

## **Oakstead Homeowner's Association, Inc. Enforcement Policies, Procedures, and Guidelines**

### **BACKGROUND:**

WHEREAS, the Board of Directors (the “**Board**”) of Oakstead Homeowner’s Association, Inc. (the “**Association**”) is charged with the responsibility of enforcing the Amended and Restated Declaration of Covenants, Conditions and Restrictions of Oakstead; By-Laws of Oakstead Homeowner’s Association, Inc.; all Rules and Regulations; and all Association Policies and Resolutions, all as may be amended (collectively referred to as the “**Association’s Governing Documents**”); and

WHEREAS, from time to time Owners and their guests, invitees and occupants may, either intentionally or unintentionally, violate the Association’s Governing Documents; and

WHEREAS, the Board deems it to be in the best interest of the Association to adopt a uniform and systematic procedure for dealing with violations of the Association’s Governing Documents in a timely manner to ensure consistent compliance with same throughout the community; and

WHEREAS, Article X, Section 3 of the Association’s Declaration, along with Section 720.305 of the Florida Statutes, provides the Association with the power to enforce the Association’s Governing Documents by levying reasonable fines and/or suspensions against a Member, or any Member’s tenant, occupant, guest or invitee for any violation of any provision of the Declaration, the Association’s By-Laws, or rules and regulations of the Association committed by such Member or any tenant, occupant, guest or invitee; and

WHEREAS, Section 720.305 of the Florida Statutes provides that a fine or suspension may not be imposed by the Board without at least fourteen (14) days’ notice to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) 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 (the “**Violations Committee**”); and

WHEREAS, if the Violations Committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed, the role of the Violations Committee is limited to determining whether to confirm or reject the fine or suspension levied by the Board; and

WHEREAS, if the Board of the Association levies a fine or suspension, the Association must provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any tenant, occupant, guest or invitee of the parcel owner; and

WHEREAS, the Association has a Violations Committee consisting of at least three (3) 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 of the Association;

NOW, THEREFORE, BE IT RESOLVED THAT, the following Policies, Procedures and Guidelines shall be adopted and adhered to by the Association and the Violations Committee:

**GUIDELINES FOR COVENANT ENFORCEMENT**

**A. Reporting and Review.**

**1. Observing and Reporting Violations.**

- a. Property management will conduct regular inspections of the community to determine if there are any violations and to validate outstanding violations.
- b. Board/Authorized Committee Members may submit violations to the Community Association Manager and/or Management Company (collectively referred to as the "CAM").
- c. Owners may submit violations to the CAM. The CAM may review the submission and/or consult with the Board to determine if a violation exists and if proceeding is appropriate.

**2. Preliminary Review.**

- a. The CAM will verify and document all reported violations, and submit a report to the Board for review, if deemed appropriate by the CAM. The CAM may also make an independent determination of a violation.
- b. Board will review the violation against the governing documents. This may be done by reviewing the information provided and/or by a Board member conducting an inspection in order to corroborate the violation.

**B. Notice of Violation by the Association.** The Association will generally follow the following notice procedures for the failure of an Owner (and the Owner's tenant, occupant, guest or invitee, if applicable) to abide by the Association's Governing Documents. The Association is not obligated to follow this process or procedure in every case, and it may alter the process, deadlines, number of letters, or procedure on a case-by-case basis depending on the facts and circumstances. Therefore, the following should only be used as a general guide.

**1. Warnings to Owner.**

- a. First Notice of Violation: After inspection, the CAM shall send a Notice of Violation in writing via email and/or regular mail to the Owner and/or, if applicable, the tenant, occupant, guest or invitee of the property out of compliance with the Association's Governing Documents to the to the property address and/or e-mail address on record with the Association, requesting compliance generally within fourteen (14) days or such other time period deemed appropriate by the CAM. The time period may vary based on the violation and circumstances.
- b. Additional Notice of Violation: After inspection and failure to correct, the CAM may send an additional Notice of Violation in writing via e-mail and/or regular mail to the Owner and, if applicable, the tenant, occupant, guest or invitee of the property out of compliance with the Association's Governing Documents to the property address and/or e-mail address on record with the Association, requesting

compliance generally within fourteen (14) days or such other time period deemed appropriate by the CAM. The time period may vary based on the violation and circumstances.

