

# **CLAIRBORNE AT LEXINGTON FARMS MAINTENANCE CORPORATION**

## **Rules Enforcement and Fine Schedule Policy**

The Board of Directors of Clairborne at Lexington Farms Maintenance Corporation (the "Board" and in reference to the Clairborne at Lexington Farms Maintenance Corporation, the "Corporation") hereby adopts the following Rules Enforcement and Fine Schedule Policy (the "Policy"). This document sets forth the Corporation's procedure for imposing rules enforcement (including a Schedule of Fines) for violations of the Corporation's governing documents, in accordance with Clairborne at Lexington Farms Declaration of Restrictive Covenants ("Declaration"), Bylaws of Clairborne at Lexington Farms Maintenance Corporation ("Bylaws"), Certificate of Incorporation of Clairborne at Lexington Farms Maintenance Corporation, and any rules and regulations of the Corporation currently in place or hereafter promulgated by the Board (collectively, the "Governing Documents").

In general, the Corporation relies on each resident to act with good behavior and a sense of respect for the rights of others. It is also expected that neighbors make the effort to get along with each other and to reasonably resolve any disagreements independently of the Corporation. Nevertheless, the real property owner(s) (hereinafter "Owner") is responsible for their own behavior as well as the behavior of anyone living in the home, tenants, and any guests.

In the unfortunate instance when a resident may place their personal desires above that of the community, more rigorous action must be taken by the Board on behalf of the community. The Board has a legal obligation to exercise reasonable business judgment and to act in the best interests of the entire community, as well as an affirmative duty to enforce the Governing Documents. There are times when the only practical tool for enforcement is a fine. In these instances, while it may appear that action is not being taken, the Board is actively pursuing the matter in accordance with the Corporation's adopted Policy.

1. **The Board.** Pursuant to Article VII, Section 1(a) of the Bylaws, has the authority to establish and promulgate reasonable rules, regulations, and remedies (collectively, "Rules") governing the use of common properties and facilities within the community, the personal conduct of Owners, tenants and subtenants, agents, contractors, visitors, licensees, and invitees, and to take steps as it deems necessary for the enforcement of such Rules and the Corporation's Governing Documents.
2. **Owner Responsibility** Each Owner is a member of the Corporation and is responsible for complying with the Governing Documents and Rules. Owners are required to give their tenants, if any, copies of the Governing Documents, Rules, and any amendments thereto. Owners are responsible for ensuring their tenants, invitees, guests, and lot occupants comply. In the case of violations by tenants, guests, invitees, and lot occupants who are not members of the Corporation, the Owner will be notified of the violation. Any fines or other discipline imposed for violations or non-compliance, including reimbursement charges, will be imposed against the Owner. Discipline in the form of suspension of the common facilities, if applicable, will be against the Owner and tenant(s).
3. **Egregious Violations.** Violations posing a threat to the health, safety, and/or welfare of the community as a whole or any one or more other Owners, may require immediate action

and thus create exceptions to the subsequent notice provisions. Examples of health, safety, and welfare violations include but are not limited to, the following: accumulation of trash and/or other materials that may attract pests; the threat of flood or fire damage to neighboring properties; an unsecured or unfenced pit, swimming pool or other water feature (deeper than 24"); an escaped pet; or a collapsed structure or tree blocking the road or drivers' lines of vision.

4. **Complaint.** Any Owner (the "Complainant") within the community may send the Board or the Corporation's property manager if applicable, a formal, written complaint (the "Complaint") via either electronic mail or regular mail of a Governing Document or Rule violation, with as much information as is known. Complaints may also be initiated by community members in good standing, the property manager, or any member of the Board. Complaints that are not independently verified by a Board member or the Corporation's management agent must be in writing. The Board shall have no obligation to consider oral complaints or anonymous complaints. The Board shall have the authority to determine whether a Complaint is justified before continuing with the process.
5. **Warning Notice.** Upon verification of the violation, the Board or property manager shall give a written warning notice (the "Warning Notice") to the Owner requesting voluntary compliance. All Warning Notices shall be delivered by U.S. mail, to the last address shown on the Corporation's records. The Warning Notice shall:
  - a. Contain a description of the violation and identify the Governing Document provision that has been violated.
  - b. If applicable, describe the corrective action(s) that must be taken to "cure" the violation with a reasonable deadline of 30 days for doing such;
  - c. If applicable, list the reimbursement costs the Corporation has incurred to correct the violation and deadline for repayment; and d. Describe the intended or possible sanction(s) which shall be reasonably determined in the sole discretion of the Board, provided there is no conflict with the Governing Documents
6. **Request for Hearing after Warning Notice.** If an Owner desires a hearing to challenge or contest any alleged violation and possible fine, or to discuss any mitigating circumstances, the Owner must request such hearing, in writing to the Corporation's Board or property manager, within thirty (30) days of the initial Warning Notice. The request for a hearing shall describe the grounds and basis for challenging the alleged violation or the mitigating circumstances.

