

# **SECTION I**

## **INTRODUCTION**

This document has been prepared by the Crestwood Village Architectural Review AD HOC Committee and approved by the Crestwood Village Board of Trustees (BOT). It is a compilation of the general guidelines and policies, which maintain the architectural standards of Crestwood Village.

The purpose of this document is to increase your understanding of the architectural criteria and Declaration of Covenants, which protect and sustain the value of your property. It also provides guidelines should you be considering modifications to your property and offers assistance with the Application for Property Modification (APM) application process.

This document also provides uniform guidelines for property modifications. These guidelines are used when the ARC reviews modification requests. The guidelines also provide consistency and continuity between successive ARC committees.

The guidelines presented in this document are subject to periodic review and update by the Architectural Review Committee and Crestwood Village Board of Trustees. Amendments to the guidelines may be made to reflect changes in conditions, building materials, or building technology.

Keep this document as a ready reference guide. It should answer many of the questions you may have about architectural control. However, additional information or guidance is available from the ARC or Property Manager at Crestwood Village Clubhouse at 6902 Crabapple Drive, Frederick, MD 21703.

**ARCHITECTURAL DESIGN  
AND  
USE RESTRICTIONS**

**GUIDELINES, STANDARDS,  
PROCEDURES  
AND  
ENFORCEMENT**

# Welcome to Crestwood Village at Frederick

Crestwood Village is a planned unit community of 523 units consisting of single family homes, duplexes, four-plexes, townhouses and condominiums.

The Crestwood Village Homeowner Association (HOA) is a not-for-profit homeowners' association formed in August of 1979 to promote the health, safety, and welfare of the residents of Crestwood Village.

The Board of Trustees (BOT) representing the HOA has three major responsibilities: fiscal management of community affairs, maintenance of facilities and property owned in common by Village owners, and Architectural Control. The BOT also has oversight of all committees.

The facilities and property owned in common include the club house, four tennis courts, outdoor swimming pool and patio, shuffleboard, bocce ball court, horseshoe pit, side walks, roads, common grounds, etc.

## **THE CRESTWOOD VILLAGE AT FREDERICK HOMEOWNER ASSOCIATION, INC. (HOA)**

All property owners in Crestwood Village are members of the HOA and enjoy the benefits and amenities of living in this planned community. Membership comes automatically with the purchase of a Crestwood Village home. Although absentee owners must transfer all of the privileges of ownership to their tenants, membership in the HOA cannot be transferred - only owners are members.

The Crestwood Village HOA is governed by an elected, volunteer, seven-member Board of Trustees. The BOT is empowered to set policy for and to manage the property, affairs and business of the community. Day to day operations of the community are conducted by paid staff of a property management company working at the direction of the BOT.

The BOT annually appoints an Architectural Review Committee (ARC). The ARC reviews individual homeowner modification requests.

The HOA employs a professional property management staff to conduct daily administrative tasks including assisting the Architectural Review Committee with its duties and responsibilities. Staff also helps residents with the Property Modification application process and investigates complaints & violations.

## **A. GENERAL GUIDELINES AND STANDARDS**

The Board of Trustees has determined that the following items shall not be permitted in Crestwood Village.

1. Exterior antennas (except satellite Dishes & Masts)
2. Free standing flagpoles
3. Window awnings and canopies (except Dalton as herein specified)
4. Lawn ornaments
5. Window air conditioners
6. Wind chimes and wind socks
7. Walls and fences (unless installed by Developer)
8. Decks
9. The installation and maintenance of any heating devices such as kerosene, wood or coal burning stoves or heaters requiring through the wall or roof vents or chimneys
10. Exterior electrical insecticide devices
11. Painting or staining of concrete walls (other than foundation walls) steps, patios, and porches
12. Any type of signs (except political and construction permits)
13. Wind driven ventilators

## **B. ARCHITECTURAL CONTROL**

### **WHAT IS ARCHITECTURAL CONTROL?**

Crestwood Village is uniquely designed with a variety of housing styles. The developer wanted to provide a system to ensure that the original plan for the design of common land, facilities, and homes within Crestwood Village would not be altered or changed without BOT approval.

