

Understanding Covenants and Rules Enforcement

Violations of the regulations of our property owners association (POA) are occurring with increasing frequency. Trash and yard debris is regularly put at the curb too early and some are putting trash on vacant lots or at the Club or Amenity Center dumpsters. Trees are being removed without approval. Homeowners are also failing to maintain their homes and yards. These along with parking, pet debris, fence and other violations by a few erode the enjoyment of homeownership in The Isles of complying owners.

Surprisingly, many homeowners are shocked when fines are assessed for a violation. Yet, violators think nothing of their disrespect of our community and their neighbors. The POA board of directors is not a draconian group. We get no enjoyment in fining violators; it is our legal responsibility. This article is intended to provide clarity and understanding about enforcement of community rules.

The Isles at Rivertowne Country Club was developed as a planned community governed by legal regulations called Covenants. Covenants are established to protect property values, ensure amicable and civil relationships among neighbors, and, preserve the developer's vision of a common plan and design for the community.

The Covenants were written by the developer to define the use and enjoyment of Isles property. The property of your home and the Covenants are inseparable once the covenants were legally recorded. All owners of property, present and future, are subject to the covenants.

The Rules are specific statements of required behavior developed and established over time by the POA, usually through its board of directors. Violation of the Covenants or Rules can result in a penalty, such as a fine or suspension of privileges. Architectural Design Standards are a specific set of rules that apply to the appearance of an owner's lot or home exterior.

When you purchase a home in The Isles you legally agree to accept and abide by the Covenants and Rules. Just as you must obey federal, state and township laws of the land, so are you expected to obey the Covenants and Rules of our community. In fact, Mt. Pleasant Township often defers to POA rules.

Just as "ignorance of the law is no excuse", ignorance of Covenants and Rules is not an excuse for non-adherence. All property owners in The Isles are given copies of the Covenants and Rules as part of their purchase closing documents. Additionally, the Covenants and Rules are posted online for easy and convenient access at the public website: <https://fsresidentialcharleston.com/the-isles-at-rivertowne-country-club/>. The burden is on each and every property owner to read and understand the regulations that govern The Isles community. When in doubt contact the management company for guidance.

Enforcement of Covenants and Rules is essential to create a sense of fairness among residents. The authority to enforce the Covenants and Rules is vested in the POA through its elected board of directors. In exercising its enforcement responsibility, the board relies on the community manager for advice and administrative assistance in maintaining records for legal support of board actions. The board of directors is also responsible for reviewing, updating and maintaining the Rules of the association.

A key element of Board enforcement of Covenants and Rules is to do so in a procedurally fair, reasonable and consistent manner. For example, Covenants vest the Board with the power to approve or disapprove construction or renovation plans based purely on aesthetic considerations, however, decisions cannot be arbitrary or capricious but must be based on well-reasoned value judgments. This means the Board can deny approval for a construction design or modification even if similar to one previously approved. As long as the Board can identify distinguishing factors between two similar circumstances that establish a good reason for previous approval but not the present one, the covenant enforcement process is sound, consistent and will withstand legal challenge.

So, the bottom line is know and understand the Covenants and Rules of The Isles. When in doubt contact the management company for clarification. Remember too that almost any modification to the exterior of your home or property requires submitting a written request and no work can commence without HOA approval.

Your understanding and compliance helps to maintain the high quality of life we all enjoy in The Isles. When there are violations of the Covenants and Rules the POA Board follows clearly defined enforcement procedures. These procedures are in place to assure that homeowners are treated fairly in the process of maintaining the high standards of our community.

