

**WILDFEATHER PROPERTY OWNERS' ASSOCIATION**

**Resolution number** 2023-1

**RELATING TO ENFORCEMENT AND FINES**

WHEREAS, the Declaration of Gilbert B. McIntosh's Wildfeather dated October 22, 1969 was recorded in Grundy County, Illinois as document number 216693 (the "Original Declaration") on January 9, 2070; and

WHEREAS, the Amended and Restated Declaration of Gilbert B. McIntosh's Wildfeather dated May 12, 2011 was recorded in Grundy County, Illinois as document number 520249 on May 23, 2011; and

WHEREAS, a Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Gilbert B. McIntosh's Wildfeather Subdivision and By-Laws of the Wildfeather Property Owners' Association dated May 3, 2012 was recorded in Grundy County, Illinois as document number 528466 on May 10, 2012; and

WHEREAS, the Second Amended and Restated Declaration of Covenants, Conditions, and Restrictions for Gilbert B. McIntosh's Wildfeather Subdivision and By-Laws of the Wildfeather Property Owners' Association dated May 3, 2012 provides for a system of enforcement and fines for violation covenants, restrictions, and rules.

WHEREAS, pursuant to paragraph 5.13(g) of the By-Laws, the Board of Directors of the Wildfeather Property Owners' Association is vested with the authority and the duty to adopt rules and regulations as provided in the Declaration; and

WHEREAS, pursuant to 765 ILCS 160/1-30(g) the Board of Directors of the Wildfeather Property Owners' Association board shall have the power, after notice and an opportunity to be heard, to levy and collect reasonable fines from members or property owners for violations of the declaration, bylaws, and rules and regulations of the Wildfeather Property Owners Association.

WHEREAS, it is necessary and desirable that violations of the declaration, bylaws, and rules and regulations of the Wildfeather Property Owners Association be uniformly and reasonably enforced with a structure of fine to achieve this purpose.

**NOW, THEREFORE, IT IS RESOLVED that:**

**I.** The procedure set forth below shall now be the process for handling complaints and enforcement of violations of the Declaration, Bylaws and Rules and Regulations.

**ARTICLE 1**

## **OVERVIEW OF PROCESS**

**1.1 Complaint.** An owner may file a written complaint with the Board of Directors regarding a violation of the Declaration, Bylaws or Rules and Regulations by another owner, tenant or guest. The Board of Directors may also initiate a complaint (Article 2).

**1.2 Investigation.** The Board of Directors has the discretion to investigate the complaint and decide if it is valid (Article 3).

**1.3 Violation and Notice.** If the board of Directors finds there is a violation, the Board must send notice to the alleged Offending Owner. The notice must contain certain provisions. The Alleged Offending Owner must be given the opportunity for a hearing (Article 4).

**1.4 Hearing.** If requested, the Alleged Offending Owner may present testimony of evidence regarding the violation at the next board meeting (Article 5).

**1.5 Fines.** The Board may impose fines pursuant to the Schedule of Fines if the violation is not remedied or ceased within the time specified in the notice, provided the owner has the opportunity for a hearing (Articles 3, 6 and 7).

## **ARTICLE 2**

### **ORIGINATION/ INITIATION OF COMPLAINT**

**2.1 Board of Directors.** A Complaint may be initiated by the Board of Directors Based on information from any board member, management agent, or owner, of other information the Board deems reliable.

**2.2 Owners.** An owner ("Complaining Owner") who desires the Board of Directors to take corrective action against another owner or tenant ("Alleged Offending Owner") must submit a complaint to the Board of Directors. The complaint must be in writing and must include:

- (a) The name, if known, and address of the alleged Offending Owner;
- (b) A description of the offending behavior or activity, including the date(s) and approximate time(s); and

## **ARTICLE 3**

### **INVESTIGATION OF COMPLAINT**

**3.1 Investigation.** Upon receipt of a written complaint, the Board, or a person authorized by the Board, has the discretion to conduct an investigation to confirm the nature and existence of the allegations contained in the complaint.

**3.2 Determination of Violation.** If after review of a complaint, the Board of Directors determines that there is a violation of the Governing Documents, Bylaws or Rules and Regulations, and the Board determines that it is in the best interest of the Association and owners to address the violation with the Alleged offending Owner, the Board shall proceed to give notice to the Alleged Offending Owner as described below.

#### **ARTICLE 4** **NOTICE PROCEDURE**

**4.1 Notice of Violation.** The Board shall give the Alleged Offending Owner written notice of the violation either by hand-delivery or mail.

(a) **Notice of Violation and Right to a Hearing.** The notice required under this section should:

- (1) Describe the violation;
- (2) Contain a statement that the alleged offending Owner has the opportunity to request a hearing; and
- (3) Contain a statement advising the Alleged offending Owner that if no hearing is requested, and if the alleged violation is not remedied or ceased by a specified compliance deadline, fines will be assessed, beginning on the day following the specified compliance deadline, pursuant to the Declarations and By-Laws, or as adopted by the Board of Directors.

