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CCR Enforcement Guidelines & Procedures Policy

January 2, 2020

Policy adopted by the Board of Directors at the January 18, 2020 Board meeting.

I. Background

Nine Mile Ranch CCRs, Article VII, Section 2 states: “Unless limited by the Board of Directors, the ACC shall have the authority to review and act on behalf of the Association and the Board of Directors in all matters relating to enforcement of the protective covenants...”. This document is intended to establish the limits the Board places on the ACC for enforcement of the CCRs. This document outlines the working relationship between the Board of Directors, ACC, Legal Committee and Hearing Panel, using compliance with the CCRs and the “Enforcement Rules and Fine Policy” as guidelines, for the enforcement process of violations, or alleged violations, of the CCRs by Lot Owners.

II. Guidelines

1. The Board of Directors (BOD) are the elected/appointed officials of the HOA and are required by state law to act on behalf of the Association, thus they carry the legal responsibility in all actions taken. Because of this, the BOD shall, while using recommendations from the ACC, Legal Committee and Hearing Panel:

- approve all written communications to Lot Owners regarding violations prior to being sent.
- make final decisions to proceed with fines against Lot Owners.
- make final decisions to proceed with any legal action against Lot Owners.

2. Communications from the BOD and/or ACC to Lot Owners will be in writing, whenever possible, and will encourage the same of Lot Owners to the BOD/ACC.

3. When the BOD and/or the ACC are made aware of a potential violation, whether by personal knowledge or reported by a Lot Owner, the ACC will start the process of review and action stated under “Procedure” below.

4. The ACC will act independently of the Board regarding approval of site plans, construction, fences, and timber removal. In the event that the ACC has questions or needs further CCR clarification from the BOD the ACC will engage communication with the Legal Committee. *The BOD will be cc'd on all communications between the ACC & Legal Committee.*

5. The ACC will work with the Road Committee for driveway issues or any other issues applicable to the easement areas and HOA roadways. *The BOD will be cc'd on all communications between the ACC & Road Committee.*

6. The ACC and Legal Committee will work together on all other CCR enforcement issues. ACC will review and research alleged violations and then create first draft of all written communications to a Lot Owner with Legal Committee input. Depending on work load of committee members involved, any member on the ACC or Legal Committee can volunteer to write first drafts of communications to Lot Owners as needed. The Chair of the ACC will present to the BOD their final findings, recommendations of actions and first drafts of written communications to Lot Owners. The BOD will have final approval of all written communications or actions to be taken. *The BOD will be cc'd on all communications between the ACC & Legal Committee.*

7. The Hearing Panel will preside over a hearing requested by a Lot Owner with regard to the “Enforcement Rules and Fine Schedule” (policy enacted on 9/10/19). Any Board member can attend hearings for observation and may be recognized by the Hearing Panel during hearings. Association members can only attend a hearing if Lot Owner approves. After the hearing the Hearing Panel will make recommendations to the BOD for next action to be taken. The BOD will make final decisions of next actions to be taken against a Lot Owner. ACC will send final decision by the BOD to violator.

III. Procedure For Enforcement

1. First letter to Lot Owner is to open communication establishing if a violation is occurring and/or field information; research/ask questions/get clear understanding of situation. The goal is to assist a Lot Owner with compliance.

2. If Lot Owner **is** cooperative, the ACC will continue to assist Lot Owner with compliance and/or resolution through written communications.

3. If Lot Owner is out of compliance and **not** cooperative then a “Notice of Violation” letter will be sent to Lot Owner stating:

- name & address of Lot Owner.
- description of violation(s).
- action by Lot Owner deemed necessary to correct violation(s).
- deadline for correction of violation(s).
- Lot Owners right to request a hearing enclosing “Request for Hearing Form” to be filled out and sent to HOA PO Box within 7 days.
- BOD/ACC right to take legal action or impose fines.
- A copy of the Fine Policy.

4. If Lot Owner requests a hearing the BOD/ACC will notify Hearing Panel so they can set up hearing with Lot Owner. Hearing will be scheduled no sooner than 10 days and no later than 60 days after the Request for Hearing form has been received. Based on the completed hearing, the Hearing Panel and ACC will make final recommendations to the BOD for BOD approval. ACC will produce final letter of decision to Lot Owner; letter will be from both BOD and ACC. If Fines are the next step decided upon, notification will be sent to Lot Owner and Treasurer will be notified by the BOD to start invoicing fine against the Lot Owner.

If Lot Owner does not request a hearing or respond then the BOD/ACC will decide the next step and/or inform the Treasurer to start invoicing fines against the Lot Owner.