2. **Notice of Intent to Fine and Opportunity for Hearing:** If the violation has not been corrected, or in the case of repeat violations, the Board may adopt a proposed fine. If the Board has levied a fine, the CAM shall, after inspection and failure to correct, send a Notice of Intent to Fine in writing via certified mail and/or regular U.S. mail to the Owner and/or, if applicable, the tenant, occupant, guest or invitee of the property out of compliance with the Association's Governing Documents to the property address and/or any other address on record with the Association. The Notice of Intent to Fine shall provide a fourteen (14) day Notice and opportunity for hearing before the Violations Committee as described in Section D(3.) of these guidelines. The date and time of the Violations Committee hearing shall be included in the notice.
3. **Notice of Violations Committee Decision:** Within twenty-one (21) days following the hearing before the Violations Committee, the CAM shall send a Notice in writing to the Owner and/or, if applicable, the tenant, occupant, guest or invitee of the property stating if the fine and/or suspension has been imposed, that additional fines may be imposed and/or that the matter may be referred to legal counsel, if the violation is still outstanding.

**C. Association Remedies for Non Compliance: Fine and/or Suspension of Use Rights. (See Article X, Section 3 of the Declaration).**

1. It is the policy of the Association's Board that a fine may be levied for all violations not corrected within the timeframe allotted in the Notices of Violation.
2. A fine may be levied up to \$50.00 per day, per violation, after at least fourteen (14) days' notice and an opportunity for hearing before the Violations Committee is provided. A fine may be levied and imposed on the basis of each day of a continuing violation, but no such fine shall exceed \$1,000 in the aggregate for any thirty (30) day period, per single notice and opportunity for hearing before the Violations Committee.
3. Pursuant to Section 720.305(2)(a) of the Florida Statutes, the Association may also suspend the right of an Owner, tenant, occupant, guest or invitee, to use common areas and facilities for the failure of the Owner, tenant, occupant, guest or invitee to comply with any provision of the Governing Documents, including failure to pay assessments. The Association may not prohibit an owner or tenant from having vehicular and pedestrian ingress to and egress from the property and the right to park.
4. The Association may issue a combined notice of violation with an opportunity for a hearing before the Violations Committee or the Association may issue two separate notices. In all cases, the notices of violation will provide a minimum total of fourteen (14) days' notice of an opportunity for a hearing before the Violations Committee.

5. The alleged violator may request to be placed on the agenda for the hearing before the Violations Committee by submitting a written request to the Association's manager or to the Board within fourteen (14) days of receipt of the fine letter.
6. If a violation remains uncorrected after issuance of a notice and an opportunity for hearing, or reoccurs after it had previously been cured or abated, such occurrence or reoccurrence shall be considered a new, separate violation for which an additional fine, up \$1,000.00 in the aggregate, may be imposed.
7. The violator is deemed to have waived his or her right to a hearing before the Violations Committee if a hearing is not requested within twenty (20) days of the date of the Notice of Fine and opportunity for hearing before the Violations Committee.
8. Due Date. If a fine is confirmed by the Violations Committee, the fine is due thirty (30) days following the date of the Notice of Decision.
9. If a fine is confirmed by the Violations Committee, payment of the fine/specific assessment does not absolve the Owner or tenant from remedying the violation. Whether or not a fine and/or suspension is imposed, the Board may proceed, in its discretion, with any other remedy it deems appropriate.
10. A fine may be imposed based upon each day that a continuing violation continues. A continuing violation is defined as a violation that begins and continues uninterrupted until cured or abated.

**D. Violations Committee Hearing Guidelines.**

1. **Purpose.** The purpose of fines imposed by the Association is to gain compliance by the Owner (and the Owner's tenant, occupant, guest or invitee, if applicable) and to ensure that he or she is following the Association's Governing Documents.
2. **Members and Officers.**

Members of the Committee shall be appointed by the Association's Board with a minimum of three (3) members. The Committee members will serve one-year terms. Committee members may be removed and/or replaced as determined by the Association's Board. Owners who are more than ninety (90) days delinquent in the payment of any assessments, fines or other amounts owed to the Association or are not in compliance with the Association's Governing Documents are not eligible to participate on the Committee.

