

ORCHARD KNOLLS HOMEOWNERS ASSOCIATION, INC.

RULE NO. 2003-1

A RULE PERTAINING TO CONDUCT ON COMMON AREAS

WHEREAS, Article IV, § 1, paragraph (c) of the Declaration of Covenants, Conditions and Restrictions of the Orchard Knolls Homeowners Association, Inc. (hereinafter the "Association") dated June 30, 1989 and recorded on August 14, 1989 in Liber 8948 at Folio 380, (hereinafter the "Declaration") states that the Association may adopt reasonable rules regarding use of the common areas and community facilities located within the Association; and

WHEREAS, Article VIII, § 11 of the Declaration states that the Board of Directors is authorized to adopt community rules regarding the use of the common areas and community facilities located within the Association; and

WHEREAS, Article VIII, § 13 of the Declaration states that any conduct in violation of any of the provisions of the Declaration which is not terminated or abated within fifteen days after notice of such violation is delivered to the member responsible for the violation, the Association may take such steps as necessary to terminate or abate the violation and the costs thereof and reasonable attorney's fees incurred thereby may be assessed; and

WHEREAS, in furtherance of these provisions of the Declaration, the community membership, through its duly elected Board of Directors for the Association is desirous of adopting a rule imposing reasonable restrictions with commensurate enforcement measures

on the conduct of members, guests, and children using common areas and community facilities located with the Association.

NOW, THEREFORE, the Board of Directors for the Association hereby adopts the following Rule:

1. General Rule: The common areas and community facilities located on common property owned by Orchard Knolls Homeowners Association is available for members, guests, and children to enjoy without supervision. This requires that all members, guests and children recognize the right of other members to the peaceful enjoyment of said property and facilities. All elements of this rule shall apply equally to adults and children without partiality to town home or single family home ownership
2. Not Covered: Private Lots, Homes, Personal Property, and Neighbor Disputes.
3. Need: Many members have expressed concern, and fears to Board of Directors (Hereinafter the "BOD") regarding perceptions of abuse by other members, guests and children who are on common areas of the association, (herein "common areas"). Confirming this perception, BOD has been forced to utilize the majority of it's time responding to an increasing quantity of real and documented incidents in that regard (See BOD minutes). Vandalism, property damage, litter in streets and green areas, trash, abandoned mail, newspapers, clothing, appliances, home repair refuse, even vehicles, offensive, obnoxious

and the perception of unacceptable behavior by members, guests and children - is increasing at a disturbing rate. Numerous townhome and single family home owners have repeatedly requested that BOD adopt rules to curb unacceptable behavior of other members, guests, and children on common areas, and further, to adopt legal conflict resolution procedures to enforce the rules.

4. Members Definition: For purposes of this rule, "Members" and "Owners" are synonymous.
5. General Unacceptable Behavior: Willful or negligent activity or communication, including sounds or gestures which, with predictable certainty, could be examined, defined and affirmed as unacceptable - by a majority vote of the five elected (community representatives) members of BOD, as intrusive, or offensive, or loud, or obnoxious, or a nuisance, or an annoyance, or unsafe. If the alleged activity or communication meets this general criteria, or the specific criteria identified under Section 4 (below) - it is prohibited.
6. Specific Unacceptable Behaviors:
 - a) Blocking Access: Blocking pedestrian or vehicle access ways by activities such as household moves, yard or garage sales, or children at play.
 - b) Abandoned Mail: Abandoning mail on any common area. BOD will

identify owners of abandoned mail by utilizing witnesses and tracing content.

c) Litter, Trash, Abandoned Materials: Unwanted materials, trash, or litter that has been wind blown onto common areas, may be traced to an owner. Illegal dumping will be reported to civil authorities.

d) Loud Noises: Initiating or allowing others to initiate any sounds which encroach upon the peaceful use of any common areas. Members and guests shall not raise their voice beyond outdoor adult recreational or conversational level, or beyond normal voice levels of children at play. Further, it shall be a violation of these Rules for adults or children to repeatedly scream unless eminent danger requires such communication.

e) Sound Systems: Musical instruments and sound amplification systems shall not be permitted on common area unless advance permission is granted for a limited time by BOD. Occupying a parked automobile while an interior sound device is playing is prohibited.

f) Exceptions: Automobile radios, played at reasonable levels, traveling to and from common areas. Portable radios, stereos, CD players, or other audio devices played at reasonable levels for personal individual use, limited to a reasonable time, but not to exceed four hours.

g) Implied Threats. Addressing any member or guest with an implication of threat, epithets, derogatory comments, or statements meant to demean or imply

violence to an individual or their property.

h) Unwanted Touching. Intentionally commit unwanted or offensive touching, throwing unwanted objects in a direction of another, making threatening movements toward another, or striking another with their body or an object.

i) Personal Property Time Limit: Personal property such as chairs, tables, ladders, hoses, construction materials, bicycles, toys, coolers, etc. may not be left on common areas unless the person using the personal property is present.

Any personal property left on common areas longer than four hours without presence of the owner, may be disposed of without further notice by a member or agent of BOD at the sole loss and disposal expense of the property owner

j) Damage to Community Property: Anyone who causes damage to property on common areas shall be liable for the cost of restoring said damaged property to it's new value, or in the case of organic materials such as trees – restoration to its maturity value. This includes but is not limited to, trees, foliage, decorative beds, signs, play equipment, mail boxes, and other facilities owned by the community. If the person causing damage is a member or resident in Orchard Knolls, then the tax assessment record owner of the property where the member or resident resides who caused the damage will be liable for the cost of restoring said damage.

k) Vehicle and Parking Restrictions: All provisions of this rule may, at the

discretion of BOD, also apply to posted, existing HOA Vehicle and Parking Restrictions and Enforcement Rules in force at the time a complaint is made to BOD.

l) Dog Waste: All provisions of this Rule, may at the discretion of the BOD, also apply to posted, existing dog waste restrictions and enforcement rules in force at the time a complaint is made to BOD.

