



Rule 1.15 Enforcement of Deed Restrictions.

- (1) Enforcement. The District may enforce deed restrictions governing the use and operation of real property located in the District. The Board shall determine whether enforcement of the deed restrictions by the District is appropriate. For purposes of this Rule, term “deed restrictions” shall mean those covenants, conditions and restrictions contained in any applicable declarations of covenants and restrictions affecting real property located in the District.
- (2) Records. Each time the District receives a written report that a violation has occurred, the designated District representative (referred to for purposes of this Rule as the “District Representative”) shall create a record of the report and the alleged violation, and inspect the property to determine whether a violation has occurred.
- (3) Review. Whenever a reported violation relates to an alteration, modification or addition to an existing building or to the erection or construction of a new building (referred to for purposes of this Rule as the “Improvements”), the District Representative shall research the District’s records to determine whether the Improvements were approved, and if so, whether the Improvements conform to the approved plans and conditions.
- (4) First Notice. If the District Representative determines that the property is in violation of deed restrictions, then the District Representative shall send a written notice to the owner of the property (referred to for purposes of this Rule as the “Landowner”) describing the nature of the violation, the corrective action required, and the date by which corrective action must be taken and completed, which shall be within fourteen (14) days from the date of the notice. After the date established by any written notice from the District to a Landowner requiring corrective action, the District Representative shall inspect the property and determine whether the violation has been corrected. In cases where the violation has been corrected, the District Representative shall document the District’s records and, unless fines remain unpaid, close the case.
- (5) Second Notice. If corrective action has not been undertaken and completed within the required period of time, the District Representative shall notify the Chair of the Board, and at the Chair’s direction, the case shall be referred to District Counsel for review and delivery of a written warning letter from District Counsel. The letter from District Counsel shall require correction of the violation within fourteen (14) days, and inform the Landowner regarding the consequences of inaction. The District Representative shall also investigate whether the deed restriction violation may constitute a violation of the Pasco County Code, and if so, report the violation to the County’s code enforcement office for action. Reporting a code violation shall not preclude further action by the District.
- (6) Deed Restriction Violation Board. Upon failure of the Landowner to correct the violation after receipt of the warning letter from District Counsel, the case shall be referred to the District’s Deed Restriction Violation Board (the “DRV B”) for review and a recommendation for action to the Board. The DRV B shall be established by the Board, and shall be composed of at least three (3) members appointed by the Board who are not officers, directors, or employees of the District, or the spouse, parent, child, brother or sister of any officer, director or employee of the District. In making appointments to the DRV B, the Board shall give preference to owners of property within the District.
- (7) Notice of DRV B Hearing. Upon receipt of the case, and with the assistance of the District Manager, the DRV B shall provide the Landowner with reasonable notice and an opportunity for a hearing, before the DRV B makes any findings, and delivers a report and recommendations to the Board. Reasonable notice for purposes of this Rule shall consist of written notice (i) posted on the front door of the residence located on the property subject to the violation, and (ii) mailed to the Landowner by

certified mail (with proof of mailing) not less than seven (7) days prior to the hearing. The written notice shall advise the Landowner of the scheduled date, time and place for the hearing, and shall contain a statement to the effect that it is the Landowner's responsibility to provide for and obtain a verbatim transcript of the hearing, if one is desired.

(8) DRVB Hearing. After receiving evidence which may consist of documents and/or testimony concerning the alleged violation and providing the Landowner with an opportunity for a hearing, the DRVB shall make appropriate findings of fact, determine whether a violation has occurred, and make a recommendation to the Board. The recommendation of the DRVB may include the imposition of fines, suspension of the Landowner's use of District facilities, and any other course of action deemed appropriate under the circumstances. All meetings of the DRVB shall be duly noticed public meetings which are subject to the Sunshine Law, and all records from any meeting or hearing shall be public records. The decision of the DRVB shall be determined by a majority vote.

