

# Lake Holiday

## **POLICIES, RULES, AND PROCEDURES** **PRP NO. 4**

### **Compliance**

**Revised and**

**Approved by the Board of Directors**

**Date: August 24, 2021**

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# PRP NO. 4 COMPLIANCE

## SECTION A. PURPOSE

The purpose of this policy and procedure is to document the enforcement process of the Articles of Incorporation, Bylaws, Deeds of Dedication and Policies, Rules and Procedures of Lake Holiday Country Club, Inc. (LHCC). These documents may also be referred to as the Governing Documents.

## SECTION B. DEFINITIONS

1. Member: A Member is a property owner at Lake Holiday.
2. Safety-Related Violation: A violation is Safety Related if it is reasonable to believe that the violation could result in harm to a person or property.
3. One-time violation: A violation that, once it occurs, cannot be rescinded and leaves a permanent result.
4. Citation: A citation is a written declaration to a Member that a violation is alleged and that the violation is the responsibility of that Member.
5. Courtesy Notice: A Courtesy Notice is a written declaration to a Member that a violation is alleged; that said violation is the responsibility of that Member; and the violation is such that it is correctable by the Member.
6. Governing Documents: The Articles of Incorporation, Bylaws, Deeds of Dedication, and Policies, Rules and Procedures of Lake Holiday Country Club, Inc.
7. Mediator Panel: The Mediator Panel is a group composed of impartial members of the Association who volunteer to review alleged violations of the Governing Documents and to make a determination of either compliance or non-compliance for each allegation.
8. Hearing: A hearing is a meeting of a Mediator Panel to take testimony and evidence regarding an alleged violation and make a determination on that allegation.
9. Offense of a Continuing Nature: An offense of a continuing nature is an offense of the Governing Documents which is unresolved by the offending Member following a determination by a Mediator Panel.
10. Association: Lake Holiday Country Club, Inc.

## SECTION C. COMPLIANCE COMMITTEE VESTED AUTHORITY

The Compliance Committee is a mandatory committee, as specified in Article IX of the Bylaws and its authority is from the Board of Directors, as delegated under Article VII of the Bylaws. Compliance determinations and corrective action assessments are authorized and specified in Section 55-513 of the Virginia Property Owners' Association Act.

## **SECTION D. MEDIATOR PANEL STRUCTURE**

When required by this procedure, a Mediator Panel will be composed of no less than three (3) members of the Compliance Committee. The Mediator Panel may be the entire Compliance Committee as long as the number of members meets this criterion. No member of the Board of Directors may serve on the Mediator Panel.

## **SECTION E. PRESUMPTION OF COMPLIANCE**

1. All property owners are presumed by their acquisition, and all tenants by their occupancy of the property, to have freely and knowingly accepted, ratified and agreed for themselves, family members, guests and other invitees, to comply with the Governing Documents.
2. Property owners are responsible for communicating the Governing Documents to their tenants, for obtaining written tenant agreement to adhere to the Governing Documents, and for responding promptly to complaints made to the General Manager regarding any violation of the rules by the tenants.

## **SECTION F. REGISTERING A COMPLAINT**

1. Any property owner having reason to believe that the conduct of another property owner, invitee, or tenant has breached any of the Governing Documents may bring that possibility to the attention of the General Manger.
2. The General Manager, other designated individuals, or employees acting on behalf of LHCC, task forces, or committees may also proactively initiate a complaint.
3. The complaint may be written or verbal. Wherever possible, digital pictures should be taken as evidence. The signature of the complainant, if a property owner, is not required.
4. If a property owner complainant declines to commit the allegations of breach in writing, the complaint will be documented by the LHCC Office. Confidentiality will be maintained on signed property owner complaints unless the complainant is required or desires to give evidence at a hearing.

## **SECTION G. THE COMPLAINT PROCESS**

1. When the LHCC Office receives or initiates an identified complaint, a unique identifying Compliance File Number will be assigned to it. This Complaint File Number will be used to track the complaint through all phases of the process. All correspondence relating to the complaint will reference the Compliance File Number.
2. If a complaint is determined to be valid and is a one-time violation, the General Manager or other duly authorized individual shall issue a citation. A copy of the citation is given to the Compliance Committee Chairperson. Notice of the citation shall be mailed to the member who is responsible for the cited individual within thirty (30) calendar days of the incident. The role of the Mediator Panel in adjudicating a citation is to determine whether the violation occurred and whether the citation was issued in accordance with Lake Holiday's Policies, Rules and Procedures.
3. If a complaint is not a one-time violation, the General Manager or otherwise duly authorized individual will verify the complaint's validity; and assuming the complaint is valid, will then communicate with the applicable property owner, attempting to resolve the issue informally to obtain compliance. If compliance is achieved, it will be so noted and the process concluded. If

compliance is not achieved, a Courtesy Notice will be issued by the General Manager or other duly authorized individual, providing a period of two weeks (14 calendar days) to resolve the violation. If compliance is achieved, no further action will be taken and the process concluded. If compliance is not achieved, the complaint will be referred to the Compliance Committee Chairperson for the next scheduled Mediator Panel Hearing.