Architectural Control works to the benefit of all residents of Crestwood Village. Architectural Control protects you from actions by your neighbors which could diminish the appearance of your property and our community. Architectural Control helps protect the value of your property and your investment in Crestwood Village.

### **WHAT IS THE DECLARATION OF COVENANTS?**

The covenants are the rules and regulations for community living. The Declaration of Covenants "run with the land", which means that they transfer from owner to owner as property is bought and sold.

The Declaration of Covenants helps ensure that the carefully designed community of Crestwood Village is preserved and maintained. They insure that the architectural integrity of the community remains intact, and they establish a system for enforcement.

### **WHAT ARE THE ARCHITECTURAL CRITERIA?**

These architectural criteria are guidelines and standards, which help to ensure that the appearance or design styles of Crestwood Village are maintained. The Crestwood Village BOT and its Architectural Review Committee strive to uphold these standards thereby maintaining the original design intent of the community.

### **WHO ENFORCES ARCHITECTURAL CONTROL?**

The Crestwood Village BOT has the legal authority to enforce the architectural standards and Declaration of Covenants of Crestwood Village.

# **SECTION II**

## **PROCEDURAL GUIDELINES CRESTWOOD VILLAGE HOMEOWNER'S ASSOCIATION ARCHITECTURAL REVIEW COMMITTEE**

### **Purpose:**

To provide procedures for membership, government of the meetings, and conduct of the Architectural Review Committee. To consider applications for architectural changes submitted by homeowners. To recommend architectural criteria and standards and revisions to existing criteria as appropriate.

### **Membership:**

The membership shall be composed of seven association members, appointed by the Crestwood Village HOA Board of Trustees for staggered two-year terms. One BOT member shall serve as liaison to the ARC, but will not be required to attend the meetings.

The ARC members should, but it is not necessary to, have a background in architectural design or engineering, or in some form of housing, i.e. interior design, construction, real estate, etc. In addition, they should demonstrate interest in preserving the integrity of the community.

### **Government:**

The ARC receives its authority from the Crestwood Village HOA Board of Trustees. The Crestwood Village paid staff, when providing the architectural control administrative functions of the HOA, are not under the supervision or direction of the ARC; rather, they should work in a cooperative partnership with the ARC.

At its first meeting of each year, the ARC shall elect from its membership a Chairman, Vice Chairman, and Secretary to serve for that year. The Chairman shall be responsible to direction received from the Crestwood Village HOA Board of Trustees.

## **THE ARCHITECTURAL REVIEW PROCESS**

### **IS IT TRUE THAT I NEED APPROVAL FROM THE BOT BEFORE MAKING ANY CHANGES OR MODIFICATIONS TO MY HOME OR PROPERTY?**

Yes. In most cases, you must seek approval from the BOT prior to making any changes to your property and the exterior of your home. Included are both temporary and permanent changes.

No exterior addition, change or alterations can be made until the plan and specification showing the nature, kind, shape, height, materials, color and location of the same shall have been submitted to and approved in writing.

### **ARE THERE ANY EXCEPTIONS?**

Yes, there are several exceptions. They are all the items included in the guidelines Sections III and IV.

### **HOW DO I APPLY TO BOT FOR A PROPERTY MODIFICATION?**

You will need to submit an Application for Property Modification (APM). Applications are available by calling or visiting the Crestwood office.

When completing the application, it is important that you provide sufficient information about your proposed modification. This document, as well as instructions provided with the APM, describes the information that is needed for each type of request. The ARC will review your application. In addition, there are submission checklists available at the Crestwood office for several types of modifications. These checklists were designed to assist homeowners by clearly stating what information is necessary for the ARC to adequately review the request. If your application contains insufficient or inaccurate information, it will be returned and you will be asked to resubmit. For major modifications, it may be necessary to have a professional architect or designer draw a set of plans. ARC staff is available to answer your questions about the APM application and application process.

Condo residents should submit their application to their Condo Council for comment, prior to submitting it to the ARC. In the event a condo resident submits a request directly to the ARC, the request will be returned to the applicant with the request that it be submitted to the Condo Council first.