(9) DRVB Recommendation. The recommendation of the DRVB shall be forwarded to the Chair of the Board within five (5) business days after the hearing, and shall be placed on the agenda for consideration at the next practical time during a regular meeting of the Board. Upon review of the DRVB's recommendation, the Board may take any action authorized by law to enforce the deed restrictions, including, without limitation, actions at law or in equity, or both, to redress the failure or refusal of the Landowner to comply with the deed restrictions, actions for injunctive relief, and/or for enforcement or recovery of fines levied by the District.

(10) Final Hearing. At the Board's meeting, the Chair shall allow a reasonable period of time for the Landowner to be heard concerning the alleged violation and the recommendation of the DRVB. A written notice setting forth the date and time of the Board of Supervisor's meeting at which the recommendation of the DRVB will be considered, shall be mailed to the Landowner by first class mail at least five (5) days in advance of the meeting.

(11) Fines and Suspensions. If the DRVB recommends, by a majority vote, the imposition of a fine or the suspension of the Landowner's rights to use the common areas owned by the District, the Board may impose such sanctions on the Landowner until such time as the District determines the violation has been cured. At least fourteen (14) days prior to imposing any fine or suspending the Landowner's right to use common areas, the District shall provide written notice of such fine and/or suspension by certified mail (with proof of mailing). Fines shall not exceed \$100.00 per violation, and in the case of a continuing violation, fines may be assessed on a daily basis provided the aggregate amount of the fine shall not exceed \$1,000.00. Suspension of the Landowner's common area use rights shall include the Landowner's guests, invitees and tenants.

(12) Notice of Cure. The Landowner shall be responsible for notifying the District that the violation has been removed or otherwise cured.

(13) Appeal. Any fine or suspension of rights to use the common areas may be appealed to the Board. The appeal must be submitted in writing to the Chair or the District Manager, and shall set forth the specific factual and/or legal grounds for the appeal, and the nature of any hardship asserted by the Landowner, if any. Upon receipt, the appeal shall be heard at the next practical time during a regular monthly meeting of the Board. In considering the appeal, the Board shall consider whether the violation has been cured, whether the sanctions were justified at the time they were imposed, the nature and duration of the violation, and the extent to which the Landowner demonstrates the existence of a hardship. Following the Board's decision on the appeal, written confirmation of the Board's decision shall be mailed to the Landowner. The filing of an appeal shall not suspend any fine or other sanction previously imposed by the District.

(14) Notices. All written notices required by this Rule shall be sent to the address listed for the Landowner in the Pasco County Tax Collector's office or such other address as may have been requested for notice by the Landowner in writing. Service of all such notices shall be effective upon mailing.

(15) Repeat Violators. If a year has not passed from the time a Landowner last corrected and closed the case on a prior violation, and the Landowner is cited for a different restriction violation event, then the District may dispense with sending the First Notice, at the discretion of the Chair, and may instead commence the notice procedure with the Second Notice sent by District Counsel. In those cases, if the Landowner fails to timely correct the violation, the case shall be referred to the DRV B. The procedures outlined in paragraphs (7) through (13) above will be followed.

(16) Recurring Violations. If a year has not passed from the time a Landowner last corrected and closed the case on a prior violation, and the Landowner is cited for the same restriction violation event, then the District shall dispense with sending the First Notice, and may dispense with sending the Second Notice, at the discretion of the Chair, and refer the case directly to the DRV B. In those cases where the Second Notice by District Counsel is sent, if the Landowner fails to timely correct the violation, the case shall be referred to the DRV B following the procedures outlined in paragraphs (7) through (13) above. In those cases where the violation is referred directly to the DRV B without sending the Second Notice, the procedures outlined in paragraphs (7) through (13) above shall be followed, except that notice to the Landowner required by paragraph (7) above shall be sent not less than 21 days prior to the hearing.

(17) Annual Report. Annually at the October regular monthly meeting, and at such other times as requested by the Board, the District Manager shall deliver a report on the status of unpaid fines owed by any Landowner for deed restriction violations.

(18) Authorization for this Rule is established primarily by Chapter 2004-417, Laws of Florida. Interested parties must follow the requirements of applicable statutes as well as these Rules.

Specific Authority: Ch. 2004-417, Laws of Fla.; 120.53(4), Fla. Stat.