



**REGULAR MEETING OF THE THIRD LAGUNA HILLS MUTUAL
RESIDENT POLICY AND COMPLIANCE COMMITTEE**

**Tuesday, June 30, 2020 – 9:30 A.M.
VIRTUAL MEETING
Laguna Woods Village Community Center
24351 El Toro Road**

AGENDA

- | | |
|--|--------------|
| 1. Call to Order | Lynn Jarrett |
| 2. Acknowledgment of Media | Lynn Jarrett |
| 3. Approval of the Agenda | Lynn Jarrett |
| 4. Approval of Meeting Report for May 15, 2020 | Lynn Jarrett |
| 5. Chair's Remarks | Lynn Jarrett |
| 6. Member Comments (Items Not on the Agenda) | Lynn Jarrett |

Laguna Woods Village owner/residents are welcome to participate in committee meetings and submit comments or questions regarding virtual committee meetings using one of two options:

1. Via email to meeting@vmsinc.org any time before the meeting is scheduled to begin or during the meeting. Please use the name of the committee in the subject line of the email. Name and manor number must be included.
2. By calling (949) 268-2020 beginning one half hour before the meeting begins and throughout the remainder of the meeting. You must provide your name and manor number.

Reports:
None

Items for Discussion and Consideration:

- | | |
|---|------------------|
| 7. Designate Smoke Free Building Policy & Procedure | Blessilda Wright |
| 8. BBQ Rules & Regulations | Blessilda Wright |
| 9. Guarantors | Pamela Bashline |

Items for Future Agendas:

10. Rules for Board Meetings
11. Lease Cap and Waiting list Rules
12. Qualification for Lease Authorization Permit

Concluding Business:

13. Committee Member Comments
14. Date of Next Meeting – To Be Determined
15. Adjournment

Lynn Jarrett, Chair
Blessilda Wright, Staff Officer
Telephone: 597-4254



OPEN MEETING

**REGULAR MEETING OF THE THIRD LAGUNA HILLS MUTUAL
RESIDENT POLICY AND COMPLIANCE COMMITTEE**

Thursday, May 14, 2020 – 9:30 a.m.

VIRTUAL MEETING

Laguna Woods Village Community Center, Board Room – 24351 El Toro Road

MEMBERS PRESENT: Lynn Jarrett, Chair, Steve Parsons, Ralph Engdahl, Robert Mutchnick and Reza Karimi

MEMBERS ABSENT: None

ADVISORS PRESENT: Stuart Hack

ADVISORS ABSENT: None

STAFF PRESENT: Pamela Bashline, Francis Gomez, Blessilda Wright, and Debbie Ballesteros

CALL TO ORDER

Lynn Jarrett, Chair, called the meeting to order at 9:32 a.m.

ACKNOWLEDGEMENT OF PRESS

The Media was not present.

APPROVAL OF AGENDA

Director Parsons made a motion to approve the agenda as presented. Director Engdahl seconded the motion.

By acclamation the motion carried.

APPROVAL OF MEETING REPORTS

Director Engdahl made a motion to approve the January 15, 2020 meeting report as presented. Director Parsons seconded the motion.

By acclamation the motion carried.

CHAIRMAN'S REMARKS

Chair Jarrett stated there is a lot of interesting topics to cover in today's meeting; commented the committee will review the current rules for Lease Cap and Waiting List and Guarantors to determine if the rules need to be updated; reviewing if BBQ rules are necessary to align with California Fire Code.

MEMBER COMMENTS ON NON-AGENDA ITEMS

None

REPORTS

None

ITEMS FOR DISCUSSION AND CONSIDERATION

Lease Cap and Waiting List Rules

The Committee reviewed and discussed the Lease Cap and Lease Waiting List Rules. The Committee commented and asked questions.

By consensus, the Committee tabled the matter for the next meeting and directed the committee members and staff to research if changes are necessary.

Qualifications for Lease Authorization Permit

The Committee reviewed and discussed the Qualifications for Lease Authorization Permit. The Committee commented and asked questions.

By consensus, the Committee tabled the matter for the next meeting for additional research.

Guarantors

The Committee reviewed and discussed Guarantors. The Committee commented and asked questions.