## **HOW LONG DOES THE APPLICATION PROCESS TAKE?**

Review responsibility is rotated weekly by ARC members. All applications are reviewed by an ARC member soon after received at the Crestwood office. All applications are signed by the Chairman of the ARC and the Board Liaison to the ARC or their designees. **NO ONE ELSE HAS THE AUTHORITY TO INDICATE APPROVAL OR DISAPPROVAL FOR ANY APPLICATION.** If the applicant has not received a letter of approval/disapproval from management within a week to 10 days, the applicant should contact the ARC reviewer, who then checks on its status and notifies the applicant.

The BOT must review each application and respond to the applicant in writing within sixty (60) calendar days of submission. If not responded to within sixty (60) calendar days, the request is considered approved.

## **ARC RECOMMENDATIONS**

The Architectural Review Committee members are your neighbors who have volunteered to serve the community. All have an interest in maintaining the appearance of the community. The members of the ARC are appointed by the BOT.

The ARC reviews all Applications for Property Modification (APM). Each APM is evaluated on its own merits. What may be suitable for one location may be denied at another. To assist in recommendation making, the ARC will visit you to determine how the proposed modifications will impact your property and the surrounding neighborhood within the guidelines.

A recommendation to approve, approve with conditions, or deny the application will be made by the ARC reviewer. Submission and approval of conceptual plans does not constitute approval of construction.

It is the responsibility of the homeowner to determine if the proposed modification requires a County Building Permit, and to secure such permits as necessary before submitting application.



## **ON WHAT DOES THE ARCHITECTURAL REVIEW COMMITTEE BASE ITS RECOMMENDATION?**

The ARC recommendations are not based on personal opinion or taste. In reviewing each application, the ARC considers the following:

1. Does the proposed modification conform to the general guidelines as outlined in this document?
2. Does the proposed modification conform to the specific criteria established for the community?
3. Does the proposed modification conform to policies that have been developed by the ARC and approved by BOT?
4. Does the proposed modification conform to the overall design intent of the community?

The ARC periodically reviews the architectural criteria and guidelines. As changes in conditions, building materials, and building technology occur, the ARC will update the existing guidelines, for approval by BOT.

## **HOW DOES THE ARCHITECTURAL REVIEW COMMITTEE EVALUATE AN APPLICATION?**

The review committee appreciates a homeowner's efforts to modify the appearance of his/her home or property, and wants to work with that homeowner when a request is received for an exterior modification.

In reviewing each application, the ARC considers the following factors:

1. **Conformity** - Does the proposed change or addition comply with established, approved guidelines in this document?
2. **Compatibility** - Is the proposed change or addition compatible with the architectural characteristics of the applicant's house, adjoining houses and surrounding neighborhood? Compatibility is defined as similarity in architectural style, quality of workmanship, use of color, materials, and construction detail.
3. **Location** - Does the modification relate favorably to the existing structure, landscape, and neighborhood? Consideration is given to access, view, and impact on neighboring properties, and the community in general.
4. Is the modification in proportion with the existing structure and surroundings?
5. **Color and materials** - Do the proposed colors match the color palette of the community. Do the colors and materials blend harmoniously with the existing structure and surrounding neighborhood?

Contractors may help the homeowner with the application process.

## **MY APPLICATION WAS APPROVED. NOW WHAT?**

Upon receiving notification of approval, you may proceed with the proposed modifications. All work must begin within sixty (60) calendar days of the date of approval, and be completed within ninety (90) calendar days thereafter, or it will be necessary to submit a new application to the BOT. The Crestwood Office must be notified within 10 days after completion of the property modification.

**PLEASE NOTE:** Approval is granted upon the aesthetic and design merits of the proposed modifications. For certain modifications, it may also be necessary to secure a county building permit. **BOT APPROVAL DOES NOT GUARANTEE THAT THE PROPOSED MODIFICATIONS WILL MEET COUNTY CODE STANDARDS.**

## **MY APPLICATION WAS APPROVED WITH CONDITIONS. WHAT DOES THAT MEAN?**

Applications may be approved by the BOT only if certain conditions are followed. The returned APM application will specify those conditions. It is your responsibility to complete your project in accordance with those conditions.

