose the same to the Rules Committee and shall not participate in the proceedings. Any member of the Rules Committee has the right to challenge any other member he believes is unable to function in a disinterested and objective manner. In the event that the rules committee can not have a quorum of five (05) board members, other LOEA members in good standing (not subject of the complaint) may volunteer to be on the rules committee.

Prior to the hearing, the complainant and the respondent may challenge any member of the Rules Committee for cause. In the event of such a challenge, the Board shall meet within seven (07) days to determine the sufficiency of the challenge. If the Board sustains the challenge, the President, or Vice President, if the President is the subject of the challenge, shall, at that time, appoint another person to replace the challenged member of the Rules Committee. All decisions of the Board in this regard shall be final.

L. Hearing.

1) The Rules Committee shall select a person to serve as hearing officer and preside over the hearing. At the beginning of the hearing, the hearing officer shall explain the rules and procedures by which the hearing is to be conducted. The Rules Committee may determine the manner in which the hearing will be conducted, so long as the rights set forth herein are protected. The hearing need not be conducted according to technical rules relating to evidence and witnesses. Generally, any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely even though the common law or statutory rule might make the admission of such evidence improper. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding.

2) Neither the complainant nor the respondent must be in attendance at the hearing. At the request of either the complainant or the respondent, the Rules Committee may agree to conduct the hearing in private session.

3) Each party shall have the right to do the following, but may waive any or all of these rights:

- a) make an opening statement;
- b) introduce evidence, testimony and witnesses;
- c) cross-examine opposing witnesses;
- d) rebut evidence and testimony;
- e) make a closing statement.

- 4) The complainant and/or the respondent may be called and questioned regardless of whether they testify in their own behalf.
- 5) Whenever the Rules Committee has commenced to hear the matter and a member of the Rules Committee withdraws prior to a final determination, the remaining members shall continue to hear the case and the Rules Committee Chairperson shall name a replacement for the withdrawing member. Oral evidence shall be taken only on oath or affirmation administered by the hearing officer.

M. Decision. To be effective a decision of the Rules Committee shall be a majority vote. The decision shall normally be issued within five (05) days of the conclusion of the hearing. The decision shall be written and accompanied by both the majority and minority opinions, if any. Copies of the decision shall be distributed to the parties.

2. INTERPRETIVE RULINGS

a. Purpose of Rulings. Rulings of the Committee may serve to:

- 1) clarify the intent of provisions of the Lake Oakland Estates Instruments, Rules and Regulations .
- 2) decide whether or not a rule, regulation or resolution was duly adopted. The purpose is not to amend, expand or limit the provisions of those documents, although the Committee may propose such amendments, expansions or limits in the statements accompanying a ruling.

b. Petitions.

- 1) Any Owner, or Lake Oakland Estates Board Member of the Association and/or an LOEA Board approved Managing Agent may petition the Committee for an interpretive ruling by filing a petition directed to the Committee at the Association Office.
- 2) The petition must be legibly written in substantially the following form:
The party(is) below request the Committee to issue an interpretive ruling on the following provisions of the governing documents and regulations of the Association:

The issue in question is:

Response should be sent to:

c. Decisions. The Rules Committee shall have five (05) days from receipt of such petition to issue an interpretive ruling. This time period may be extended by the Rules Committee at its discretion. Copies of the ruling shall be Emailed to all LOEA Members that have provided Email addresses on file. A summary of the ruling will be placed in the LOEA Association Board minutes . All rulings shall state the authority for such ruling and the basis of the decision.

3. APPEALS

a. Rights of Owners. Final decisions of the Rules Committee may be appealed by any party provided that an Appeal Petition is filed with the Board within seven (07) days following the decision of the Rules Committee. An Appeal Petition filed more than seven (07) days after the decision of the Rules Committee shall be untimely filed and the decision of the Rules Committee shall stand in its entirety.

The entire nine member LOEA Board (except any excluded member not qualified) may make a preliminary review of the circumstances and materials relative to the case and make a determination as to whether it will hear the appeal. In the event that the Board elects to hear the appeal, a hearing de novo shall be scheduled by the Board and notice thereof given to both the complainant and the respondent. If the Board elects not to conduct a de novo hearing, it shall issue a written decision in which the decision of the Rules Committee may be affirmed in its entirety, modified or reversed.

b. Appeals Petitions. Appeals petitions must be legibly written and be submitted to the Board in substantially the following form:

(I)(We), hereby petition the Board of Directors to hear an appeal of the decision .

Committee (Application) (Case) No._____.