By consensus, the Committee tabled the matter for the next meeting and directed the committee members and staff to research if changes are necessary.

BBQ Rules

The Committee reviewed and discussed BBQ Rules. The Committee commented and asked questions.

By consensus, the Committee tabled the matter for the next meeting and directed the committee members and staff to research if rules need to be adopted by Third.

ITEMS FOR FUTURE AGENDAS

- Purchase by Proxy

CONCLUDING BUSINESS

Committee Member Comments

Director Mutchnick stated it was a good meeting.

Director Parsons commented on Election Proxies. Staff advised Election Proxies are addressed in the Election Rules.

Date of Next Meeting

The next meeting is scheduled for Tuesday, June 23, 2020 at 9:30 a.m. as a virtual meeting.

Adjournment

With no further business before the Committee, the Chair adjourned the meeting at 11:30 a.m.



Lynn Jarrett, Chair
Third Laguna Hills Mutual



STAFF REPORT

DATE: June 30, 2020
FOR: Resident Policy and Compliance Committee
SUBJECT: Smoke-Free Building Designation Policy and Procedure

RECOMMENDATION

Staff recommends adoption of a Smoke-Free Building Designation Policy and Procedure.

BACKGROUND

The Board created a Residency Policy and Compliance Committee to review policies and processes for consistency. The committee and staff have identified areas of improvement including, but not limited to, the need to adopt a Smoke-Free Building Designation Policy and Procedure. On January 24, 2017, the Board adopted a Non-Smoking Policy to fairly and reasonably address smoking in Laguna Woods Village. The policy defines the areas where smoking is prohibited and the responsibility for remediation costs associated with second-hand smoke infiltration (Resolution 03-17-05). On October 31, 2019, the Residency Policy and Compliance Committee discussed and considered legal implications for designating a building as smoke-free. By unanimous vote, the Committee approved the creation of a procedure to designate a building as smoke-free.

On December 2, 2019, staff was directed to obtain clarification from Legal Counsel regarding:

- A resale disclosure for buyers to be aware that a unit being purchased is in a building designated as smoke free. Legal Counsel advised that it is the owner's responsibility to make the disclosure to the purchaser of the unit, not Third's.
- Include the estimated cost each unit owner may pay to have the covenant that runs with the land to be recorded with the County of Orange. The information was included in the updated policy.

On January 15, 2020, staff was directed to obtain clarification from Legal Counsel regarding:

- An internal procedure for notifications during the resale process. Legal Counsel advised the Resale Inspection form can include language that states: "Building ### has been designated as a smoke free building and all units located inside building ## are thus designated as smoke free. See Resolution 03-XX-XXX for further information."

DISCUSSION

There are certain Members who have requested that Third designate buildings in which their Units are located as "smoke-free", to reduce those Members', their co-occupants' and lessees', as application, exposure to second hand smoke. The purpose of a Smoke-Free Building Designation Policy and Procedure is to provide for a systematic, fair, and reasonable manner to designate building as non-smoking. The Board has consulted with Third's legal counsel on the legality of prohibiting smoking in Third and the Board has determined that upon certain conditions and requirements being met, that multi-dwelling unit buildings in Third can be

permanently designated as “smoke-free” going forward so long as specific terms and conditions are met.

FINANCIAL ANALYSIS

There is no financial impact to Third. However, the cost for Members to designate their building as smoke-free is estimated at \$225 per Unit which includes preparation of the actual covenant for each unit and filing cost with the state.

Prepared By: Blessilda Wright, Compliance Supervisor

Reviewed By: Francis Rangel, Operations Manager

ATTACHMENT(S)

Attachment 1: Smoke-Free Building Designation Policy and Procedure

Attachment 2: Resolution

Attachment 3: Petition

Attachment 4: Covenant

Attachment 5: Checklist

Attachment 6: Hearing Notice

Attachment 7: Hearing Determination – Approval

Attachment 8: Hearing Determination – Denial



Smoke-Free Building Designation Policy and Procedure
Resolution 03-20-XX; Adopted _____ XX, 2020

I. Purpose

Third Laguna Hills Mutual (“Third”) is the corporation formed to administer, manage and operate the business and affairs of the common interest development commonly known as Third Laguna Hills Mutual located at Laguna Woods Village in Laguna Woods, California (the “Development”). The Development is comprised of 6,102 separate dwelling units (collectively, the “Units”). Each occupant of a Unit is either a “Member”, “Qualifying Resident”, “Co-occupant” or “Lessee”, as such terms are defined in Third’s Bylaws (as may be amended from time to time, the “Bylaws”).