If the applicant requests a special exception or variance from Frederick County regarding set backs, the ARC will NOT consider the application until the following conditions have been met and filed with the application.

1. The approved special exception or variance permit from the county.
2. Written approval by the adjacent property owners.
3. Written approval, if needed, to enter and use adjacent property during construction.

If you do not agree with the BOT conditions, you may resubmit an application or appeal to the BOT.

## **MY APPLICATION WAS DENIED. NOW WHAT?**

If you do not submit sufficient information for the ARC to recommend a decision, The BOT will deny your application. You will be asked to resubmit with the necessary information. The Architectural Review Committee is available to assist you.

Your application will also be denied if your proposed modification does not conform to established criteria, or if it does not blend into the style of the existing house or the community.

If you do not agree with the BOT decision, you may appeal the decision to the BOT, and again, the Management Staff is available to assist you in this process.

Should you proceed with the denied modifications, you could risk considerable inconvenience or expense, see "Corrective Action Section".

### **HOW DO I APPEAL A BOT DECISION?**

An appeal to the BOT can be made by contacting the BOT within ten (10) calendar days of receiving the denial letter. The appeal process involves a hearing before an ad-hoc Appeals Committee. A representative from the ARC acts as technical advisor to the committee and, along with the Property Manager, represents the Homeowner Association. The BOT liaison should provide the ARC with a copy of the Appeals Committee recommendation and the final decision of the BOT.

The BOT has the final binding decision.

### **HOW ARE VIOLATIONS REPORTED?**

Violations are reported to the BOT/Management in a number of ways. The Architectural Review Committee may discover violations. Management has responsibility for making periodic site inspections, to assure community compliance with all guidelines, rules, regulations, and restrictions. When a violation is noted, the provisions of the Enforcement Procedures are applied. Penalties specified in the Enforcement Procedures are based on Article III, Section 4(n) of the Declaration of Covenants.

All owners/residents also have a responsibility to ensure that the governing documents of Crestwood Village are upheld, the appearance of each home is maintained, the value of each property is protected and enhanced, and that the quality of life for the entire community is preserved. To this end, all owners and residents are responsible for advising the office of any matters which conflict with the above.

Members of the ARC have a special responsibility in this regard. As the residents most familiar with the ARC Guidelines, members should be especially observant whenever walking or driving through the community. When violations are noted, committee members should complete a copy of the Report of Violation(s) form. The completed form should be submitted to the Property Manager.

It is the responsibility of the entire community to keep Crestwood Village attractive and well maintained.

### **WHAT HAPPENS WHEN A VIOLATION IS REPORTED?**

Management will investigate all reported violations. If there is an approved APM on file and no violation exists, the case will be closed.

If a modification was made without prior BOT approval, the homeowner will be notified and will be asked to submit an APM within two weeks. The ARC will review the APM and make a recommendation. If approved by the BOT, no further action is taken. If the modification is denied, the homeowner will be asked to take corrective action by a specific date.

If a modification was made after BOT denial or in disregard to modifications or conditions imposed by BOT, the homeowner will be notified of the violation and will be asked to take corrective action by a specific date.

#### **WHAT CORRECTIVE ACTIONS CAN THE BOT REQUIRE?**

The BOT has the legal authority to require that a modification be changed, removed, or returned to the original condition. This requirement could lead to significant inconvenience and expense to the homeowner. Therefore, it is extremely important to receive the prior approval of the BOT before beginning any exterior modification projects.

#### **CAN I APPEAL A VIOLATION DECISION?**

Violation decisions can be appealed to the BOT. For specifics of the process read the Enforcement Procedure. (See settlement package or contact office.)

# **ARCHITECTURAL REVIEW COMMITTEE**

## **Guidelines For Homeowners in Crestwood Village**

The following Guidelines and checklists have been developed by the Crestwood Village BOT in an effort to help residents with their architectural requests. It is to be used as a guide in submitting applications to the Architectural Review Committee for approval. All items listed on the checklists must be included along with the standard Application for Property Modification (APM) form before consideration by the Architectural Review Committee (ARC).