The committee shall elect a Chairperson and a Recording Secretary from among its members. The Chairperson of the Committee shall administer each meeting, ensure that respect and proper decorum are observed at all times, and ensure that the policies and procedures for the Committee are followed in a fair and impartial manner.

The Recording Secretary shall keep accurate records of the Committee Meeting and a summary of the decisions made with respect to each Owner or Lot. This information shall be

provided to the CAM promptly after the meeting is adjourned and shall be maintained with the Association's Official Records.

The Violations Committee shall consist of no less than three (3) persons, but in all events shall be an odd number, who are appointed by the Board and who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. Pursuant to Section 720.305 of the Florida Statutes, a hearing may not take place unless three (3) Violations Committee members are present, in person, via video conference, or by phone conference.

3. **Procedure.**

- a. The Owner (and the Owner's tenant, occupant, guest or invitee, if applicable) sought to be fined or sought to receive a suspension shall be given the opportunity for a hearing before the Violations Committee to contest the fine that may be imposed. At the hearing, the Owner (and the Owner's tenant, occupant, guest or invitee, if applicable) shall have the right to be represented by legal counsel and have an opportunity to produce any statement and evidence on his or her behalf. The role of the Violations Committee is limited to determining whether to confirm or reject the fine and/or suspension imposed by the Board.
- b. The Violations Committee may independently inspect the subject property to determine compliance prior to the hearing.
- c. At the hearing there may be presented to the Violations Committee a description of the violation, the notices that were sent to the Owner (and the Owner's tenant, occupant, guest or invitee, if applicable), and a description of other attempts of gaining compliance, if any. The Owner (and the Owner's tenant, occupant, guest or invitee, if applicable) shall have the opportunity to be heard and be represented by counsel.
- d. An Owner or tenant will be given up to fifteen (15) minutes to discuss the pending violation matter with the Violations Committee. The Violations Committee shall have the authority to terminate a hearing if the Owner or tenant becomes verbally abusive or threatening toward the committee members, the CAM, or if he or she does not display appropriate and professional behavior.
- e. By a majority vote of the Violations Committee when a quorum is present, the Violations Committee may:
  - i. Confirm the fine.
  - ii. Reject the fine levied by the Board.
  - iii. Confirm the fine but suspend the fine bearing compliance in a certain time period (not to exceed 60 days).
  - iv. Confirm the fine, but recommend a reduced fine amount to the Board.

**E. Violation Inspections and Responses.**

1. The CAM shall inspect the property to determine if the violation(s) have been timely resolved.
2. Responses by the Owner (and the Owner's tenant, occupant, guest or invitee, if applicable) shall be in writing.
3. The Owner (and the Owner's tenant, occupant, guest or invitee, if applicable) may request an extension in writing and the CAM shall have the discretion to provide reasonable time for correcting the violation, upon good cause shown by the Owner (and the Owner's tenant, occupant, guest or invitee, if applicable) in writing.
4. It is the responsibility of an Owner to immediately notify the CAM and/or Association, in writing, of any address change. Accordingly, the Owner is obligated and responsible for providing accurate, current, and updated contact information to the CAM and/or Association.
5. Notices to Owners (and the Owner's tenant, occupant, guest or invitee, if applicable) of their opportunity for a hearing before the Violations Committee shall be sent via regular U.S. Mail or hand delivery to the subject property address and, if different, to the last known address of the person who appears as Owner of the Lot as that address is stated on the records of the Association at the time of mailing. Notices may also be sent via Certified Mail, but is not required. Notices shall be deemed to have been properly sent if issued to both the last known address and the property address.
6. The Owner and/or tenant is responsible for notifying the CAM in writing that the violation(s) have been corrected and failure to do so implies the violation still exists.
7. It is the responsibility of every Owner to notify their tenants, occupants, guests, or invitees of the Association's policies and procedures. Additionally, Owners are responsible for any noncompliance and actions of their tenants, occupants, guests or invitees.