(b) **Optional Notice Provisions.** The notice may also provide or specify any or all the following;

- (1) Specific action the Board is requiring to remedy the violation;
- (2) The particular language or section from the Declaration, Bylaws or Rules and Regulations which have been violated; and
- (3) Any other information as directed by the Board of Directors.

(c) **Delivery of Notice.** The notice may be hand-delivered to the unit. In the event no individual is at the unit to receive the hand-delivery, the notice shall be affixed to the door of the unit.

(d) **Mailing of Notice.** The notice may be mailed to the addresses on record with the Association. In the case of non-owner residents, mailed to both the address on record with the Association for the owner and to the lot address.



- (1) The mailing shall be by:
  - (i) Certified mail, return receipt requested; or
  - (ii) First-class mail with delivery confirmation.

**4.2 Repeat Violations.** Owners who repeat any violation within a 12 month period of receiving a Notice of Violation are not entitled to an additional notice or hearing, regardless of whether or not the owner participated in a hearing as a result of the first violation. For such repeat violations, the Board may automatically begin fines.

**4.3 Informal Action.** Nothing in this article precludes the President, a designated Board Member or Other person authorized by the Board from first attempting to resolve the matter either by an informal meeting, telephone call or a warning letter to the alleged offending Owner.

## **ARTICLE 5**

### **HEARING PROCEDURE**

**5.1 Hearings Procedure.** In the event an owner requests a hearing, the Board shall utilize the following procedure for violation hearings:

- (a) **Appearances at the Hearing.** If the Alleged Offending Owner fails to appear, the Board may, at its sole discretion:
  - (1) Conduct the hearing without the presence of the alleged offending Owner;
  - (2) Assess fines by default;
  - (3) Allow the Alleged offending Owner additional time that day to appear;
  - (4) Reset the hearing to another date and time.
- (b) **Dismissal.** In the case of dismissal, the Board shall notify all participating Owners, in writing, that the Complaint has been dismissed.
- (c) **Conduct of Hearing.**
  - (1) **Testimony from Parties.** If the Complaining Owner chooses to appear and the alleged Offending Owner appears, the Board shall proceed to hear from the Complaining Owner and then from the Alleged Offending Owner.
  - (2) **Evidence and Witnesses.** The complaining Owner and the Alleged Offending Owner may present evidence and witnesses at the hearing. The

Board may limit testimony and evidence as it determines is reasonable and necessary. An Owner's testimony shall not exceed 15 minutes.

(d) Board Determination. Following the testimony and any evidence presented by the parties, the Board Has the discretion to re-evaluate its prior determination of violation under Section 3.1 and 3.2 above. The Board also has the discretion to reevaluate the fine, any required or appropriate resolution for the violation, and any other matter which may result in the resolution of the violation.

(1) The discussions must be in open session.

(2) The Board shall either make its decision at the conclusion of the hearing, or take the matter under advisement and make the decision at a later Board meeting.

## ARTICLE 6 OTHER LEGAL ACTION

**6.1 Board Actions.** In addition to levying fines, action by the Board may include, but need not be limited to.

(a) Seeking injunctive or declaratory relief action against any alleged Offending Owner and tenants, guest, or other occupants of the Alleged Offending Owner; and/or

(b) Taking immediate legal action, as the Board finds reasonably necessary, to stop conduct which it determines is in violation of the Governing Documents, Bylaws, Rules and Regulations or applicable state or federal law.

(c) Seek any and all other relief available at law or in equity.

### **6.2 Additional Corrective Action by Board.**

(a) Right of Board to Take Additional Corrective Action. If the alleged Offending Owner fails to correct the matter, which is the ultimate cause of the violation, the Board may take additional corrective action without prior notice to the Offending Owner or opportunity for a hearing and assess the costs thereof to the Offending Owner, which costs shall be a lien against the property of the Offending Owner.

(b) Notice of Additional Action. The Board shall give an alleged Offending Owner written notice of any additional action taken under Subsection (a) of this section.

**ARTICLE 6**  
**MISCELLANEOUS**

**7.1     Renters and other Non-Owner Occupied Lots and Guests.** The owner of any unit shall be responsible for the violations of any renter, tenant, guest or family member who violates any portion of the Declaration, Bylaws or Rules and Regulations.

**7.2     Continuing Violations.** “Continuing” Violations: Those violations which are more “continuing” by nature shall not accrue separate occurrences pending the resolution of a hearing. These shall not accrue separate occurrences pending the resolution of a hearing. These continuing violations include but are not limited to violation of Wildfeather Architecture and Building Requirements. Once the hearing has been resolved, these “continuing” violations may be subject to fines which renew periodically if the violation is not remedied or ceased.

**BE IT FURTHER RESOLVED that:**

**II.**     Pursuant to the By-Laws, fines may not exceed \$150 per day for each violation. The Board may adopt a *Schedule of Fines* to determine the fines for violations of the Declaration, Bylaws and Rules and Regulations of the Association.