All requests must have detailed and complete information included before the ARC will review.

### **SECTION III – Pre Approved**

### **SECTION IV – Submit for Approval**

## REPORT OF VIOLATION GUIDELINES

The BOT has requested that the ARC assist the management staff in making periodic site inspections to identify noncompliance of ARC guidelines. To facilitate this task, the community has been divided into seven sections. Each ARC member will be responsible for reviewing his/her section for violations the week he/she has the responsibility of handling the applications for property modification. Upon identifying a violation, the ARC member will:

- Prepare a Report of Violation form (see Exhibit 1).
  - (a) In space above "Person Reporting", write section number you are responsible for, rather than your name.
- Submit completed form to the management office where a copy will be placed in the green folder labeled "ARC Section Report" located in the ARC slot and a copy given to you for your follow-up.

It is still the responsibility of the Property Manager to make a preliminary investigation as to the validity of the complaint before any corrective action is taken. If the complaint is no longer valid, the Manager will:

- Put a "✓" mark alongside "Corrected" on violation form located in the "ARC Section Report".

If the investigation indicates action is necessary, the Manager will:

- Notify the resident in writing of the violation.
- Place copy of the correspondence with the copy of the violation form in the "ARC Section Report" folder.

Fifteen business days (or as soon thereafter as possible) after date the Violation Report was prepared, the ARC member shall:

- Check the "ARC Section Report" folder to ascertain the status of the case.

If the Violation Report reflects "Corrected":

- Remove Violation Report from folder and give to the ARC Chairman. ARC Chairman will promptly refer the matter to the ARC/BOT Liaison for handling.

If the initial correspondence was sent:

- Note your personal copy of the Violation Report of date letter was sent to resident.
- Indicate follow-date for fifteen business days following date letter was prepared.

It is the Manager's responsibility to check again for compliance before any further action is taken. If the investigation shows the resident is now in compliance, he will:

- Put "✓" mark alongside "Corrected" in violation form in "ARC Section Report".

If further action is required, he will:

- Notify the resident again, in writing, detailing a specific date by which the violation must be corrected.
- Place copy of second correspondence with associated information in "ARC Section Report".

Fifteen business days (or as soon thereafter as possible) after the initial correspondence was sent, the ARC member will:

- Check the "ARC Section Report" folder to ascertain the status of the case.

If the Violation Report reflects "Corrected":

- Remove form and associated correspondence from folder and destroy. No further action is required.

If there is no evidence the second letter was sent:

- Remove Violation Report and copy of initial correspondence and give to the ARC Chairman. ARC Chairman will promptly refer the matter to the ARC/BOT Liaison for handling.

If the second letter was sent:

- Note your personal copy of the Violation Report of date letter was sent to resident.
- Indicate follow-up date for fifteen business days after date resident was given to correct violation.

On the Manager's follow-up date, he again checks for compliance. If the violation has been corrected, the Manager will:

- Handle disposition as previously detailed.

If the violation has not been corrected, the Manager will:

- Refer the matter to the Board of Trustees who will make the determination as to what disciplinary action will be imposed.
- Write "Referred to BOT and the date" across face of Violation Report.

On ARC member's follow-up date or as soon thereafter as possible:

- Check "ARC Status Report" to ascertain status.

If no action has been taken:

- Handle matter as previously detailed.

If Violation Report indicates "Corrected":

- Remove form and associated correspondence from folder and destroy. No further action is necessary.

If Violation Report reflects the matter was referred tot the Board of Trustees for handling:

- Remove violation form and associated correspondence from folder and give to ARC Chairman who will present information the BOT Liaison.
- Note date matter was referred to the Board of Trustees on your copy of the Violation Report and retain.
- Check for compliance the next time your section is due for review. If violation has still not been corrected, refer matter to the ARC Chairman who will promptly refer caste to the ARC/BOT Liaison.
- If violation has been corrected, destroy your personal copy of Violation Report.