**F. Appeal Process.**

1. Any person aggrieved by the decision of the Violations Committee as to noncompliance may appeal such decision by filing a written request to the Violations Committee. The written request must be received by the Violations Committee within seven (7) days from the date of the Notice of Violations Committee's Decision.
2. An appeals committee will be appointed by the Board within seven (7) days of the request and shall consist of three (3) non-interested members of the Association.
3. The appeals committee will meet and file a written determination of the matter and serve copies on both the Violations Committee and the aggrieved person. In no case shall the appeals committee's findings be binding on either party; however, the Violations

Committee may elect to review its decision on light of the findings of the appeals committee.

4. The Violations Committee may affirm or amend the confirmation of a fine, suspension, or other sanction, if compliance is achieved.

**G. Other Remedies for Non Compliance.**

**1. Legal Action for Injunction (Article X, Section 2 of the Declaration).**

- a. The Association may refer the compliance matter to its counsel to pursue an action for injunctive relief at any time.
- b. If the matter is referred to the Association's attorney, the attorney may send a violation letter to the Owner (and the Owner's tenant, occupant, guest or invitee, if applicable).
- c. If, after the violation letter is sent, there remains a violation, the Board may itself or through its CAM, by majority vote, direct the attorney to serve upon the Owner (and the Owner's tenant, occupant, guest or invitee, if applicable) a statutory demand for pre-suit mediation in accordance with Section 720.311 of the Florida Statutes, which allows twenty (20) days for compliance. The Board will choose a Board member or members to attend the mediation with full settlement authority of the Association.
- d. In the event the Owner (and the Owner's tenant, occupant, guest or invitee, if applicable) does not respond to the pre-suit mediation notice or mediation occurs and ends in an impasse, the Board may, by majority vote, direct the attorney to file a lawsuit.

**2. Right to Abatement (Article XI, Section 1 of the Declaration).**


- a. After at least 72 hours' notice and an opportunity to cure a maintenance obligation outlined in Article XI, Section 1 of the Declaration, the Association may enter upon a Lot for the purpose of curing an outstanding violation.
- b. The CAM will send a Notice of Violation, including notice that the Association may proceed with correction of the violation should the violation not be corrected within a minimum of seventy-two (72) hours' notice, unless an emergency exists.
- c. The Notice(s) of Violation shall be sent via certified mail, return receipt requested or hand delivery, and regular U.S. Mail, advising the Owner and, if applicable, tenant that:
  - i. If they fail to comply by a date certain, the Association may proceed upon his/her Lot and remedy the violation;

- ii. All costs associated with remedying the violation shall be the responsibility of the Owner and, if applicable, tenant, and shall be assessed against his/her lot as a specific assessment. Any such charges may become a lien against his/her property subject to foreclosure. (See Article XI, Section 1 of the Declaration).
- iii. The Association may reduce or eliminate the time for notice if it believes the conditions create a hazard or an emergency.

**The above remedies may be imposed simultaneously, or in any sequence that the Board may determine in its discretion.**

**H. Attorneys' Fees and Costs.** The Owner (and the Owner's tenant, occupant, guest or invitee, if applicable) shall be responsible for all attorney's fees and costs incurred by the Association in pursuing the violation and collecting any fine imposed. The Association may use all means provided by the Association's Governing Documents and Florida Statutes to collect the fines and attorney's fees and costs. (See Article XII, Section 5 of the Declaration).

IN WITNESS WHEREOF, the Board has approved the provisions hereof on March 13, 2023, at a duly called meeting of the Board at which a quorum was present.

  
Jeffrey A Conran (Mar 16, 2023 18:07 EDT)  
 By: Jeffrey A Conran - President

Date Mar 16, 2023

Holly McKelvey  
 By: Holly McKelvey - Secretary

Date Mar 19, 2023

**Signature:** Holly McKelvey  
Holly McKelvey (Mar 19, 2023 18:25 EDT)

**Email:** hollymoaksteadhoa@gmail.com













# Oakstead Enforcement Policypdf (1)

Final Audit Report

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