

RESOLUTION M-01

POLICY AND COMPLIANCE PROCEDURES FOR DECLARATION OF RESTRICTIONS AND ARC GUIDELINES VIOLATIONS

1. **Purpose.** This Resolution establishes policy, assigns responsibilities, and provides procedures to be followed by the Architectural Review Committee (hereinafter referred to as "ARC"), General Manger (hereinafter referred to as GM), the Ocean Pines Association (hereinafter referred to as "OPA") and the Board of Directors (hereinafter referred to as Board) for enforcing compliance with the Association's Declarations of Restrictions (sometimes hereinafter referred to as "DRs") and the ARC Guidelines.

2. **Authority.** OPA derives its authority to establish, enforce, and interpret rules and regulations through its Articles of Incorporation, DRs and ARC Guidelines. These documents address the basic rules necessary to promote the common welfare of OPA members. They assign to the Board responsibility for enforcement of these rules and the authority to delegate part of this task to OPA staff and committees.

3. **Policy.** The appeal of Ocean Pines depends on the cooperation of residents, property owners, and any other legally Responsible Parties in creating and maintaining clean and aesthetically pleasing homes and surroundings. Therefore, the privilege of membership and residing in OPA comes with responsibilities.

a. It is the policy of OPA to exercise the authority provided above to rigorously and proactively enforce its DRs and other rules and restrictions. The enforcement authority shall be exercised, to the extent possible, in a uniform and fair manner based on the approved process and procedures outlined in this resolution. Further, enforcement shall be conducted with due regard to:

(1) courteous and respectful interchanges that encourage voluntary compliance,

(2) timely and effective notification of all pending actions affecting the issue under consideration and

(3) the opportunity to attend an ARC meeting to appeal a violation determination.

b. It is acknowledged that in a homeowner's association as large as Ocean Pines not all violations will be discovered or processed. The failure, however, to address any given violation shall not restrict or otherwise waive the OPA's ability from acting on other violations of the same nature or otherwise.

4. Responsibilities

a. The Board: The Board is responsible to the membership for the overall compliance program.

b. The GM: The GM is designated as the individual under whose authority the compliance program is to be administered. The GM may delegate any or all of the responsibilities herein included to one or more subordinate OPA staff members. Commensurate with this Resolution M-01, it is understood that the GM is given pre-authorization by the Board to take actions deemed necessary to address health and safety violations and to report such actions taken to the Board, as soon as reasonably possible, by electronic means and to include a summary of the action at the next regularly scheduled Board meeting.

c. Department or Compliance, Permitting and Inspection ("CPI"): CPI shall be the point of contact for violations. CPI activities shall include, but not be limited to, the inspection of properties, receipt and investigation of Complaints, determining if a violation exists, preparation and issuance of notices of violations to lot owner and any other Responsible Party, maintenance of records of Complaints and violations, recommendations for the disposition of violations and preparation of reports and records of violations.

d. The ARC: As further set forth in this Resolution, the ARC shall:

(1) Hear a Responsible Party's appeal of a violation determination as cited by CPI, as provided in 6.c, Step 4.

(2) Upon request by a Responsible Party for a variance, shall review the request to determine if sufficient justification exists to grant a variance to the DRs or ARC Guidelines.

5. Definitions

a. Responsible Party: A Responsible Party is an Ocean Pines Association member or other entity or person in control of real property within the OPA, to include:

(1) An Ocean Pines Association member as established in Paragraph 12A of the Declarations of Restrictions; and

(2) Entity or person, other than a member, who is in control of a lot within the OPA, such as a personal representative or servicer of a foreclosure purchaser.

b. Complainant: An individual or entity that brings a potential violation of the DRs or ARC Guidelines to the attention of CPI.

c. Violation: A violation is a Complaint that has been confirmed by the CPI Department to be in non-compliance with the Declarations of Restrictions or ARC Guidelines.

d. Repeat Violation: A violation of the same or similar cited violation which has been documented and corrected at the same property within a 36-month period.

e. Notice of Violation: A written notification to a Responsible Party of a violation by both USPS Certified Mail-Return Receipt requested and regular mail to the address on record with OPA.

f. Complaint: The notification to or identification by the CPI Department that a violation of the Declaration of Restrictions or ARC Guidelines may exist. A Complaint may result from, but is not limited to, inspection reports by CPI inspectors or in person reports, telephone calls, email or US Mail from Complainants.

g. Substantial Progress: is a signed contract between the Responsible Party and licensed contractor or OPA for correcting the violation with start and completion dates and a dollar estimate for completing the work or, in the case of the Responsible Party self-performing the work, a project plan approved by the ARC and CPI with a start date, completion date and project milestones that can be verified by the CPI.

6. General Procedures

a. Records: Records of every Complaint and all actions related thereto are to be maintained by CPI.

b. Inspections: The General Manager shall establish procedures for inspections to be followed by CPI. These procedures should include detail documented efforts to obtain permission from the Responsible Party for inspections requiring entry onto a lot, to the extent entry on to a lot is needed. When entering onto a lot to conduct an inspection, the purpose of entry shall be limited to observation and/or documentation.

c. Responsible Party Notification: The following steps will be followed by the OPA when a Complaint is received:

Step 1. Receipt of Complaint: A Complaint is received.

