

Enforcement, Due Process, and Appeals Procedures

Approved by Board of Trustees on June 29, 2021

The basis for the legal management of Crestwood Village at Frederick Homeowners Association (HOA) is found in our governing documents and other documents approved by the Board of Trustees (Board) in accordance with our governing documents. Though the following provides procedures for enforcement, the primary aim of the HOA is to prevent problems before they occur. Experience has shown that most conflicts between owners and the HOA 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 by providing:

- A notice detailing the alleged violation. The notice should be as specific as possible as to time(s), date(s), place(s), person(s) involved, and the specific provision of the Documents allegedly violated.
- A deadline and method for resolving the alleged violation.
- The option of appearing before the Board of Trustees.
- An opportunity to request a formal Appeals Hearing that can include witnesses. The individual(s), at their option, may be represented by legal counsel.
- An opportunity to appeal any committee decision and/or recommendation to the Board of Trustees for a final decision.

Upon reaching a final decision the Board may delegate enforcement tasks to the Property Manager and/or legal counsel.

Actions Prior to Initiation of Formal Due Process Procedure

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

Written Complaint

The formal due process procedure is initiated upon the filing in the Management Office of a written complaint by any resident, Committee member, Trustee or agent of the HOA. The complaint shall constitute a written statement of alleged violation(s) 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/her 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 applicable, 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 responsibility the alleged violation falls and a copy is placed in the HOA 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), place(s), person(s) involved, and request voluntary compliance along with a deadline. A copy of the correspondence shall be placed in the respondent's HOA file.

On the deadline or as soon as possible thereafter, the Property Manager checks again for compliance. If corrected, the correction is noted in the respondent's file. Electronic notification of the correction may be made to the Board and applicable Committee chairperson. If the alleged violation has not been corrected, the Property Manager prepares a second letter to the respondent noting that the alleged violation has yet to be corrected. A specific deadline (generally ten days to two weeks) and a suggested method by which the alleged violation could 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/or suspension of voting rights. The letter must also include notification that the respondent may request a meeting with the Board and may also request an Appeals Committee. Copies of the correspondence shall be filed in the respondent's HOA file.

On the deadline or as soon as possible thereafter, the Property Manager again checks for compliance. If corrected, the matter is closed and noted in the respondent's HOA file. If not corrected, the matter is referred to the Board who shall make the final determination as to further action by the HOA.

Hearing Procedure

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

A special "Appeals Committee" consisting of three residents shall be appointed by the Board to conduct the hearing. One representative from either the Architectural Review Committee or other applicable committee (depending on under whose responsibility the alleged violation falls) will be appointed to act as a technical advisor. The Property Manager shall represent the HOA. Any or all of the three appointed resident 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 Appeals Committee and the Board 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 be so recorded. Any member of the Appeals 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 shall meet within three (3) 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 Appeals Committee member to replace the challenged member. The respondent is permitted to have witnesses appear or be represented by legal counsel 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 are to 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 Appeals Committee. This decision is final and may not be further appealed.

Disciplinary Action

Disciplinary action imposed by the Board 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 and/or conditioning the right to use the recreational facilities shall be for a period of not more than 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 be up to \$50. For each day a violation continues after notice, it shall be considered a separate violation and a fine may be imposed each day.