## **SECTION H. MEDIATOR PANEL PROCEDURE**

1. When a Mediator Panel is scheduled to hear a complaint, and before any charges or suspension may be imposed, the affected Member shall be given an opportunity to be heard and to be represented by counsel before the Mediator Panel. Notice of a hearing, including the charges or other sanctions that may be imposed, shall be mailed by certified mail, return receipt requested, to the Member at the address of record with the Association at least 14 calendar days prior to the Hearing, as required by the Virginia Property Owners' Association Act.
2. When a Hearing has been scheduled (and the Member notified, as above) it is the Member's responsibility to attend the Hearing, if he/she wishes to participate in the proceedings. The Hearing shall not be postponed because the Member does not attend the hearing.
3. Hearings are open to all Members, but may be moved to Executive Session by the Mediator Panel or at the request of the Member who is the subject of the hearing.
4. The Mediator Panel may be assisted at the hearing by counsel and/or technical experts. The costs of counsel or technical experts assisting the Mediator Panel or the Board of Directors shall be the responsibility of LHCC. The President of the Board of Directors must approve in advance any request to engage legal counsel to assist the Mediator Panel.
5. At the hearing, evidence and/or testimony concerning the alleged non-compliance shall first be presented by LHCC. Evidence and testimony may include documents, exhibits, and witnesses. The Member may then offer rebuttal evidence and/or testimony. Finally, each party may summarize their evidence and testimony, if they wish to do so. Members of the Mediator Panel may direct questions or challenges to the witnesses for either party.
6. Testimony by either party shall be directed solely to the Mediator Panel members. The cited Member, that Member's representative, and the Association's witnesses, experts, and representatives may all question or challenge the other party's testimony and evidence. However, such questions and challenges shall be directed to the Mediator Panel. The Mediator Panel members shall have exclusive privilege to directly question or challenge a witness for either party.
7. In all situations, LHCC will bear the burden of facilitating the process. The Mediator Panel will receive testimony and evidence regardless of who initiated the complaint.
8. After all information has been presented, the Hearing will be closed to allow the Mediator Panel to determine whether the alleged violation did occur and to determine appropriate action. Such determinations shall be made in accordance with the opinion of a simple majority of the members of the Mediator Panel. In the case of a tie vote, the determination shall be a default ruling in the favor of the alleged offending Member and no further action shall be taken. Determinations shall be based on which items of testimony or evidence are dominant or superior in force, importance, credibility, or influence.
9. The Hearing determination shall be mailed by certified mail, return receipt requested, to the Member at the address of record with the association within seven (7) days of the Hearing.

## **SECTION I. DETERMINATION OF CORRECTIVE ACTION**

1. For violations of the Governing Documents, a Mediator Panel (as empowered by the Board of Directors) may assess charges against any Member for any violation committed by the Member or his/her family members, tenants, guests, or other invitees, in accordance with The Property Owner's Association Act of Virginia – Section 55-513.
2. Determinations by the Mediator Panel may be in the form of a warning or an assessment. For traffic violations, one warning may be issued per household within a 12-month period. Any subsequent traffic violations will result in an assessment.
3. The amount of any charges so assessed shall not be limited to the expense or damage to the association caused by the violation, but shall not exceed fifty dollars for a single offense or ten dollars per day for any Offense of a Continuing Nature. The total charges for any Offense of a Continuing Nature shall not be assessed for a period exceeding ninety days. After the date, a lawsuit is filed challenging any such charges, no additional charges shall accrue. If the court rules in favor of the Association, it shall be entitled to collect such charges from the date the action was filed as well as all other charges assessed against the lot owner prior to the action.

## **SECTION J. APPEAL**

1. A Member may appeal the determination of the Mediator Panel to the Board of Directors. A written, Notice of Appeal must be received at the LHCC Office, addressed to the President of the Board of Directors, within 14 calendar days from the date of the Mediator Panel's letter of determination.
2. An appeal shall consist of a hearing before the Board of Directors, as an agenda item, normally within a regularly scheduled monthly meeting. The General Manager will prepare a notification of the Board appeal hearing date, which will be signed by the President of the Board of Directors, and mailed by certified mail, return receipt requested, to the Member at the address of record with the Association, at least 14 calendar days prior to the meeting.
3. When an appeal hearing has been scheduled and the Member notified as above, it is the Member's responsibility to attend the hearing. No appeal will be considered if the Member does not attend the hearing. The Member may re-file the appeal within 5 business days of the original appeal hearing date. If the Member does not appear for the second appeal and has not notified the Office, the appeal is denied and the original determination stands.
4. The Board appeal hearing determination shall be prepared by the General Manager, signed by the President of the Board of Directors, and mailed by certified mail, return receipt requested, to the Member at the address of record with the Association within 7 business days of the hearing.

## **SECTION K. UNRESOLVED COMPLIANCE VIOLATIONS**

1. If after using the procedures, including for appeals specified above, the member is found in violation, the member shall be notified of the appropriate level of assessment, the requirement to correct the violation (if correctable), and declared "no longer eligible and in good standing" as defined in the Bylaws until the assessment is paid and the violation is corrected.
2. If the violation is corrected (if correctable) and the assessment is paid, the member's ineligibility shall be rescinded.

3. If the violation is not correctable but the assessment is paid, the member's ineligibility shall be rescinded.
4. If the violation is correctable but goes uncorrected, LHCC may file a lien and/or seek injunctive relief for any single compliance offense of a continuing nature with an account balance of \$900 or greater, regardless of the type of violation category.

## REVISION HISTORY

Revision	Approval Date	Subject	Revised Sections	Initialed for LHCC Records Entry:
V1		Original		
V2	4/28/2009	Revise & reformat	Definitions, F.6, F.8	
V3	8/25/2009	citations	D.1, E.3, G.2	
V4	5/25/2010	Definitions, panel structure, complaint process, panel procedure, corrective action	B.4, D.1, G.2, G.3, H.3, H.7, I.2	
V5	8/24/2010	Appeal	J.3	
V6	6/26/2012	Rename, unresolved violations	K	
V7	8/25/2015	Complaint process	G	
V8	1/23/18	Definitions, mediator panel structure, presumption, complaint process, panel procedure, appeal, unresolved compliance	B5-9, D, Delete E3, G2-3; H1,2,6,8,9; J4, K4	EN, ALM
V9	8/24/2021	Change in citation notice to members to 30 calendar days	G2	EAN