

EMERALD LAKES VILLAGE

Homeowners Association
P.O. Box 113, Troy, MI 48099

**Policy Letter Regarding: FINE SCHEDULE AND ENFORCEMENT
PROCEDURE**

ELV Policy #015 updated and approved **October 23, 2013 at the Annual Meeting**

This letter contains the list of fines for specific restrictions and the procedures that shall be used to enforce those fines.

1) Violations of the restrictions may be fined as follows:

- The use of unauthorized fertilizer or leaving fertilizer on paved areas As per ELVHA Policy Letter #3
- The overnight parking of campers, trailers or RVs in excess of three (3) consecutive days (or 21 days per calendar year) As per Sec 4 (f)*
- The placement of excessive signage As per Sec 6 (g)*
- Cooking or grilling or allowing pets onto the common areas As per Sec 7 (b)*
- The use of powerboats or watercraft greater than sixteen (16) feet As per Sec 7 (c)*
- Open storage of more than four (4) watercrafts per lot As per Sec 7 (c)*
- The overnight anchorage of rafts, docks or floats; or leaving sports nets overnight As per Sec 7 (d)*

Compliance or \$50 fine, 2nd offense - \$100 fine, 3rd or subsequent offense - \$200 fine

- The erection of unauthorized structures or temporary buildings As per Sec 4 (g)*
- The harboring of fowl, reptiles, potbelly pigs or more than three (3) dogs/cats As per Sec 6 (f)*
- Use of improper driveway construction materials As per Sec 6 (d)*
- The erection of an improper fence As per Sec 6 (h)*
- The failure to maintain minimum property standards As per Sec 6 (i)*
- The failure to clear visual obstruction caused by landscape As per Sec 6 (i)*

Two (2) weeks to comply or \$250 fine, \$250 additional fine after 30 days, \$500 additional fine after 60 days

- Allowing the accumulation of refuse or maintaining a nuisance As per Sec 6 (b & c)*
- Altering a shoreline or pumping water into or out of the lakes As per Sec 7 (d)*

\$500 fine and cost of restoration and enforcement

- The unauthorized improvement to a structure or untimely completion of construction As per Sec 6 (i)*
- The use of fireworks in any common area or on any lake (except bottle rockets to disperse geese) As per Sec 6 (j)*
- The use of fireworks in any common area or on any lake (except bottle rockets to disperse geese) As per Sec 7 (b)*

\$500 fine, 2nd offense - \$1,000 fine, 3rd or subsequent offense - \$2,000 fine

*These are the section numbers as they appear in the Second Amended Restrictions Agreement dated October 23, 2013.

FINE PROCEDURE FOR VIOLATIONS OF SUBDIVISION LAWS

- 1) **General**. The violation by any Owner, occupant or guest, of any of the provisions of the Subdivision Restrictions, Covenants, Conditions, Restrictions and/or Bylaws, including any duly adopted Rules and Regulations (Laws) shall be grounds for assessment by the Association, acting through its Board of Directors (Board) (or the Board's Designee), of monetary fines against the involved Owner. Such Owner shall be deemed responsible for such violations whether they occur as a result of his personal actions or the actions of his family, guests, tenants or any other person admitted through such Owner to the Subdivision Premises.

- 2) **Procedures**. Upon any such violation being alleged to the Board's Designee, the following procedures will be followed:
 - a) **Notice**. Upon receiving written complaint, *Notice of Violation*, including the provision violated, together with a description of the factual nature of the alleged offense, shall be personally delivered or sent by first class mail, postage prepaid, to the Owner and to any tenant, if applicable. The Owner shall have the option to either, (1) accept responsibility and pay the fine which shall be imposed by the Board in accordance with 2) e), or (2) request a hearing.
 - b) **Opportunity to Defend**. If requested, the Owner shall have an opportunity to appear before a committee appointed by the Board for a hearing and offer evidence in defense of the alleged violation. The Committee shall consist of three board members (with one alternate board member who would act in the event of absence or incapacitation of an original appointee). The hearing before the Committee shall occur within ten days from receipt of the Owner's request for a hearing. Enforcement action is stayed until the Committee renders its decision.
 - c) **Default**. Owner's failure to appear or respond to the *Notice of Violation* within five days in writing constitutes a default. Upon default the Committee may levy a fine as set forth in e) below.
 - d) **Hearing and Decision**. After a hearing conducted by the Committee, the Committee shall, by majority vote at the hearing, decide whether a violation has occurred. The Committee's decision is final.
 - e) **Amounts**. If the Committee decides that the Owner has violated a law, the Committee may levy fines pursuant to the fine schedule adopted by a majority vote of the homeowners at the annual meeting. The fine schedule may be modified from time-to-time with the approval of the homeowners at the annual meeting.
 - f) **Collection**. The fine shall be assessed against the Owner and shall be due and payable within ten days from the date on the notice unless the Owner has appealed, in which case the fine is due and payable within ten days of the decision of the Committee at the hearing. If the Owner does not timely pay the fine, it

shall become a lien against the Owner's lot. Failure to pay the fine may also subject the Owner to all liabilities, late charges and other remedies, including enforcement of a lien, as otherwise set forth in the *Subdivision Restrictions*.

- 3) **Remedies for Non-Compliance**. If the Owner does not comply with any Laws, the Board may also seek following relief:
- a) **Legal Action**. An action to recover sums due for damages, injunctive relief, enforcement of a lien (if default in payment of assessment or fine) or any combination thereof; and such relief may be sought by the Board, and if permitted by law, an aggrieved Lot Owner.
 - b) **Recovery of Costs**. Recovery of all costs incurred by the Board as a result of the default and the actual attorneys' fees (not limited to statutory fees) incurred by the Board as a result of the default. Costs and attorney fees incurred before initiation of a lawsuit may also be recovered by the Board.
 - c) **Removal and Abatement**. In addition to the rights set forth above, and pursuant to a court order to enter upon the lot where reasonably necessary, and summarily remove and abate, at the expense of the Owner, any structure, thing or condition existing or maintained contrary to the Laws. The Board shall not be liable to any Owner for exercising its removal and abatement power.
 - d) **Non-Waiver of Right**. The failure of the Board to enforce any Law, does not waive the right of the Board to enforce such Law in the future.
 - e) **Cumulative Rights, Remedies, and Privileges**. All rights, remedies and privileges granted to the Board pursuant to the Laws shall be cumulative and the exercise of any one or more shall not constitute an election of remedies.