While many of the Units in Third are standalone residences, a significant portion of the Units are located within multi-dwelling Unit buildings (each, a “Building”) at the Development. Effective as of [REDACTED], 20[REDACTED], pursuant to Resolution 03-20-XX of Third’s Board of Directors (the “Board”), individual multi-dwelling Unit Buildings can be designated as non-smoking in perpetuity (the “Designation”) by the Members who are owners of the individual Units within a Building, except as may otherwise be required by law. Designation of a Building may occur upon the collective and unanimous written consent of all of the then current Members who own the Units in a Building in accordance with the procedures described below.

The purpose of this Smoke-Free Building Designation Policy and Procedure (“Policy”) is to establish and identify those specific procedures that must be followed in order to designate a Building as smoke-free.

II. Smoke-Free Definition

For the purposes of this Policy and for the Designation of any Building as smoke-free, “smoking” shall mean inhaling, exhaling, burning, holding or carrying any lighted cigarette, cigar, cigarillo, pipe or other lighted smoking device for burning tobacco or any other plant product (including but not limited to marijuana) in any manner or in any form, known as of the date of this Resolution or created and/or becomes known at a date after the effective date of this Designation. Smoking also includes the inhaling, exhaling, burning, carrying, or use of electronic cigarettes and/or vaping devices (electronic

tobacco delivery systems), hookahs, any other tobacco or nicotine product, marijuana (including medical marijuana), and/or legal or illegal substance(s).

If a Building is designated as smoke-free, no smoking shall be permitted in any area of the Building, including any Common Area portion of the Building (including any exclusive use Common Area) and any individually owned unit, including Owner's Unit. Any violation of the Designation may subject a Member to disciplinary action in accordance with this Policy, as further described below.

III. Process for Smoke-Free Designation

Any Member may petition Third for a Designation for the Building in which his/her Unit is located (the "Petitioner"), by completing and submitting to Third the form titled "Petition for Designation as a Smoke-Free Building" (as may be amended from time to time, the "Petition"). Attached to the Petition is a "Petition Agreement Form" (the "Agreement Form") that must be signed by all of the Members who own the Units in the Building proposed for Designation at the time the completed Petition is submitted to Third (the "Applicable Members"). If the Agreement Form is not signed by all Applicable Members in front of a notary public, then the Petition will be deemed incomplete and returned to the Petitioner. By signing the Agreement Form, the Applicable Members agree to be bound by the terms of the Agreement Form.

Within thirty (30) days of receipt of the complete Petition and Agreement Forms, as described above, Third will prepare for each of the Applicable Members to sign an "Agreement and Covenant to Run with Land (Non-Smoking Building Designation)" (as may be amended from time to time, the "Covenant"), which will, when completed and executed before a Notary, be recorded against each Applicable Member's Unit in the Building. The Covenant will be sent by Third to the Applicable Members' mailing address(es) on record with Third via first class mail. All of the Applicable Members will be required to return signed and notarized original copies of the Covenant to Third. Each Applicable Member shall be responsible for the costs incurred by Third for the preparation and recordation of the Covenant for their Unit, which costs are estimated at \$225.00.*

When the complete and original executed Covenants signed by all Applicable Members are submitted to and verified as complete by Third, the Board will schedule a hearing with the Applicable Members to confirm that none of them oppose the Designation of their Building. The hearing will be held in an open session meeting of the Board within sixty (60) days of the verification. At the hearing, the Applicable Members will have an opportunity to be heard before the Board regarding the Petition and their opposition to

* This fee may be changed at any time by Third and such change shall not constitute a rule change to this Smoke-Free Building Designation Policy and Procedure which requires notice to the Members of Third.

same, if any. Notice of the hearing will be sent by Third to the Applicable Members' mailing address(es) on record with Third, via first class mail at least fifteen (15) days prior to the hearing.

