

LAKE OF THE PINES ASSOCIATION RULES & REGULATIONS

Code Of Conduct, Workplace Violence and Anti-Harassment Policy



This policy is an Operating Rule as defined in the Davis-Stirling Common Interest Development Act and, to the extent it may conflict with any previous Operating Rules, supersede and prevail over such previous rules. All Operating Rules, whether characterized as rules, policies, procedures and otherwise are subject to the provisions of the Restated Declaration of Covenants, Conditions and Restrictions (“CC&Rs”) currently in effect for this Association.

Unless otherwise specified, all the capitalized terms in this Code of Conduct, Workplace Violence and Anti-Harassment Policy (“Policy”) have the same meaning as set forth in the CC&Rs.

ARTICLE 1: CODE OF CONDUCT

- 1.1 Proper Decorum. No resident, Member, or representative of the Association (board, committee members or manager) is permitted to:
 - a. Engage in personal attacks, insult, or belittle any individual (whether a resident, owner, manager, vendor, guest or invitee) by name or otherwise, or make any statement which can reasonably be construed as insulting, offensive or belittling;
 - b. Use threatening or abusive language or gestures;
 - c. Bully, harass, intimidate, or otherwise interfere with an employee, manager, or vendor in the performance of their job duties for the Association.

- 1.2 Noise and Nuisance. The following nuisance and noise provisions supplement the CC&Rs that prohibit nuisances:
 - a. Members and residents are not permitted to do anything that will unreasonably embarrass, disturb or annoy others, including, without limitation, the Association’s management and vendors.
 - b. No Member or resident is permitted to engage in any abusive or harassing behavior or any form of intimidation or aggression, whether verbal or physical, against any resident, Member, manager, vendor, guest, invitee, director or Association employee. If the Association elects not to act on a nuisance complaint by a Member, or if the complaining party believes the Association’s action is not sufficient, the Member is permitted to pursue additional legal rights under the Association’s governing documents and/or the law.
 - c. Members and residents are advised they do not have a right to live in a noise and odor free environment. Normal levels of noise and environmental pollutants are to be expected. The Code of Conduct is designed to prohibit only unreasonable activities.

- d. The interests and rights of all residents regarding loud and disturbing noise must be considered. Such consideration precludes, without limitation, unreasonably noisy activities, and excessively loud and/or frequent music, radios, stereos, televisions, parties, barking dogs, power tools and noise from cars, motorcycles and other vehicles.
- e. No nuisance, illegal, hazardous or noxious activities, including without limitation, the unreasonable accumulation of waste or litter is permitted within the community.
- f. Odors emanating from a separate interest or any other portion of the development that create an unreasonably offensive or unsanitary condition, or which constitute a nuisance, are prohibited.
- g. Because what constitutes a nuisance is largely subjective, the Association is not obligated to become involved in disputes unless the “nuisance” causes substantial interference rather than mere inconvenience and impacts the community at large.

ARTICLE 2: WORKPLACE VIOLENCE

- 2.1 Generally. The Association is committed to providing a workplace that is free from unlawful violence and credible threats of violence against Association directors, employees, managers, and/or any volunteers or independent contractors who perform services for the Association at the development (collectively herein “Employees”). Committing or threatening to commit an act of unlawful violence against any such person is prohibited. Either unlawful violence or a credible threat of violence, or both, as defined in this Article constitute “Workplace Violence.”
- 2.2 Unlawful Violence. Unlawful violence is any assault or battery, or stalking as provided in the Penal Code, §646.9, but does not include lawful self-defense or defense of others.
- 2.3 Credible Threat of Violence. A credible threat of violence is a knowing and willful statement or course of conduct that would place a reasonable person in fear for his or her safety, or the safety of his or her immediate family, and that serves no legitimate purpose.
- 2.4 Prohibited Conduct. Prohibited conduct which may constitute Workplace Violence includes, without limitation, unlawfully harassing, intimidating, molesting, attacking, striking, stalking, threatening, sexually assaulting, battering, abusing, telephoning, including, but not limited to, making annoying telephone calls as described in Penal Code §653m, sending correspondence by any means, including, but not limited to, the use of public or private mail, facsimile, electronic mail, social media and/or other electronic posting, and destroying personal property.

ARTICLE 3: HARASSMENT

- 3.1 Definitions.
 - a. *Harassment.* “Harassment” means coercion, intimidation, threats or other unwelcome conduct (whether communicated in writing, verbally, or otherwise) based on a person’s inclusion in a Protected Class by a Third Party which is severe enough to interfere with a Member’s or resident’s ability to enjoy their dwelling or any privileges, services, or

- facilities operated by the Association. "Harassment" also includes Workplace Violence as defined above, whether involving a Protected Class or not.
- b. *Neighbor to Neighbor Dispute*. "Neighbor to Neighbor Dispute" means a dispute or complaint(s) by one Member or resident against another Member or resident which does not involve a violation of the Association's governing documents or does not impact the Association at large or its Common Areas.
 - c. *Protected Classes*. "Protected Classes" includes race, color, religion, sex, gender, gender identity, gender expression, sexual orientation, marital status, national origin, ancestry, familial status, source of income, disability, age, medical condition, genetic information, citizenship, primary language, immigration status, arbitrary characteristics as protected by the Unruh Civil Rights Act, and all other classes of individuals protected from discrimination under federal or state fair housing laws, individuals perceived to be a member of any of the preceding classes, or any individual or person associated with any of the preceding classes as provided in the California Code of Regulations §12005(y), or any successor statute.
 - d. *Third Party*. "Third Party" includes (1) all Members and residents, and any of their tenants, family members, guests, or invitees, (2) Association vendors including their employees, agents, and sub-contractors, (3) Association employees, if any, and (4) Association directors and officers.

