

Lake Royale Property Owners Association, INC.

Resolution 0809-008

Rules & Regulations II (BOA)

WHEREAS, Section One (1), Use, of the Consolidation and Amendments for Restrictive Covenants of Lake Royale Subdivision (the "Association", "LRPOA", "POA") empowers the POA to promulgate rules and regulations;

WHEREAS, Article Three (3), One hundred and Two (102), Powers of Owners Association, of the North Carolina Planned Community Act ("47F") empowers the POA to adopt and amend rules and regulations unless the articles of incorporation or the declaration expressly provides to the contrary;

WHEREAS, the By-Laws/Covenants Committee, Board of Adjustment, and Board of Directors have recognized there is a need to revise wording, provide further clarification and create consistency within the Rules and Regulations related to the BOA;

WHEREAS, it is the intent of the Board of Directors to have regulations that provide for good neighbor policy and that promote harmony within the community;

WHEREAS, it is the intent of the Board of Directors to have regulations that maintain the integrity of the restrictive covenants;

NOW, THEREFORE, BE IT RESOLVED THAT the following regulations shall apply:

NOTE: In the following BOA sections, the word "**grievance**" is being replaced with "**committee appeal**". (there is no mention of grievance in our Restrictive Covenants)

Section 10.5. BOA - General Guidelines

REMOVE existing provision that reads:

- 4) A one-time twenty-five (25) dollar non-refundable application fee is required for a Variance Hearing.

REPLACE with:

- 4) A one-time twenty-five (25) dollar non-refundable application fee is required for a Variance **or Committee Appeal** Hearing.
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Section 10.7. BOA - Quorum

REMOVE existing provisions that reads:

- 3) Variance and Grievance Hearings: A quorum of the BOA members present for the purposes of a Variance or grievance hearing shall be five (5) regular members and if a regular member is absent, an alternate member shall fill in for the absent regular member. Alternates filling in for an absent regular member shall have the same voting rights as the regular member he/she is replacing.

REPLACE with:

- 3) Variance and **Committee Appeal** Hearings: A quorum of the BOA members present for the purposes of a Variance or **Committee Appeal** hearing shall be five (5) regular members and if a regular member is absent, an alternate member shall fill in for the absent regular member. Alternates filling in for an absent regular member shall have the same voting rights as the regular member he/she is replacing.
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Section 10.10. BOA – Types of BOA Hearings

REMOVE existing provisions that reads:

- 1) The following Hearings may be heard by the BOA:
 - b) Grievance Hearing: The BOA shall hear appeals at a **grievance** hearing and make a judgment as to the validity of the **grievance** and **announce its findings to the requesting/appealing POA member at the BOA hearing.** See *Section 10.12 Grievance Hearing* in this listing (Part II).

REPLACE with:

- 1) The following **hearings** may be heard by the BOA:
 - b) **Committee Appeal** Hearing: The BOA shall hear appeals at a **committee appeal** hearing and make a judgment as to the validity of the **committee appeal request.** See *Section 10.12 Committee Appeal Hearing* in this listing (Part II).
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Section 10.16. BOA - Appealing BOA Decision to Board of Directors

REMOVE existing provision that reads:

- 3) Appeals will be heard at the BOD's regular monthly meeting, **as determined** by the BOD.

REPLACE with:

- 3) Appeals will be heard at the BOD's regular monthly meeting **OR at another time chosen** by the BOD.
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Section 10.11. BOA - Non-compliance (Fine) Hearing

REMOVE existing provisions that reads:

- 3) If the same violation re-occurs within a reasonable time the case may be re-opened for the purpose of the BOA taking evidence on any subsequent occurrences of the original violation. The property owner may be fined from the date of recurrence of the violation until date of correction, even if the correction occurs before the BOA meets to assess the recurrent fine.
- 4) The amount of the fine shall not be:
 - a) Greater than one-hundred (\$100) dollars for an initial fine, nor
 - b) Greater than fifty (\$50) dollars per day for a recurring fine, based upon either:
 - 1) A recurrence of a particular non-compliance incident, or
 - 2) A per-violation day recurrence of a prolonged continuous situation of non-compliance.
- 5) The amount of any initial fine and/or recurring fine adjudged appropriate by the BOA shall be the average of the amount independently specified by the regular and alternate members in attendance at the **compliance** hearing....i.e., all BOA members present at a fine hearing shall vote. Members votes cast outside the range authorized by the BOD shall be invalid (see 4a & 4b above).
- 7) All Compliance Hearings shall be taped and said tapes shall remain the property of the POA.

REPLACE with:

- 3) In open or closed session, all members in attendance shall determine by voice vote whether or not the property owner is to be found out of compliance. If the property owner is found to be currently out of compliance, the BOA will proceed to the fining process.
- 4) If the property owner is found to be non-compliant at time of citation but has corrected the violation at time of original hearing, no initial fine will normally be assessed, but a recurring fine may be imposed to apply to the same violation occurring within a reasonable time in the future. If the same violation occurs within a reasonable time, the recurring fine will be imposed from the date of the violation until the date of correction. The instance of the imposition of the recurring fine will be affirmed by the BOA at its next scheduled meeting
- 5) **Fines must be within the limits established by the BOD.** The amount of the fine(s) shall not be:
 - a) Less than fifty (\$50) dollars nor greater than one-hundred (\$100) dollars for an initial fine, nor
 - b) **Less than five (\$5) dollars nor** greater than fifty (\$50) dollars per day for a recurring fine, based upon either:
 - 1) A recurrence of a particular non-compliance incident, or
 - 2) A per-violation day recurrence of a prolonged continuous situation of non-compliance.