If any Applicable Member opposes the Petition at the Hearing, then the Board will deny the Petition. The Applicable Members will be advised of the smoke-free Designation denial via first class mail within fifteen (15) days after the Hearing. The Petitioner or any other Applicable Member can resubmit a Petition for the Building to Third if a Petition is denied by the Board, provided, however, that a Petition for a specific Building may be submitted to Third only once during any six (6) month period.

If no Applicable Member opposes the Petition at the hearing, then the Board will approve the Petition. The Applicable Members will be advised of the smoke-free Designation approval via first class mail within fifteen (15) days after the hearing. The Designation will be effective forty-five (45) days after the hearing (the "Conversion Date")

IV. Conversion to a Smoke-Free Building

In the event the Petition is approved, after the notice of approval and before the Conversion Date:

1. The Board will execute all of the Covenants for the Manors in the Building receiving the Designation, and will arrange for the recording of the Covenants with the County Recorder's Office. Once Third receives back the fully recorded Covenants, a copy shall be mailed to each Applicable member via first class mail.
2. Copies of the fully executed Covenants will be placed in Third's corporate records for each of the Units in the Building, and provided to the employees and/or contractors of Third and/or Third's managing agent who are responsible for providing information regarding the Units to Members, prospective Members (through the current Member, and/or through the current Member's real estate broker or agent, as applicable) and lenders of either.
3. A "Smoke-Free Building" list compiled and maintained by Third will be updated to reflect that the Building is subject to Designation and the effective date of the Designation.
4. The "Smoke Free Building" webpage on Third's website will be updated to reflect that the Building is subject to Designation and the effective date of the Designation.

5. Third will post signs containing the language “No Smoking Anywhere in Building” at the main/common entrances to each Building designated as smoke-free (both at the exterior and interior entrances), if any, as well as in at least two (2) prominent places within common hallways/walkways on the floor of each Building, as may be applicable. The signs shall be of a design, material and size to be determined by the Board. As may be practical, Third will try to use the same or similar Signs for different Buildings subject to the Designation.
6. All Applicable Members will be required to remove all tobacco products, medical marijuana and other substances that generate smoke from their Units and the Building, as may be applicable. Notwithstanding the foregoing, Third shall have no duty to inspect the Units to confirm that this removal has occurred.

At the end of the conversion period, the Building will be deemed to have received a permanent Designation as a non-smoking Building. All Applicable Members and all current and future Qualifying Residents, Co-occupants and Lessees residing in a Unit in the Building, and the family members, guests and invitees of each of them, shall be prohibited from smoking anywhere in the Building as of the Conversion Date. Further, all new lease agreement and renewals of existing lease agreements for Units at the Building must include language prohibiting smoking of any substances anywhere within the applicable Unit and the other portions of the Building.

V. Violations of the Smoke-Free Designation

Once a Designation is effective for a Building, no smoking or vaping of any products or items of any kind shall be allowed within the Building. Smoking within a Unit of a Building receiving a Designation shall be a violation of the Covenant applicable to the Manor associated with such person. If an alleged violation is reported to Third, Third will investigate the alleged violation, and, as appropriate, call an offending Member to a hearing before the Board regarding the violation, in accordance with the disciplinary proceeding requirements pursuant to applicable law and Third’s governing documents, including without limitation the Bylaws, Rules and Regulations, and the Schedule of Monetary Penalties.

In the event of a verified violation, the offending Member shall be subject to the rights and remedies of Third with respect to such violation as shall be permitted pursuant to the recorded Covenant (in the same manner as any other violation of Third’s governing documents), as described in any CC&Rs, the Bylaws, the other governing documents of Thirds and at law, including, without limitation, the imposition of monetary penalties and/or the suspension of membership privileges.

All Applicable Members are also able to enforce compliance of the Designation against any other Applicable Member, at their own cost and expense, and in accordance with the provisions of the Third's governing documents and applicable law.

Notwithstanding the foregoing, in no event shall Third be liable for any injury to any person or damage to any property of any kind resulting from an alleged or actual violation of the Designation.

