

# The Lakes at Mercer Island Homeowners Association Compliance Policy And Fine Schedule<sup>1</sup>

## Background

Each home within The Lakes at Mercer Island is subject to The Lakes at Mercer Island Covenants, Conditions and Restrictions (“CC&Rs”), which serve as a pledge by each homeowner to do his or her part to keep The Lakes at Mercer Island attractive, as the character of its outward appearance significantly contributes to the value of each home. Section 1 of the Policy describes the commitments a homeowner makes to all other homeowners when buying a home in The Lakes at Mercer Island. Section 2 then describes how a homeowner who is not fulfilling these commitments will be brought back into compliance with the CC&Rs and a hearing procedure when there are disagreements between the Association and a homeowner. Section 3 describes fining criteria.<sup>2</sup>

NOW, THEREFORE, BE IT RESOLVED that the following Compliance Policy is hereby adopted by the Board of Directors:

## Policy

### Section 1. Homeowner Commitments.

To accept a deed to a home in The Lakes at Mercer Island (a “Lot”) is to make these commitments to all other homeowners within The Lakes at Mercer Island:

**I Will Keep Things Up:** I will keep the exterior of my home well maintained, including regular landscape maintenance and upkeep to the exterior of my home. Any change to my home will meet the standards set out in our CC&Rs.

**I Will Respect Our Decision Makers:** By accepting the deed to my home, I agree with my neighbors that certain decisions affecting us all will be made by our Directors or the Architectural Control Committee (“ACC”). I will honor my agreement by respecting these decision makers and the decisions they reach.

**I Will Ask First:** My plans or actions may impact my neighbors and the community. The CC&Rs and policies and procedures adopted by the ACC and/or Board (“Policies”) include homeowner actions that require review and approval by the ACC prior to a

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<sup>2</sup> The Board and ACC have adopted policies and procedures for homeowners to submit proposed Lot alterations to the ACC for review and approval. We have also published a Quick Reference Guide describing common actions that require approval and prohibitions contained in the CC&Rs and other explanatory documents. These are available to homeowners on the Association’s website at [www.thelakesmi.com](http://www.thelakesmi.com).

homeowner implementing any of those actions. I understand that it is my responsibility to know when ACC approval is required and will seek prior approval in those instances where our CC&Rs that require I do so.

**I Will Comply with Prohibitions and Requirements:** The CC&Rs also include actions that a homeowner is prohibited from taking or is required to take to comply with the CC&Rs. I will comply with these prohibitions and requirements.

## **Section 2. Compliance Procedure.**

- **Identifying a Possible Violation.** A possible violation of the governing documents may be identified by a homeowner’s written complaint to the Association or by the ACC, the Board or by other reasonably reliable means.
- **Warning Letter.** The Association may send out a warning letter if it considers the circumstances to be appropriate. The warning letter will include the same information as the Compliance Request discussed below but will not include a fine or other consequence.
- **Enforcement.** The CC&Rs and Policies describe the types of homeowner improvements to their Lots that require prior review and approval by the ACC before homeowners can make those exterior alterations. If a homeowner and the ACC disagree about an ACC decision, the Policies includes procedures for resolving those disagreements. In its reasonable discretion, the ACC and/or Board may initiate enforcement action to restore compliance when a homeowner has acted without ACC approval or has taken action contrary to what was approved. Such action will include reasonable investigation of alleged facts. After investigation, the Board, acting on its own or upon recommendation from the ACC, will make a decision about taking further enforcement action using its reasonable judgment.
- **Compliance Request.** The Association may send out a Compliance Request (“Compliance Request”). The Compliance Request will be sent to the Lot homeowner and may also be sent to any non-homeowner occupant believed to be responsible for the violation. If the Lot is managed by a management company that has been identified to the Association, a compliance request will be sent there as well. However, in all circumstances, the Lot homeowner is solely responsible for correcting non-compliance, including paying any monetary assessments.

The Compliance Request will:

- Describe the non-compliance;
- State which section(s) of the governing documents are being violated;
- State what must be done to restore compliance;

- State the date by which compliance must be achieved ("Compliance Date"). (Note: Unless the situation is urgent, the Compliance Date should give the homeowner a reasonable amount of time to bring conduct into compliance.);
- State the fine, if any, that will result if compliance is not restored by the Compliance Date; and
- State that the homeowner has the right to an opportunity to be heard before the Board regarding the non-compliance (a "Hearing") and may accordingly request a hearing in writing within ten (10) days after delivery of the Compliance Request (or a later date as specified) A request for a Hearing should also be emailed to [theboard@thelakesmi.com](mailto:theboard@thelakesmi.com).
- A Compliance Request that substantially reflects the above will be considered adequate for purposes of this Policy.

The Compliance Request and all other notices will be sent by mail or personally delivered to the homeowner at the Lot address or to any other address designated by the homeowner to the Association in writing. Notices will be deemed delivered upon personal delivery or three days after they are placed in the mail ("Confirmed Receipt"). In addition, Compliance Requests may also be emailed to facilitate correspondence.