To ensure adequate guardrails, the Board will notify an external neutral party of at least three members, who were not involved in the initiation of the complaint (aka External Review Group), to monitor the process outlined below and check documentation and correspondence for conformance with this policy.

7. **Notice of Disciplinary Action.** If the violation is not corrected after the Warning Notice deadline or continues or is repeated, or if applicable, reimbursement costs the Corporation has already incurred to remedy the violation have not been recompensed, the Board or property manager shall give written notice of disciplinary action ("Disciplinary Action Notice") to the Owner. The Disciplinary Action Notice may contain one or more disciplinary

actions if the Board determines that an Owner, or their tenant, invitee, guest, or lot occupant, or tenant's guest has committed a violation of a particular Governing Document or Rules provision. The Disciplinary Action Notice will be given by U.S. mail, to the last address shown on the Corporation's records. Disciplinary action may include the following:

**a. imposition of Fines.** Imposition of fines shall be in accordance with the Corporation's current schedule of fines (2/14/2023 Amended Bylaws Art. IX Sec.2) although said fines shall not be the sole remedy for violations.

**b. Suspension of Privileges.** An Owner's privilege to use the common facilities may be suspended for a violation or any time that the Owner is delinquent in payment of assessments and fines.

In the case of **continuing violations**, such as uninterrupted architectural violations or failure to remove prohibited vehicles, the Board may impose daily fines until the violation is remedied, or fines meet limits defined in this policy.

Repeated or **subsequent violations** within one (1) year shall not constitute a continuing violation but rather shall be a separate violation for each occurrence, and disciplinary action and fines, at a compounded rate, may be imposed for each separate violation.

8. **Request for Hearing after Disciplinary Action Notice.** If an Owner desires a hearing to challenge or contest any alleged violation and fine, or to discuss any mitigating circumstances, the Owner must request such hearing, in writing to the Board or property manager, within thirty (30) days of the Disciplinary Action Notice. The request for a hearing shall describe the grounds and basis for challenging the alleged violation or the mitigating circumstances.
9. **Hearing.** The Board shall conduct any timely requested hearing pursuant to the procedures set forth herein. The Board may appoint an officer or other Owner to act as the presiding officer (the "Presiding Officer") at any of the hearings. The Presiding Officer may grant continuances for good cause. At the beginning of each hearing, the Presiding Officer shall establish a quorum, explain the rules, procedures, and guidelines by which the hearing shall be conducted, and shall introduce the case before the Board. The Board shall have the exclusive power and authority to determine whether a violation exists and impose disciplinary action, subject to written input from the External Review Group, described in item 4 above, and who would be invited to observe the hearing.
10. **Conflict.** Any Board member who is incapable of objective and disinterested consideration on any hearing before the Corporation shall disclose such to the President of the Corporation prior to the hearing on the case, if possible, or, if advance notice is not possible, then such disclosure shall be made at the hearing, and the Board member shall be disqualified from all proceedings with regard to the hearing. If disqualification of any Board member(s) results in an even number of remaining Board members eligible to hear a case, the Presiding Officer may appoint an Owner, in good standing, to serve as a voting member of the hearing board.

11. **Notice of Board's Decision / Effective Date of Sanction.** After all testimony and other evidence have been presented to the Board at a hearing, the Board shall render its written findings and decision, and impose a fine, in accordance with the current schedule of fines, if applicable, within fifteen (15) days after the hearing or as soon thereafter as reasonably possible. A suspension, fine, or reimbursement charge shall be effective no sooner than five (5) days after the Board's decision.
12. **Schedule of Fines.** The Schedule of Fines adopted by the Board is attached to this procedure and aligns with the maintenance corporation bylaws (2/14/2023 Amended Bylaws Art. IX, Sec. 2).
13. **Payment of Fines.** Fines are due when imposed and are deemed delinquent if not paid within thirty (30) days after they are due. Unpaid fines are collectible in the same manner as unpaid assessments and may result ultimately in a lien on an Owner's property and possibly foreclosure. Owners will be responsible for late fees and interest on fines not paid when due, following the same manner as unpaid.
14. **Legal Actions and Costs** the Board may, among other things, and in accordance with the Governing Documents (Bylaws Art. III; Sec.5&6) initiate legal proceedings to enjoin any further violation, to collect any unpaid fines, to collect Attorney's fees and or Agent costs, and to seek any other relief that may be appropriate, such as a court order. Fines may continue to be assessed and levied during the pendency of such legal proceedings. All associated costs shall be billed to the Owner and collected in the same manner as assessments.
15. **Failure to Enforce.** Failure of the Corporation to enforce the Governing Documents or Rules will not be deemed a waiver of the right to do so for any subsequent violations or of the right to enforce any of the above-referenced Governing Documents for the Corporation
16. **Federal, State or Local Laws.** Violations of federal, state, or local law are not considered violations of the Governing Documents or Rules, and the Board shall not enforce such violations of law. Any resident may contact the appropriate authorities to report a violation of the law. The Corporation may also contact the appropriate authorities to report a violation of law at its discretion.
17. **Amendment Procedure.** This policy is subject to amendment or modification at any time by a majority vote of the Board and is subject to a 90-day comment period of the membership before final adoption.