DRAFT



RESOLUTION 03-20-XX

Smoke-Free Building Designation Policy and Procedure

WHEREAS, the Board of Directors (the “Board”) of Third Laguna Hills Mutual (“Third”) held a meeting on _____, 20____, at which a quorum of the Board was present;

WHEREAS, the members (each, a “Member”) of Third Laguna Hills Mutual (“Third”) have an interest in their health, safety and welfare while within Third’s common interest development (the “Development”), including when in the separate interest dwelling units located within the Development (each, a “Unit”) in which the Members, their co-occupants and tenants, as applicable, reside; and

WHEREAS, certain Members have requested that Third’s Board designate the buildings in which their Units are located as “smoke-free”, to reduce those Members’, their co-occupants’ and tenants’, as applicable, exposure to second hand smoke; and

WHEREAS, the Board has determined that in addition to addressing health concerns related to second-hand smoke raised by Members as referenced above, prohibiting smoking in buildings at the Development will reduce the risk of fires related to accidents stemming from the use of smoking tobacco, marijuana and other substances, and reduce maintenance and repair costs for building components needed due to wear and tear to those components caused by smoke; and

WHEREAS, the Board has consulted with Third’s legal counsel on the legality of prohibiting smoking at the Development and the Board has determined that upon certain conditions and requirements being met, that multi-dwelling unit buildings at the Development can be permanently designated as “smoke-free” going forward so long as specific terms and conditions are met; and

WHEREAS, the Board recognizes that Members, their co-occupants and tenants, if applicable, have a right to privacy within their respective Units and a right to freely use and occupy the Units (in accordance with Third’s governing documents), that Members purchased their Units with the understanding that smoking was not expressly prohibited in their Unit, and that legal precedent does not exist as to whether the Board can unilaterally prohibit smoking in Units; and

WHEREAS, the Board has determined that it will designate a building containing Units as non-smoking if all of the then Members who are record owners of the Units in that building agree in writing before a notary public, that the building should be non-smoking and if certain other requirements are met; and

WHEREAS, the Board has tasked Third's legal counsel with drafting documents related to implementing and managing the designation of buildings at the Development as non-smoking that provide for such designation in a systematic, fair and reasonable manner; and

WHEREAS, Third's legal counsel has drafted those documents, the Board has reviewed those documents, and the Board believes those documents and the procedures and requirements described in those documents meet the Member needs and business requirements of Third; and

WHEREAS, those documents consist of (i) the "Smoke-Free Building Designation Policy and Procedure", (ii) the "Petition for Designating a Building as Smoke-Free", (iii) the "Petition Agreement Form" and (iv) the "Agreement And Covenant to Run with Land (Non-Smoking Building Designation)" (collectively, the "Designation Documents"), all of which are attached to this Resolution and incorporated in their entirety herein by this reference.

NOW, THEREFORE, BE IT RESOLVED, on , 20 , that the Board has determined that the Designation Documents, and the procedures and requirements described thereunder, shall be immediately effective upon adoption by the Board, to provide for a systematic, fair and reasonable manner to designate buildings at the Development as non-smoking.

RESOLVED FURTHER, that the directors, officers and agents of Third are hereby authorized on behalf of Third to carry out the purposes of this Resolution.

THIRD LAGUNA HILLS MUTUAL

Petition for Designating a Building as Smoke-Free

(to be completed by Petitioning Member only)

I am a Member of Third Laguna Hills Mutual ("Third"). I am completing this Petition for Designating a Building as Smoke-Free (this "Petition") to request that the Building in which my Unit is located, including all Units and Common Areas comprising the Building, be designated as non-smoking, as defined in the Smoke-Free Building Designation Policy and Procedure (the "Procedure").

Prior to completing this form, I acknowledge and agree that I have read and understand the Procedure regarding the requirements for approval of this Petition and designation of my Building as non-smoking, and that I will be considered the Petitioner under the Procedure. The capitalized terms used in this Petition shall have the same meaning given to them in the Procedure, unless otherwise defined herein.

My information:

Name: _____

Unit Address: _____

Mailing Address: _____

I understand that this Petition must be signed by all of the Applicable Members in my Building, on the form attached hereto and identified as the Petition Agreement Form (the "Agreement") before this Petition will be considered by the Board, and that an executed Covenant to Run With the Land Regarding Designation of a Building as Smoke-Free ("Covenant") for each Unit in my Building must also be submitted with this Petition. If an Agreement and Covenant are not completed and signed by all such Members and submitted with this Petition, then this Petition will be deemed incomplete and returned to me. By signing this Petition, I agree to be bound by the terms of this Petition and the Procedure, and to execute and submit a Covenant with this Petition.