ENFORCEMENT PROCEDURES:

1. It is the duty of Isles homeowners to report to the Board or the Community Manager any observed or suspected violation of published covenants and rules.
2. When a complaint is received either a Board member or the Community Manager will investigate. If the violation is confirmed, written violation notice will be issued.
3. Homeowners have 10 days from the date of violation notice to respond with a written explanation of how and when they plan to comply. Failure to respond within 10 days of the date of notice will result in a fine in accordance with the POA schedule of fines.
4. If the homeowner does respond, the Board will review the explanation no later than its next regularly scheduled meeting and may accept or reject the response and assess a fine. The homeowner will be notified of any decision by phone or in writing within 10 days of the decision.
5. If the Board finds a response acceptable, it will monitor for compliance and resolution to Board satisfaction by the date specified in the violation response. Fines will be assessed for non-compliance after the response date.
6. Homeowners may appeal decisions and request a hearing before the POA Board. The Board will provide the homeowner notice of a hearing of not less than 14 days. The notice will include: a statement of the date, time and place of the hearing; the provision of the documents that have been violated; a brief statement of

matters asserted by the POA.

7. Continued failure to remedy a violation or not pay an assessed fine will result in the following:

- An escalation of fines in accordance with the POA fine schedule;
- Suspension of homeowner privileges;
- The matter being turned over to the POA attorney for appropriate legal action. **Offending homeowners will be responsible for ALL fines as well as legal costs.** A lien may and will be placed on the property (additional cost of lien \$150). All charges will incur additional penalties including interest on monies owed at the rate of 8% per annum. After a lien is filed with the Court the property cannot be sold without a release of lien.

8. Some homeowners regularly violate covenants and rules. A homeowner who accumulates more than 3 violations in a 12 month period or who appears to comply after notice only to repeat the violation within a 2 week period may be deemed a habitual violator. A homeowner identified as a habitual violator, will be sent a written notice stating so and given 10 days to respond in WRITING to the board. For habitual violators, continuing violations or violations that have an indefinite commencement or termination date, additional fines may be assessed at the Board's discretion.

9. If the Board determines that a violation is a willful, wanton or flagrant disregard of POA documents, or based on the severity of the violation, additional fines may be assessed at the Board's discretion without regard to the POA schedule of fines.

10. Homeowners are at all times responsible for the actions of their tenants and guests. Any violation by a tenant or guest will result in enforcement action against the homeowner.

11. The Board, at its sole discretion, may deem that any alleged violation is or may be an immediate or substantial threat to the health, safety or welfare of the community or an individual. In such case, the Board may take any appropriate action necessary to abate the threat.

SCHEDULE OF FINES AND ACTIONS:

Fines are part of the POA Board's duty to enforce the governing documents and also may discourage future violations. Fines are imposed on homeowners and become an assessment against a homeowner's property and collectable under the covenants and law.

Fines are assessed from the date of the original notice of violation. Fines are due and payable within 10 days after written notice of the imposition of the fine or the Board's decision following a hearing.

The amount of a fine shall be determined by the Board and may not exceed the greater of:

FINES FOR GENERAL VIOLATIONS OF COVENANTS AND RULES:	
First violation	\$ 25.00, or one month's assessment for operating expenses
Second or similar offense	\$ 50.00, or two month's assessment for operating expenses
Third or subsequent offenses	\$100.00, or three month's assessment for operating expenses
Continuing violation or failure to cure a violation in 30 days	A daily fine of \$10.00, or 1/4 of 1 month's assessment, whichever is greater, until the violation is cured.

The covenants and rules of The Isles POA govern all homeowners and guests. Consistency and fairness in enforcement helps to maintain the high quality of life in our community. The rules are in place for a reason and if everyone follows them the results will benefit all.

The following were the most frequent Covenants and Rules violations in The Isles in 2017. This list is presented here to increase homeowner awareness and hopefully prevent or at least reduce violations in 2018.

Landscape violations - failure to prune trees and shrubs or to adequately maintain the appearance of the property.

Exterior maintenance/additions or alterations - failure to maintain the exterior appearance of the home, pressure washing, painting or general repairs needed, unapproved changes or additions to the building or fences.

Trash or yard debris violations - putting trash containers or yard debris at the curbside too early or containers not removed from curbside promptly following pick-up. Containers must also be stored out of sight from the roadway.

Parking violations - overnight on street parking; storing boats, trailers or commercial vehicles in driveway.

Sign violations - unapproved sign or flag displays.