4/13/05

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Adopted 4-24-86  
Rev 11-6-90

CRESTWOOD VILLAGE AT FREDERICK HOMEOWNERS ASSOCIATION

Resolution

Enforcement Procedures

WHEREAS, Article III Section 4(a) of the Declaration of Covenants, Conditions, and Restrictions of Crestwood Village at Frederick Homeowner's Association, Inc. established the power of the Association to make and enforce rules and regulations deemed necessary to the operations and well being of Crestwood Village and its residents, and

WHEREAS, the Board of Trustees of Crestwood Village at Frederick, Homeowner's Association, Inc. considers the establishment of an orderly, consistant policy for enforcement of covenants, conditions, restrictions, rules & regulations to be necessary to the efficient operation of the Association;

NOW THEREFORE BE IT RESOLVED, that the Procedures for Enforcement attached to this page, entitled "Enforcment Procedures" and dated November 6, 1990, are the procedures to be followed in the enforcement of the Covenants, Conditions, Restrictions, Rules and Regulations of Crestwood Village at Frederick Homeowner's Association, Inc.

I HEREBY CERTIFY that the forgoing resolution was adopted at a regular meeting of the Board of Trustees of Crestwood Village Homeowner's Association, Inc. on November 6, 1990, at Frederick, Maryland.

Carol A. Fisher  
Carol A. Fisher, Secretary

## ENFORCEMENT PROCEDURES

The basis for the legal management of Crestwood Village at Frederick Homeowners Association is found in such documents as the Declaration of Covenants, Conditions, & Restrictions, Rules & Regulations, and Resolutions passed by the Board of Trustees. The Board of Trustees is charged with the fiduciary responsibility and obligation of effectively enforcing these Covenants, Conditions, & Restrictions of the Association. Though the following enumerates procedures for enforcement, the primary aim of the Association is to prevent problems before they occur. Experience has shown that most conflicts between owners and the Board are aggravated because of a failure to communicate. By showing a good faith effort to resolve disputes, both parties get an opportunity to work out their differences and thereby minimize confrontation and possibly lengthy and costly litigation.

The most successful strategy for assuring compliance of rules enforcement is the adoption of a uniform, fair due process which affords each individual the following basic rights:

- Provision of notice detailing alleged violation. Notice should be as specific as possible as to time(s), date(s), place(s), person(s) involved, and restriction involved in alleged violation.
- Providing the individual with a time and method for curing the alleged non-compliance.
- Providing the individual with an opportunity to request a formal hearing at which witnesses may appear and be cross examined and at which the individual may be represented by a lawyer.
- Providing the individual with an opportunity to appeal any decision or recommendation to the Board of Trustees.

As mentioned previously, the Board is charged with the fiduciary duty of ensuring that the Association is operated in accordance with the Documents. It should not attempt to delegate the decision to enforce any of the restrictions pertaining to these Documents to the property manager or Committee members, although specific enforcement tasks may be delegated after the Board has decided to take action. Failure by the Board to properly involve others in the enforcement process may result in inadequate and ineffective enforcement.

## DUE PROCESS PROCEDURES

Actions Prior to Initiation of Formal Due Process Procedure

Any resident, Committee member, Trustee or agent of the Association has the authority to request that an individual/individuals cease or correct any act or omission which appears to be in violation of the Documents. Such requests may be made prior to the institution of the formal procedures. If the request for compliance is unsuccessful, the formal due process is initiated.

Written Complaint

The formal due process procedure is initiated upon the filing in the Association office of a written complaint by any resident, Committee member, Trustee or agent of the Association (see Exhibit 1). The complaint shall constitute a written statement of charges which describe in concise language the acts or omissions with which the respondent is charged, to the end that the respondent will be able to prepare his defense. The complaint should specify the specific provisions of the Documents which the respondent is alleged to have violated and must be as specific as possible as to time(s), date(s), place(s), and person(s) involved.

Preliminary Investigation

Upon receipt and consideration of the written complaint, the property manager makes a preliminary investigation as to the validity of the complaint. If the condition has been corrected since the complaint was made or if the complaint is for any other reason no longer valid, the property manager shall determine the appropriate disposition of the matter. A copy of the complaint and disposition is forwarded to the Chairperson of the Committee under whose aegis the alleged violation falls, a copy placed in the Board liaison's file and a copy placed in the Association files for retention.