By: _____

Date: _____

THIRD LAGUNA HILLS MUTUAL

Petition Agreement Form

I/We am/are a Member(s) of Third Laguna Hills Mutual, and I/We acknowledge and agree that I/We have read the Petition to which this Agreement is attached and the Procedure governing the Petition. I/We understand that by executing this Agreement and the attached Covenant, I/We am/are requesting that the Building in which my/our Unit is located be designated permanently and forever as a non-smoking Building. I/We further understand that upon such designation, should it occur, that neither I/We nor any current or future residents of, or visitors to, my/our Unit may smoke or vape any substance (tobacco, marijuana or otherwise) in my/our Unit or any portion of the Building in which my/our Unit is located, that I/we are, as a Member(s) responsible for the violation of the Designation by me/we, my/our guests and/or invitees actions, and that a non-smoking designation may negatively impact the market value of my/our Unit.

Upon such non-smoking designation, any smoking in my/our Unit will be deemed a violation of the Covenant and Third's governing documents, and could result in, enforcement action by Third, including, without limitation, the imposition of monetary penalties and/or the suspension of membership privileges, or be the subject of litigation, if determined by the Third Board to be in the best interests of the Designation. My/Our signature(s) below, which must be executed in front of a notary public who completes the following notary page, and my/our execution of the Covenant to Run With the Land Regarding Designation of a Building as Smoke-Free shall be deemed agreement with and acknowledgement of these potential enforcement actions by Third in the event of a smoking violation with respect to my/our Unit.

I/We understand that an original notarized copy of this Agreement signed by each of the Members who are owners of record for a Unit in my Building, and an original copy of the Covenant noted above, executed by all such Members for their respective Units, must be submitted to Third before the Petition to which this Agreement is attached will be considered by the Board. If the Agreement and Covenant are not completed and executed by all such Members, then the Petition will be deemed incomplete and my/our Building will not be designated as smoke-free.

Unit Address: _____

Mailing Address: _____

By: _____

By: _____

Name: _____

Name: _____

Date: _____

Date: _____

STATE OF CALIFORNIA)
)
COUNTY OF _____)

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Notary Public

STATE OF CALIFORNIA)
)
COUNTY OF _____)

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Notary Public

Recording requested by and
when recorded mail to:

**Third Laguna Hills Mutual
c/o VMS, Inc.
24351 El Toro Road
Laguna Woods, CA 92637**

Attn: _____

Space above for Recorder's use_

**AGREEMENT AND COVENANT TO RUN WITH LAND
(NON-SMOKING BUILDING DESIGNATION)**

AGREEMENT AND COVENANT TO RUN WITH LAND (NON-SMOKING BUILDING DESIGNATION)

This AGREEMENT AND COVENANT TO RUN WITH LAND (NON-SMOKING BUILDING DESIGNATION) (this "Covenant"), effective as of the date of execution hereof, is entered into by _____ and _____ (collectively, the "Owner") in favor of Third Laguna Hills Mutual ("Third"). Owner and Third shall sometimes be referred to herein individually as a "Party" and collectively as the "Parties" in this Covenant.

RECITALS

A. Third is the governing body responsible for the management, operation and administration of the common interest development commonly known as Third Laguna Hills Mutual located in Laguna Woods, California (the "Development").

B. Owner is the owner of the condominium unit located at _____, Laguna Woods, California 92637 (the "Unit"), which is a part of the Development and is more particularly described in **Exhibit "A"** attached hereto and incorporated herein by reference.

C. The Development is subject to those certain Declarations of Covenants, Conditions and Restrictions for the various mutuels comprising Third (collectively, and as may be amended from time to time, the "Declaration"), including that *Amended and Restated Declaration of Covenants, Conditions and Restrictions* applicable to the Unit recorded in the official records of Orange County, California on _____, 19____ as Document No. _____, as may be amended from time to time.