- **Notice of Hearing.** If a homeowner makes a request for an opportunity to be heard within ten (10) days of Confirmed Receipt, he or she will be given written notice of the Hearing date, time and place of the meeting at which the person will be heard.
  - The Hearing will not occur fewer than seven days from the date of the homeowner's valid request for a Hearing.
  - The Board may in its reasonable discretion change the date, time and place of the meeting upon homeowner request or based on the needs of the Board.
- **Hearing Procedure.** During the Hearing, a homeowner may be given up to twenty (20) minutes to present relevant information with respect to any alleged violation. Any non-homeowner having information about whether a violation occurred may also present information to the Board.
  - The Association encourages informal resolution without the need for counsel. If a homeowner wishes to engage his or her counsel or other representative ("Representative"), the Board must be given at least five (5) business days' notice that he or she intends to bring a Representative.

- At the Hearing, the homeowner has the right, personally or by Representative, to give testimony orally, in writing, or both, and to otherwise present evidence. The evidence received will be considered in making a decision.
- The rules of procedure may be otherwise supplemented by the Board to promote a prompt, orderly, and fair resolution of the matter.
- **Hearing Decision.** Following the Hearing, the Board will make a decision. The homeowner will be notified of the decision in writing. The decision is final unless the Board opts to reconsider it.
- **Reconsideration.** The Board may, in its reasonable discretion, reconsider any decision upon the homeowner's request. Any decision following reconsideration is final.
- **Fines.** The Board may impose a Daily Fine or impose other fines. The amount of the fine will be based upon the Fine Schedule in Section 3 below. Fines will not be placed on an account until the later of (1) the Compliance Date or (2) after a Hearing has been held and the Board has communicated a decision to the homeowner; provided however, in the case of a recurring violation, the Board may in its reasonable discretion, decide to impose a fine that is calculated beginning on the Compliance Date rather than the date of communicating a decision to the homeowner.
- **Issuing a Stop Work Order.** The ACC or Board may issue a Stop Work Order to any person engaged in an unauthorized activity. An unauthorized activity is any activity that (1) requires the prior written approval of the ACC, but no prior approval has been given or (2) is otherwise in violation of the CC&Rs. A Compliance Request may also be issued to direct correction of an unauthorized activity.
- **Voluntary Compliance Agreement.** The Board may reach a Voluntary Compliance Agreement with a homeowner in which the homeowner admits a violation exists, agrees to take specific actions to cure the violation within a specific timeframe acceptable to the Board, and agrees that failure to perform the specified actions within the specified timeframe will result in enforcement consequences.
- **Board's Discretion to Waive Fines.** A fine may be partly or entirely waived by the Board upon its determination that circumstances exist in the particular instance to warrant the granting of a waiver or reduction. This right to waive or reduce fines includes a right to suspend collection of a fine pending a homeowner's fulfillment of promises the homeowner made in a Voluntary Compliance Agreement.

### Section 3. Fine Schedule.

- **Warning Letter:** No fine will be levied.
- **Compliance Notice:** A \$50 fine may accompany a Compliance Notice. This fine is in addition to any other fines described in this Compliance Policy.
- **Failure to Obtain ACC Review & Approval:** The fine for failing to request and obtain ACC approval for actions when required by the ACC is up to \$200.
- **Daily Fines:** The Board may determine that a Daily Fine rather than incremental fines is more appropriate in a given situation, for example, parking violations, failing to screen garbage containers, storing unscreened boats or recreational vehicles or taking action prior to obtaining ACC approval when required. Generally, Daily Fines are \$10 per day. Daily fines begin to accrue the date of Confirmed Receipt.
- **Continuing Non-Compliant Condition:** If an activity that violates the CC&Rs continues to exist after the Compliance Date, an additional fine of up to \$500 may be levied for each month during which that non-compliance continues.
- **Recurring Non-Compliant Activity:** If a homeowner commits the same non-compliant action additional times, a fine of up to \$500 may be levied for each occurrence in addition to other fines described in this Compliance Policy. If the Board determines that a homeowner repeatedly commits the same unauthorized activity for which a Daily Fine is appropriate or is engaging in the unauthorized activity to avoid an expense greater than the fine would be (such as parking boats, trailers or motorhomes in violation of the CC&Rs), the Board may increase the fine to reflect the value of the avoided expense.
- **Legal Expenses:** In circumstances when a homeowner resists compliance and the Board determine that legal advice is necessary or advisable, the Board may assess an additional fine to cover all or a portion of the legal expenses incurred to bring about compliance.
- **Obligation to Advise Association When Corrective Action Completed:** When the fine imposed is accumulating over time, it is the homeowner's responsibility to advise the ACC or Board, as appropriate, that corrective action is completed. Fines will cease accumulating on such date as the ACC or Board determines that corrective action was completed.
- **Determination of Fine Amount:** This policy provides for fines in amounts "up to" the specified dollar value. This is intended to give the ACC or Board reasonable discretion to consider factors such as the severity of the non-compliance, the homeowner's past history, the homeowner's cooperation regarding corrective action and such other factors as they deem appropriate.

**Section 4. Enforcement by Legal Action.**

In some circumstances, the Association may find it necessary to bring a claim in a court of law to enforce the CC&Rs, Policies or other governing documents.

**Section 5. Authority Reserved to Association**

This policy is a general approach and exists to advance the purpose of maintaining compliance with the CC&Rs. It is not meant to impair the Association's ability to pursue this purpose. The Board retains whatever authority it otherwise has to employ any available means or remedy in pursuit of this purpose.

**Section 6. Effective Date.**

This Compliance Policy shall take effect on September 18, 2019.

Adopted by the Board of Directors

Date: September 17, 2019