(I)(We) further understand that within the Association, the decision of the Board of Directors on this issue is final.

c. Notice of Hearing. In the event that the Board elects to conduct a de novo hearing, notice of hearing shall be given as provided in Paragraph A-5 of this Resolution except that it shall be served by the Board.

d. De Novo Hearing Procedures. All of the rights and procedures set forth in Paragraph A above shall apply to de novo hearings conducted by the Board with the substitution of the words "Board" wherever the words "Committee" appears.

e. Decision. If the Board conducts a de novo hearing as a result of the Appeal Petition, the decision of the Board shall be by a majority vote. Such decision shall be issued within seven (07) days of the conclusion of the de nova hearing and shall be in writing, with copies of the decision distributed to the parties.

f. Further Action. An Owner must exhaust all available remedies of LOE Association prescribed by these Rules and Regulations before resorting to a court of law for relief with respect to an alleged violation by another Owner of any provision of the By-Laws and Declarations of Covenants and Restrictions for Lake Oakland Estates. The foregoing limitation pertaining to exhausting administrative remedies shall not apply to the Board.

4. SPECIAL RESOLUTIONS.

The decisions made by the Rules Committee or Board, shall be saved In the LOEA official recorded minutes as "Special Resolutions" and shall be substantially in the form as set forth herein.

5. CONSTRUCTION

- a.** This resolution is intended to assure that due process is provided to Owners in proceedings before the Rules Committee and the Board to enforce the By-Laws and Declaration of Covenants and Restrictions for Lake Oakland Estates and to serve as a guideline for such proceedings.
- b.** The Rules Committee or the Board, as appropriate, may determine the specific manner in which the provisions of this resolution are to be implemented, provided that due process is protected.
- c.** Any inadvertent omission or failure to conduct proceedings in exact conformity with this resolution shall not invalidate the results of such proceedings, as long as a prudent and reasonable attempt has been made to assure due process according to the general steps set forth in this resolution
- d.** "Due process," as used in this resolution, refers to the following basic rights:
 - 1) The charges shall be provided to the Owner and also to the Resident, if applicable.
 - 2) A hearing shall be held at which witnesses may appear and be cross-examined and at which evidence may be introduced.
 - 3) An opportunity to appeal shall be available.
 - 4) Basic principles of fairness shall be applied.

6. ASSESSMENT OF COSTS, FEES AND FINES.

If an OWNER is determined to have violated the By-Laws and/or Declarations of Covenants and Restrictions for lake Oakland Estates, the OWNER shall be responsible for payment of the following fines:

- a.** For first written notice...first violation, no fine or fee:
- b.** For second violation (whether related to original or new one) that occurs within 07 days of the first violation: \$50.00.
- c.** For third and subsequent violations (whether related to original or new ones) that occurs within a ½ month (15 days) of the first violation: \$100.
After an additional ½ month (15 days) period from the initial violation, a new 15 day period is created for which all fines are treated as the third.

IF OWNER fails to pay all of the fines assessed within 30 days after receipt of such notice, the Board shall be entitled to take all or a part of the following action: a) lien the OWNER'S residence; b) initiate collection proceedings to collect the fine; and c) a combination of the measures.

The OWNER shall be responsible for paying the costs and actual attorneys' fees incurred by Lake Oakland Estates for enforcement of the By-Laws, Declarations of Covenants and Restrictions for Lake Oakland Estates, and other resolutions as promulgated from time to time.

FORM LETTERS

Letter 1.

LAKE OAKLAND ESTATES RESOLUTIONS ACTION RECORDED

SPECIAL RESOLUTION NO.

Date:

Pertaining to Complaint by:

Against:

Date of Receipt of Complaint:

Date of Service of Notice of Hearing:

Date of Cease and Desist Request Issued, if applicable:

Date of Hearing:

1. Provisions of By-Laws and/or Declarations of Covenants and Restrictions for Lake Oakland Estates or other regulations promulgated from time to allegedly violated.
2. Explanation of facts, as determined by the Rules Committee as a result of the hearing.
3. Finding of Committee (including majority and minority opinions).
4. Action taken by Committee.

Letter 2

LAKE OAKLAND ESTATES RESOLUTIONS ACTION RECORDED SPECIAL RESOLUTION NO.

Date:

Pertaining to Request for interpretive ruling of Section of the

Date of Receipt of Request:

Ruling of Committee (including majority and minority opinions.)

Letter 3

LAKE OAKLAND ESTATES RESOLUTIONS ACTION RECORDED

SPECIAL RESOLUTION NO.

Date:

Appeal of Special Resolution No.

Appeal Petition filed by:

Date Appeal Petition filed:

Date Board determined to hear or decline to hear Appeal:

Basis for Board's decision to hear or decline to hear the Appeal Petition. If the Board determines