D. Notwithstanding the fact that Third's governing documents, including, without limitation, the Declaration do not prohibit smoking within any of the individually owned units in the Development, including Owner's Unit, Owner, along with all of the owners of units within the same building as the Unit within the Development (the "Building"), has petitioned Third to designate the Building as a non-smoking building in accordance with the procedures of Third's Smoke-Free Building Designation Policy and Procedure (the "Policy").

E. Owner's request to designate the Building as non-smoking, and Owner's agreements and obligations related to same, are also described in (i) the completed "Petition for Designating a Building as Smoke-Free" applicable to the Building (the "Petition"), attached hereto as **Exhibit "B"** and incorporated herein by reference, and (ii) the "Petition Agreement Form" executed by Owner applicable to the Petition (the "Form"), attached hereto as **Exhibit "C"** and incorporated herein by reference.

F. Third's Board of Directors (the "Board") held a hearing in accordance with the Policy regarding the petition, subsequently determined that the requirements of the Policy to designate the Building as non-smoking had been met, and granted the petitioners' request to so designate the Building.

G. In accordance with the Policy, Owner, along with all of the owners of units within the Building, has agreed to and executed this Covenant regarding the non-smoking designation of the Building and agrees on behalf of Owner's self and Owner's successors-in-interest that the Building shall be henceforth be non-smoking, and that Owner and the Unit shall be bound to the terms of this Covenant.

H. Third and Owner intend that this Covenant be made and entered into pursuant to the provisions of California Civil Code Section 1468, in effect as of the effective date of this Covenant, and that this Covenant shall run with the real property encompassing the Building and the real property of Owner, and that it shall benefit and be binding upon Third, Third's members, and Owner during their ownership of any portion of the real property affected hereby, and upon each party having an interest in the real property derived through any owner thereof.

I. Any capitalized terms not defined herein shall have the meanings given to them in the Declaration, as may be applicable.

NOW, THEREFORE, Owner does hereby covenant and agree as follows:

TERMS AND CONDITIONS

1. Incorporation of Recitals. The Recitals of this Covenant are hereby incorporated herein by this reference in their entirety as if fully set forth in this Covenant.

2. Building Non-Smoking Designation. Owner acknowledges and agrees that the Building in which Owner's Unit is located will be permanently and forever designated as a non-smoking building. No smoking shall be permitted in any area of the Building, including any Common Area portion of the Building (including any exclusive use Common Area) and any individually owned unit, including Owner's Unit. For the purposes of this Covenant, smoking shall mean inhaling, exhaling, burning, holding or carrying any lighted cigarette, cigar, cigarillo, pipe or other lighted smoking device for burning tobacco or any other plant product (including but not limited to marijuana) in any manner or in any form known as of the date of execution of this Covenant or which is created and/or becomes known at a date after the effective date of the non-smoking designation of the Building. Smoking also includes the inhaling, exhaling, burning, carrying, or use of electronic cigarettes and/or vaping devices (electronic tobacco delivery systems), hookahs, any other tobacco or nicotine product, marijuana (including medical marijuana), and/or legal or illegal substance known as of the date of execution

of this Covenant or which is created and/or becomes known at a date after the effective date of the non-smoking designation of the Building.

3. Violation of the Designation. Failure to adhere to the smoking restriction by Owner, any occupant of the Unit, or any guest or invitee of Owner or such occupant of the Unit, shall be a breach of this Covenant and shall constitute a nuisance pursuant to the governing documents of Third, and will subject Owner to the rights and remedies of Third under this Covenant; Third's governing documents, including without limitations the Declaration, the Bylaws, and any duly adopted Rules and Regulations; and at law.

4. Recordation of Covenant. Owner consents to and acknowledges that this Covenant will be recorded in the Official Records of the County Recorder of Orange County, State of California, and may, therefore, affect title to or the value of Owner's interest in the Property.

5. Attorney's Fees. If any legal action or proceeding is instituted by either Party to enforce or interpret any of the terms of this Covenant, the prevailing Party shall be entitled to recover from the other Party attorneys' fees, costs and expenses incurred in the prosecution or defense of such action, including, without limitation, fees and costs of retaining expert witnesses, incurred in good faith.