7. Restoration or Cleanup Costs - Fines and Attorney Fees, imposed by incidents identified by this rule, and confirmed at a hearing with BOD as described by this rule, will be billed to the tax assessment record owner of the property. Fines shall be immediately due and payable to Orchard Knoll's contractor for bookkeeping services. Collections of fines will be responsibility of the BOD, executed by its collections agent and attorneys. Monies due will be in addition to, and take priority over, quarterly assessments. Delinquent and default procedures will be the same as delinquent and default assessment procedures including potential property liens.

8. Hours of Use: Common areas are available for use only during daylight hours. Streets and parking areas are available for use at all hours; however noise restrictions of this rule apply.

9. Impact on Adjoining Property: Members, guests, and children shall respect rights of property owners adjoining common areas. Property owners may invoke this rule as a basis for complaints which originate from common areas

but have an adverse impact on enjoyment of owner's property.

10. Civil Authorities: Members may summon civil authorities and file a civil complaint to remove the offending party from the common area. In addition to penalties invoked by civil authorities, provisions of this rule may also apply.

11. Members Right to Hearing:

a) Initial Warning: If BOD becomes aware of any violation of these Rules, a certified letter will be forwarded to the tax assessment record owner where the member, resident, or alleged violator resides requesting that same violation cease and that further violation of these rules will result in a hearing before BOD with potential fines and financial penalties imposed upon the owner's property.

b) 2nd Warning = Summons to Hearing: If further violation of these Rules is committed by the same alleged violator or persons residing in member's property, BOD will forward a 2nd certified letter as written notice to attend a hearing to be held by BOD. Notice shall be mailed *by Certified mail, Return Receipt requested*, to the alleged violator at least fifteen days before the date of the hearing, or at least fifteen days before the next regularly scheduled monthly meeting of BOD.

c) Failure to Appear: If alleged violator fails to appear, and if BOD has received Return Receipt indicating alleged violator received notice, BOD may invoke this rule and in abstention, impose the appropriate fine based on the 1st or subsequent offense. If no return receipt indicating the alleged violator

received notice is received, the Board of Directors may continue said hearing and post the notice to the property owner's door, which posting shall constitute valid notice of the continued hearing date.

d) Hearing Procedure: If the hearing is conducted at a monthly meeting of BOD, hearing shall be convened as the first item on the agenda. At the hearing, property owner(s) or alleged violator shall have the right to present evidence, cross-examine witnesses, and be represented by legal counsel. If legal counsel will be present, the property owner(s) or alleged violator shall provide at least ten (10) days written notice to the BOD. At conclusion of the hearing, BOD will render an "Accountable" or "Not Accountable" decision on merits of the alleged violation - based on evidence presented by BOD, or complaining party and property owner. If "Accountable" is rendered, fines shall be imposed as identified in this rule.

e) Evidence: Member and non-member witnesses, photographs, video, and recorded calls to civil authorities, police reports, and any other reliable evidence, as determined in the exclusive discretion of the BOD, shall be considered evidence at a hearing conducted pursuant to this rule.

f) Fines and Penalties: If a violation is found to have occurred, Association may impose a fine of \$50.00 per incident per violator for a first violation and \$100.00 per incident per violator for any subsequent violation.

g) Continuance of Hearing: Either the alleged violator, property owner or BOD may request a continuance of a hearing conducted under the terms of this rule, which continuance may be granted by the BOD for good cause shown.

h) BOD May Initiate Civil Suit/Restraining Orders: Violations beyond the second shall be cause for BOD to initiate remedy through the civil court system. If the violator is not a member and does not reside in the Association, or if the property owner fails to pay the imposed fines within 90 days of the hearing date and imposition of the fines, BOD shall initiate civil suit for damages to the Association, and/or a restraining order or other civil remedies to prevent violator from further use of common areas.

i) Minutes: Notes of the hearing shall be taken by Secretary of BOD, or appointee of the President, and be included in minutes of the monthly board meeting. If a hearing is scheduled other than a regularly scheduled meeting of the BOD, the hearing shall be called a "Specially Called Meeting of the BOD". Minutes of the hearing shall be taken by Secretary, or appointee of President, and recorded as a Specially Called Meeting of the BOD.

j) Owner May become Offending Party: If violator is not a member but is residing in property owned by a member, the property owner shall be considered the offender and is subject to the full weight of Association's Covenants, Bylaws and any related civil action executed by BOD.

k) Appeal: If a BOD hearing and ruling is complete, member may appeal to the Montgomery County Commission on Common Ownership Communities.

IN WITNESS WHEREOF, the undersigned has executed this Rule this

9th day of February, 2004.

ORCHARD KNOLLS HOMEOWNERS
ASSOCIATION, INC.

By: Richard J. E...
President, Orchard Knolls HOA

[Handwritten initials: R.J. E...]

This is to certify that at a regularly scheduled meeting of the Board of Directors for the Orchard Knolls Homeowners Association duly called on February 9, 2004, a majority of the Board voted in favor of this Rule.

By: [Signature]
Secretary, Orchard Knolls HOA