Owners may be fined for violations to ensure compliance with the Governing Documents of Clairborne at Lexington Farms Maintenance Corporation. Any violation of the Governing Documents by the Owner, Owner's tenant, invitee, guest, lot occupant, or tenant's guest shall be subject to the following fines.

## Schedule of Fines

Owners may be fined for violations to ensure compliance with the Governing Documents of Clairborne at Lexington Farms Maintenance Corporation. Any violation of the Governing Documents by the Owner, Owner's tenant, invitee, guest, lot occupant, or tenant's guest shall be subject to the following fines:

Violation	Fine
Any violation of the Governing Documents not specifically mentioned herein.	\$5/day
Vehicle restriction violations (1) (should legal action result in a court order, prohibited vehicles are subject to towing after three (3) days without further notice at Owner's expense)	\$5/day
Serious personal endangerment or health hazard. (2)	\$5/day
Common facility/area misuse. (3)	\$5/day
Failure to submit an ARC application or unauthorized improvements to the property. Daily Fines are to be assessed and imposed for unauthorized improvements or non-compliance. (4)	\$5/day
Landscaping violations, Daily Fines are to be assessed and imposed for unauthorized improvements or non-compliance. (5)	\$5/day

The above fines, which are only applied AFTER the Warning Notice deadline has passed, are the maximum amounts per violation and are in addition to any actual costs, damages, or reimbursement costs to cure the violation, including attorney, and or agent fees (aka other costs) incurred by the Corporation. If circumstances warrant, the Board may impose lesser amounts. The cumulative total of fines and accrued interest, separate from other costs, will be capped at \$5,000 and paid in accordance with provisions 13 & 14.

<sup>1</sup> Please refer to Paragraph 8 of the Declaration as the same may be amended from time to time; applies to each vehicle in violation of the Declaration.

<sup>2</sup> An example of a rule violation that could result in serious personal endangerment is building a bonfire in any area in the community.

<sup>3</sup> Examples of common area misuse include illegal dumping of yard waste or trash and leaving pet waste on the common grounds.

<sup>4</sup> An ARC application must be submitted and approved before any architectural improvements can be made. If the application is not submitted and approved, prior to commencement of the work, daily fines may be imposed from the day work began.

<sup>5</sup> All grass, shrubs, hedges, etc. shall be trimmed and maintained in a neat manner. All drainage swales shall be maintained free of debris and obstructions and properly cut and trimmed.

**Attachment A: \_\_\_\_\_ Request for Violation Hearing**

Request Date \_\_\_\_\_

Requestor Information;

Full Name	
Address	
Phone	
Email Address	

**Violation**

--

**Reason for Appeal**

--

**DO NOT WRITE BELOW LINE-**

**CORPORATION USE ONLY**

Date Referred to Board of Directors: \_\_\_\_\_

Date of Hearing: \_\_\_\_\_

☐

**The outcome of the Hearing.**

- |   |   |
|---|---|
| <input type="checkbox"/> Violation overturned | <input type="checkbox"/> Violation upheld |
| <input type="checkbox"/> Violation Modified   | <input type="checkbox"/> Fine modified    |

**Rule Enforcement and Fine Schedule**

**Resolution No.: 2023-01**

**Rule Enforcement and Fine Schedule**

**Resolution No.: 2023-02**

Duly adopted at a meeting of the Board held on July 10, 2023

Motion By: Richard Boyer

Seconded By: Jim Metz

Vote	Yes	No	Abstain	Absent
<u>Richard Boyer</u> Director	<u>X</u>	_____	_____	_____
<u>Jim Metz</u> Director	<u>X</u>	_____	_____	_____
<u>Rich Quickle</u> Director	<u>X</u>	_____	_____	_____
<u>Debbie Watts</u> Director	<u>X</u>	_____	_____	_____
<u>Mike Murray</u> Director	<u>X</u>	_____	_____	_____

Attested by:

Rich Boyer  
President

Date:

7/10/2023