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- 6) The amount of any initial fine and/or recurring fine adjudged appropriate by the BOA

shall be the average of the amount independently specified by the regular and alternate members in attendance at the **non-compliance (fine)** hearing....i.e., all BOA members present at a fine hearing shall vote. Members votes cast outside the range authorized by the BOD shall be invalid (see **range of fines in 5a & 5b** above).

- 7) **After a decision on the non-compliance within a reasonable time, the BOA will attempt to notify the property owner within 24 hours and the POA shall provide to the property owner** a notice of the BOA's decision, in writing, within five (5) business days.
- 7) ~~All Compliance Hearings shall be taped and said tapes shall remain the property of the POA.~~

Section 10.12. BOA – (Change Grievance to Committee Appeal) Hearing

REMOVE existing provisions that reads:

Section 10.12. BOA - Grievance Hearing

- 1) Any party **alleging a grievance** may appear in person, by agent, or by attorney at a **grievance** hearing of the BOA.
- 2) The BOA shall adjudicate each case brought before it based on the evidence presented including all relevant **NOTARIZED** documentation, and the sworn (or affirmed) relevant testimonies given by all parties called or volunteering it.
- 3) Pursuant to the procedures in effect at the time, once a **request or appeal** process is started and the matter is brought before the BOA, all papers, pictures, charts, drawings and forms constituting the records associated with the hearing process are maintained as permanent records of the hearing and are properties of the POA.
- 5) **The BOA shall adjudicate the issue and announce its findings to the requesting/appealing POA member at the BOA hearing. Only the five (5) regular members may participate in deliberations and voting**
- 6) **The Board of Adjustment shall also provide**, in writing, a notice of its decision within five (5) business days after the **grievance** hearing.
- 7) All grievance hearings shall be taped and said tapes shall remain the property of the POA.
- 10) See *Section 10.10 BOA -Type of Appeals to BOA* in the User's Guide. In particular, see #2 '*Grievance*'.

REPLACE with:

Section 10.12. BOA – Committee Appeal Hearing

- 1) Any party **appealing an action or decision of a committee** may appear in person, by agent, or by attorney at a hearing of the BOA.
- 2) The BOA shall adjudicate each case brought before it based on the evidence presented including all relevant documentation, and the sworn (or affirmed) relevant testimonies given by all parties called or volunteering it.
- 3) Pursuant to the procedures in effect at the time, once a **committee appeal** process is started and the matter is brought before the BOA, all papers, pictures, charts, drawings and forms constituting the records associated with the hearing process are maintained as permanent records of the hearing and are properties of the POA.
- 5) **The five (5) designated BOA voting members shall meet in closed session and discuss the committee appeal request and deliberate the evidence presented. Each voting member shall fill out a checklist indicating his/her vote.**

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- 6) **After the BOA has reached a decision on the committee appeal within a reasonable time, the BOA will attempt to notify the applicant within 24 hours and the POA shall provide to the applicant** a notice of the BOA's decision, in writing, within five (5) business days.
- ~~7) All grievance hearings shall be taped and said tapes shall remain the property of the POA.~~
- 10) See *Section 10.8 BOA -Type of Appeals to BOA* in the User's Guide. In particular, see #2 '*Committee Appeal*'.

Section 10.13. BOA - Variance Hearing

REMOVE existing provisions that reads:

- 3) Pursuant to the procedures in effect at the time, once a **request or appeal** process is started and the matter is brought before the BOA, all papers, pictures, charts, drawings and forms constituting the records associated with the hearing process are maintained as permanent records of the hearing and are properties of the POA.
- 5) **The BOA shall discuss and take a vote in closed session to adjudicate the issue and will announce its findings to the requesting/appealing POA member at the BOA hearing. Only the five (5) regular designated BOA voting members may participate in deliberations and voting-**
- 6) **The Board of Adjustment shall also provide**, in writing, a notice of its decision within five (5) business days.
- 7) All variance hearings shall be taped and said tapes shall remain the property of the POA.

REPLACE with:

- 3) Pursuant to the procedures in effect at the time, once a **variance request** process is started and the matter is brought before the BOA, all papers, pictures, charts, drawings and forms constituting the records associated with the hearing process are maintained as permanent records of the hearing and are properties of the POA.
- 5) **The five (5) designated BOA voting members shall meet in closed session and discuss the variance request and deliberate the evidence presented. Each voting member shall fill out a checklist indicating his/her vote.**
- 6) **After the BOA has reached a decision on the variance within a reasonable time, the BOA will attempt to notify the applicant within 24 hours and the POA shall provide to the applicant** a notice of the BOA's decision, in writing, within five (5) business days.
- ~~7) All variance hearings shall be taped and said tapes shall remain the property of the POA.~~

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- Subject section to be added with the next revision to the Rules & Regulations II.

This Resolution is adopted the 20th day of September, 2008 by the Board of Directors of the Association.

ATTEST:

Association Secretary

Date