Step 2. Review of Complaint and Violation Determination: A Complaint is reviewed by the CPI to determine if the Complaint is a violation of the Declaration of Restrictions or ARC Guidelines. In determining whether a violation exists, CPI may consult with the ARC, the GM or OPA's legal counsel, with the consent of the GM. Upon determining that that the Complaint constitutes a violation, CPI will proceed with Step 3. If CPI determines that a violation does not exist, such determination will be reflected in the record of the Complaint.

Step 3.

a. Notice of Violation: If CPI determines that the Complaint constitutes a violation, CPI will send a notice of violation ("Notice of Violation") to the Responsible Party stating: (1) the nature of the violation (with evidentiary photos, if appropriate and exist); (2) if the violation is not corrected or Substantial Progress towards correcting the violation is not underway within thirty (30) days of the date of the Notice of Violation that OPA will proceed with legal action to seek a Court Order to force compliance; (3) the Responsible Party may appeal CPI's determination or request a variance by attending an ARC meeting within thirty (30) days of the date of the Notice of Violation; (4) information on how to contact CPI in order for CPI to verify that the violation has been corrected; and (5) if the violation involves grass, weeds, refuse and /or debris a cost estimate and the contact information necessary for the Public Works Department for the Responsible Party to authorize OPA to correct the violation and bill the Responsible Party.

b. The Notice of Violation shall also include the schedule of ARC meetings which will be held within thirty (30) days of the Notice. The Notice shall further give the Responsible Party the option of contacting ARC, within ten (10) days of the date of the Notice, to obtain an agreed alternate date for an ARC appeal. The means by which ARC can be contacted shall be included in the Notice.

Step 4. Appeal or Variance Hearing. The Responsible Party shall have the right to appeal CPI's determination or request a variance provided that the Responsible Party attends an ARC meeting within thirty (30) days of the date of the Notice of Violation or such other date agreed to by ARC. If the Responsible Party attends an ARC meeting to request an appeal of CPI's determination or a variance, ARC will provide the Responsible Party the right to be heard on the request at that meeting. After affording the Responsible Party the opportunity to be heard, ARC will render a decision on the appeal or variance request.

a. In considering the appeal of CPI's violation determination the ARC may: (1) confirm CPI's determination; (2) overturn CPI's determination; or (3) grant the Responsible Party an extension to remedy the violation.

b. In the event ARC does not (1) overturn CPI's determination, (2) grant an extension, or (3) grant a variance or (4) the Responsible Party does not correct the violation within the timeframe as set forth in the notice of violation, ARC will notify the Responsible Party and the GM of its decision in writing. The notification to the GM shall include the Addendum to this resolution (Addendum A-Sample Board Reporting Requirements to Resolution M-01). ARC's determination shall be final.

***For Repeat Violations the Responsible Party forfeits its right under this Resolution to appeal CPI's determination to the ARC or request a variance and the GM is authorized to forego Steps 1-4 and proceed with Step 5.**

Step 5: Court Enforcement Action: Should the Responsible Party fail to correct the violation or meet the requirements of Substantial Progress within thirty (30) days of the date of the Notice of Violation or

within the expiration of any extension period granted by the ARC, the GM will notify legal counsel to begin the process of obtaining a Court Order to force compliance without further notice to the Responsible Party. Prior to referring the matter to legal counsel, the GM may have CPI conduct an inspection to determine that the violation has not been corrected. The GM shall have the authority to confer with the Board on a specific case prior to referring the case to the legal counsel.

7. GM Action Notification & Reporting: The GM will notify the Board via email when action is taken and will include a summary of actions taken in the monthly report to the Board. This report shall include (1) the number of Complaints, (2) numbers of Complaints/violations resolved, (3) the numbers of violations sent to GM for referral to counsel, (4) the status of the violations sent to counsel to obtain court orders and the cost of those actions, current and year to date and (5) The GM's request that the Board suspend certain rights of the violating members as permitted by the DRs.

8. Other Enforcement Action: Nothing in this Resolution shall limit OPA's other enforcement powers contained in the DRs or at law, including entering a lot to perform maintenance to correct a violation.

9. Miscellaneous: This Resolution does not govern the collection of unpaid annual charges or other charges due from members. No delay or failure of the OPA to fully comply with this Resolution shall be held to be a waiver of OPA's rights to take enforcement action for any recurrence or continuation of the violation or the occurrence of a different violation.

Effective Date: May 2, 2020

Approved by the Board on May 2, 2020

President [Signature]

Secretary [Signature]

Review History:
General Manager [Signature]

Date: 5/19/20

Legal _____ Date: _____

By-laws and Resolutions Advisory Committee [Signature] Date: 5/18/20

Addendum A- Sample Board Reporting Requirements to Resolution M-01

To: Ocean Pines Board of Directors
From: General Manager
Subject: Request for Compliance Action
Date:

Responsible Party	
Ocean Pines Address & Sec./Lot	
Mailing Address	
Responsible Party Phone #(s)	
Violation	
Violation Reference	
Violation Reported	
Violation Confirmed	
Letter sent to Responsible Party detailing violation and advising them of ARC meeting.	
ARC Hearing and Results	

Addendum A- Sample Board Reporting Requirements to Resolution M-01

To: Ocean Pines Board of Directors
From: General Manager
Subject: Request for Compliance Action
Date:

Follow Up Inspection	
CPI notification to GM and ARC of Responsible Party not in compliance.	
To Counsel for Court Order	
GM notification to Board, ARC & CPI	
GM Continuing Violation Recommendation to Board	
Board Decision	
Total Complaints for the Month	
Total Complaints YTD	