**III.**    A copy of this Resolution will be sent to each owner at the address shown in the records of the association.

**IV.**    Complaints and notices may, but are not required to be, in substantially the following forms:

WILDFEATHER PROPERTY OWNERS' ASSOCIATION

VIOLATION COMPLAINT - WITNESS STATEMENT

PLEASE NOTE: A Violation Complaint must be completely filled out or the complaint will not be considered valid by the Board. After the report has been filed, it will be necessary for you to appear at a hearing. The violator will also be asked to attend this meeting. After hearing this case, the Board will determine if a violation occurred and if a fine should be levied.

Offender's Name: \_\_\_\_\_

Address: \_\_\_\_\_

Violation Location: \_\_\_\_\_

Date of Violation: \_\_\_\_\_ Approx. Time: \_\_\_\_\_

VIOLATION(S): \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Were any photographs taken? ☐ Yes ☐ No

If so, by whom: \_\_\_\_\_

Attach all photographs to this form or forward as soon as possible. Include photographer's name and date taken, and the name(s) of anyone else who was present.

Report submitted by: \_\_\_\_\_

Phone: \_\_\_\_\_

Email Address: \_\_\_\_\_

Address: \_\_\_\_\_

**I have made the above statements based on my personal knowledge. I will cooperate with the Association and its attorneys to provide additional statements or affidavits, and, in the event of a hearing, I will appear to testify as a witness.**

Signature: \_\_\_\_\_

Date: \_\_\_\_\_



WILDFEATHER PROPERTY OWNERS' ASSOCIATION

NOTICE OF CONTINUING VIOLATION

Date: \_\_\_\_\_

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified, as the owner of \_\_\_\_\_, that a Violation Complaint form has been filled out accusing you of violating the Association's Declaration, By-Laws or Rules and Regulations regarding:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

This was allegedly violated by \_\_\_\_\_

If the violation is not corrected before \_\_\_\_\_, "Compliance Deadline" a fine of up to \$150 may be imposed for each day the violation continues. Fines are due and payable immediately, and are a lien against your property until paid.

You may request a hearing by notifying president and secretary of the board in writing within 10 days of this notice. If no hearing is requested, and if the alleged violation is not remedied or ceased by a specified compliance deadline, fines will be assessed, beginning on the day following the specified compliance deadline. If you request a hearing, you have a right to present a defense and evidence regarding this accusation. After hearing the case, the Board will determine if a violation occurred and if a fine should be levied.

The Board of Directors will review the violation(s) at our ( ) next regularly scheduled Board Meeting ( ) special board meeting, at \_\_\_\_\_, on \_\_\_\_\_, 20\_\_\_\_, at approximately \_\_\_\_\_ p.m. Please be present at this meeting. The Board will proceed with or without your presence.

Very truly yours,

WILDFEATHER PROPERTY OWNERS' ASSOCIATION

Board of Directors



WILDFEATHER PROPERTY OWNERS' ASSOCIATION

NOTICE OF DETERMINATION REGARDING CONTINUING VIOLATION

DATE: \_\_\_\_\_

TO: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

On this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, the Board found you to be in violation of the Declaration, By-Laws or Rules and Regulations of the Association regarding:

\_\_\_\_\_  
\_\_\_\_\_

This was violated by: \_\_\_\_\_

- ☐ The Board has determined that no violation occurred.
- ☐ A one-time fine in the amount of \$\_\_\_\_\_ has been assessed and is now due, and shall be a lien against your property until paid.
- ☐ A continuing fine in the amount of \$\_\_\_\_\_ per day is hereby assessed against your property, with the first such day being \_\_\_\_\_. The daily fine shall continue to accrue until such time as the violation is corrected and abated, as determined by the board. The fine shall be a lien against your property until paid.
- ☐ Legal expenses in the amount of \$\_\_\_\_\_ have been incurred by the Association and are now due.

The fines assessed are not the exclusive remedy of the Wildfeather Property Owners Association.  
The board reserves the right to pursue any and all remedies available in equity or at law.

Very truly yours,

WILDFEATHER PROPERTY OWNERS' ASSOCIATION

Board of Directors

WILDFEATHER PROPERTY OWNERS' ASSOCIATION

RESOLUTION ACTION RECORD

Resolution No. 2023-01

Pertaining to enforcement and fines.

Duly adopted at a meeting of the Board of Directors held: June 13, 2023

Motion by: Lisa McLuckie

Seconded by: Brian Paros

Vote:

	<u>Yes</u>	<u>No</u>	<u>Abstain</u>	<u>Absent</u>
<u>Brian Paros</u> President	<u>✓</u>			
<u>Lisa McLuckie</u> Treasurer	<u>✓</u>			
<u>Jim Doreman</u> Secretary	<u>✓</u>			
<u>Dr. Conner</u>	<u>✓</u>			
<u>[Signature]</u>	<u>✓</u>			
<u>Beverly</u> Vice President	<u>✓</u>			
<u>Amber</u>	<u>✓</u>			