Service of Complaint

If the preliminary investigation indicates further action is necessary, the property manager will notify the respondent in writing of the alleged violation. The letter should detail the specific provisions of the Documents which are in alleged violation and be as specific as possible as to time(s), date(s), places(s), person(s) involved, and a request for voluntary compliance. A copy of the correspondence shall be placed in the respondent's file in the Association office, a copy forwarded to the Chairperson of the appropriate Committee, a copy placed in the Board liaison's file, and a copy placed in the 30 day tickler

file belonging to the property manager.

On the follow-up date or as soon as possible thereafter, the property manager checks again for compliance. If corrected, the disposition is noted in the respondent's file and the Committee Chairperson and Board liaison are notified by form letter (see Exhibit 1). If the alleged violation has not been corrected the property manager prepares a more formal demand letter to the respondent noting that the alleged violation has yet to be rectified. A specific date (generally ten days to two weeks) and a suggested method by which the alleged violation must be corrected are included. Notice is also given that the continuation of the alleged violation may result in the imposition of a fine, suspension of privileges, and suspension of voting rights. The letter must also include the procedure for the respondent to request a formal hearing to present his/her case if he/she so desires. Copies of the correspondence shall be handled as detailed previously and a new follow-up date established by the property manager.

On the follow-up date or as soon as possible thereafter, the property manager again checks for compliance. If corrected, the disposition is handled as detailed above. If not corrected, the matter is referred to the Board of Trustees who shall make the determination as to what disciplinary action shall be imposed.

If the respondent has requested that a formal hearing be held, the following procedures shall be followed:

#### Hearing Procedure

A special "Appeals Committee" consisting of three residents shall be appointed by the Board of Trustees to conduct the hearing. In addition to the three appointed residents, one representative from either the Architectural Review Committee or Rules and Regulations Committee (depending on under whose aegis the alleged violation falls) is also appointed to act as a technical advisor and along with the property manager shall represent the Homeowners Association. Any or all of the three members may be appointed to more than one hearing.

An essential element of the hearing procedure is impartiality. Caution must be exercised to avoid appointing neighbors or eye witnesses to the alleged violation as members of the Appeals Committee. It shall be incumbent upon each member of the Committee and the Board of Trustees to make a determination as to whether each member is able to function in an impartial and objective manner in consideration of the case before it. Any member incapable of such objective consideration shall excuse himself/herself from the proceedings and have it so recorded. Any member of the Committee or Board has the right to challenge any other member when it is felt he/she is unable to function in

an impartial and objective manner. In the event of such a challenge, the Board of Trustees shall meet within ten (10) days to determine the sufficiency of the challenge. If a majority of the Board sustains the challenge, the Board at that time shall appoint another resident or Committee member to replace the challenged member. The respondent is permitted to have witnesses appear or be represented by an attorney at the hearing if he/she desires.

Procedures to be followed by the Appeals Committee need not be conducted according to technical rules of law. The Committee shall elect a Chairperson to preside at the hearing and a proper record kept at the proceedings.

Each side of the dispute shall have the right to do the following, but may waive any or all of these rights:

- Make an opening statement
- Introduce evidence, testimony, and witnesses
- Cross examine opposing witnesses
- Rebut evidence and testimony
- Make a closing statement

After presentation and consideration of the above, the three member resident Committee shall prepare a written finding of the facts and make their recommendations for consideration and action by the Board. (The technical advisor and property manager are not part of this process). Copies of the findings and recommendations should be delivered to the parties involved in the hearing. The final decision rests with the Board after it has reviewed the findings and recommendations of the Committee. This decision is final and may not be further appealed.

#### Disciplinary Action

Disciplinary action imposed by the Board of Trustees may include fines, suspending, or conditioning the respondent's right to use the recreational facilities and suspension of voting rights or any combination of the preceding. For any non-continuing infraction, suspending, or conditioning the right to use the recreational facilities shall be for a period of not more than ninety (90) days. For a continuing infraction, suspension or conditioning may be imposed for as long as the violation lasts. The fine for a single violation may not, under any circumstances exceed \$10.00. For each day a violation continues after notice it shall be considered a separate violation.