3.2 Policy.

- a. *Prohibition Against Harassment*. The Association does not condone, endorse, or otherwise tolerate Harassment against its Members and residents. Harassment of a Member or resident based on his or her membership as part of a Protected Class by a Third Party is prohibited.
- b. *Protected Speech and Purpose*. This Policy is not intended to limit lawful free speech. However, speech intended to coerce, intimidate, or threaten violence is not protected. The purpose of the Policy is to provide the Association, Members and residents a procedure to address any disputes regarding alleged Harassment.
- c. *Limitation on Association Powers*. The Association is not empowered to act on all actual, alleged or potential harassment, or related disputes and controversies. It is limited by the authority provided in its governing documents and the law. Equally important, Members and residents have their own rights under the Association's governing documents and the law they can exercise. Members and residents should seek their own legal counsel about their rights.

ARTICLE 4: REPORTING AND ENFORCEMENT

4.1 Reporting.

- a. *Workplace Violence*. Any Employee who is the subject of Workplace Violence by the conduct, actions, or communications of a resident, Member, guest, vendor or invitee of a resident or Member, other Employee, or any other person while within the development, should report such conduct to the Association's manager if the manager is not the violating party, or to the Board or any director otherwise.

- b. *Harassment.* Any Member or resident who (1) is the subject of Harassment due to a violation of the Association's governing documents or the law, or (2) has witnessed such a violation, should report such conduct to the Association's manager if the manager is not the violating party, or otherwise to the Board or any director.
- c. *Method of Reporting.* An Alleged Workplace Violence/Harassment Report, attached as Exhibit A, must be submitted to the appropriate person as provided above. The report must identify the actions that the Member or resident alleged violated the governing documents or the law or which otherwise constitute Workplace Violence or Harassment as defined above. The report must identify the alleged violator. Anonymous reports will not be investigated since the reporting party must testify at a hearing to satisfy due process requirements.

4.2 Investigation of Allegations. When an Alleged Workplace Violence/Harassment Report is submitted, the Board will review the matter at its next executive board meeting and make a reasonable business judgment decision, based on the information in the report, whether the allegations, if true, constitute a Workplace Violence, a Neighbor to Neighbor Dispute, Harassment, another violation of the Association's governing documents, or otherwise. The Board may request further documents or evidence of the dispute or complaint, call one or more complaining parties to a board meeting, and confer with other residents, members, manager, vendors, or legal counsel as part of its investigation of the matter. The Board reserves the right to take any action necessary or to not take any action, if in its discretion, it concludes the allegations do not violate the Association's governing documents or relevant law.

4.3 Association Finding and Actions.

- a. *Workplace Violence.* The Association may take any lawful action against anyone it determines has committed Workplace Violence. Action against Members may include the imposition of fines or other discipline authorized by the Association's governing documents. In addition, the Association may take any of the following actions against Members and non-Members:
 - i. Seek a workplace violence restraining order, when appropriate, to protect the Employee who experienced the Workplace Violence, and any others as permitted by law. If such order is granted, the Association may concurrently request the court to order the violating party to pay attorneys' fees and costs incurred by the Association and/or may also seek reimbursement of the Association's attorneys' fees and costs as a reimbursement assessment from a violating Member if permitted by law.
 - ii. Refer the complaint to local law enforcement.
 - iii. Refer the matter to its legal counsel for civil action.
- b. *Harassment.* The Association may take any lawful action against anyone it determines has committed Harassment. Actions against Members may include the imposition of fines or other discipline authorized by the Association's governing documents. In addition, the Association may take any of following actions against Members and non-Members:
 - i. Refer the complaint to the United States Department of Housing and Urban Development, the California Department of Fair Employment and Housing, and/or another appropriate agency.

- ii. Refer the complaint to the local law enforcement.
 - iii. Refer the matter to its legal counsel for civil action.
- c. *Neighbor to Neighbor Dispute*. If the Board finds the allegations constitute a Neighbor to Neighbor Dispute, the Association will have no obligation to directly intervene. The parties must use their best efforts to resolve the matter amongst themselves, submit their dispute to an applicable governmental agency, or participate in dispute resolution, as appropriate.
- d. *Other Violation*. If the Board finds the allegations constitute a violation of the Association's governing documents that does not constitute Workplace Violence or Harassment, the Board will take appropriate action as permitted or required under its governing documents.
- e. *Post-Hearing Notice*. In all cases in which a disciplinary hearing was conducted and the Board imposed discipline on a Member, the Board will provide the Member a written notification of the decision within fifteen (15) days of its action by either personal or individual delivery. To preserve the privacy of disciplinary proceedings, the Board will not notify the complaining party of any such action.

Revised: June 16, 2021 – R-21-063 (Effective July 15, 2021)

EXHIBIT A – ALLEGED WORPLACE VIOLENCE/HARASSMENT REPORT

Date: _____

1. Person Making Report

Name: _____
Address: _____
Phone No: _____

2. Time, Place and Nature of Alleged Workplace Violence/Harassment (fill in)

Date: _____ Time: _____ Location: _____

Description of Workplace Violence or Harassment:

3. Description of Assailant/Harasser (Respondent)

Name: _____

Phone: _____

Address: _____

4. Additional Witnesses

Name: _____

Address/Phone: _

Name: _____

Address/Phone: _

5. Other Evidence (Photographs, Documents, Etc.) Supporting the Alleged Violation

(attach copies if possible or describe in detail)

7. Acknowledgement by Original Complainant

The person making this complaint acknowledges that he or she must appear as a witness at any formal hearing, or the Board may refuse to consider the allegation of workplace violence or harassment, unless the Workplace Violence or Harassment can be independently corroborated.

(Signature)