6. Effect of Waiver. The waiver by either Party of a breach of any term, promise or condition of this Covenant shall not constitute a waiver of any subsequent breach of the same or any other term, promise or condition. The failure by either Party to enforce any right for a period of time shall not constitute a waiver of such right or any term, promise or condition of this Covenant.

7. Covenant Running With the Land. Owner and Third further agree and covenant that the covenants provided herein shall run with both the land owned by Owner (the Unit) and the land controlled by Third (the Common Area) and shall benefit or be binding upon each successive owner, during such successor's ownership and/or control of any portion of the land affected by this Covenant (the Unit and the Common Area), and upon each party having any interest in such land and derived through any owner thereof; further, that the successive owner of the Unit and controller of the Common Area are to be bound by the covenants provided herein. The covenants running with the land described herein shall run with the land regardless of whether the Unit is sold or transferred through a bona fide sale to a third party or through an interfamilial or trust transfer of any type. Specifically, all future owners of the Unit agree that by way of their assumption of title to the Unit they shall be bound by, without limitation, the specific obligations and limitations described in this Covenant.

8. Disclosure of Covenant. Owner agrees and represents that Owner will not look to Third or hold Third responsible to disclose to potential buyers of the Unit any information concerning this Covenant, and the Association shall have no obligation to

disclose such information inasmuch as Owner and successive owners, as applicable, bear the sole responsibility to make such disclosure known.

9. Indemnity. Owner agrees to indemnify, defend and hold harmless Third and its past, present and future directors, officers, committee members, managing agents and attorneys (collectively, the “Released Parties”) from and against any and all claims, actions, lawsuits, liabilities, costs and expenses of any kind or nature whatsoever, including but not limited to attorney's fees and costs, (collectively, the “Claims”) involving, pertaining to or in connection with (i) the designation of the Building and/or the Unit as non-smoking and Third’s power to so designate the Building and enforce such restriction; and (ii) this Covenant, and to pay all attorneys’ fees and costs incurred by any of the Released Parties arising out of any litigation with respect to any Claims.

10. Relationship to Declaration. Nothing contained herein shall in any way constitute a release from or waiver of any of the conditions, covenants and restrictions contained in the Declaration or Third’s other governing documents; this Covenant only concerns the non-smoking designation of the Building, and shall not be interpreted or construed to affect any other rights, powers, duties, burdens or obligations of Owner or Third, or any other parties.

11. Severability. The provisions of this Covenant are severable, and if any provision contained herein is determined by a court of competent jurisdiction to be illegal or otherwise unenforceable, in whole or in part, the remaining provisions of this Covenant, and any partially unenforceable provisions to the extent enforceable, shall nevertheless be binding and enforceable.

12. Representation. Neither Third nor its legal counsel has rendered advice to Owner of any nature whatsoever with respect to execution of this Covenant, and Owner acknowledges that Owner has been advised by independent legal counsel, or has had the reasonable opportunity to be advised by independent legal counsel, with regard to this Covenant prior to executing it.

13. Amendment and Modification. This Covenant may only be modified or amended by a written instrument executed by Owner and acknowledged by Third and recorded in the official records of the County of Orange, California. This Covenant shall be construed according to its fair meaning and as though no single party drafted this Covenant. This Covenant shall also be construed in accordance with, and governed by, the laws of the State of California. The failure by Third to enforce any provision of this Covenant shall not be deemed to be a waiver of Third to enforce the applicable provision, or any other provision of this Covenant, in the future.

14. Reimbursement of Costs. Owner agrees to reimburse Third its attorneys' fees and costs incurred in the preparation and recordation of this Covenant. Such payment shall be made by Owner to Third within five (5) business days after demand by Third.

IN WITNESS WHEREOF, Owner has executed this Covenant on the date written below.

"Owner"

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____

ACKNOWLEDGEMENT

Third has acknowledged this Covenant as of the date written below.

"Third"

Third Laguna Hills Mutual

By: _____

Name: _____

Title: _____

Date: _____

STATE OF CALIFORNIA)
)
COUNTY OF _____)

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Notary Public

STATE OF CALIFORNIA)
)
COUNTY OF _____)

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

Notary Public

EXHIBIT “A”

UNIT LEGAL DESCRIPTION

SAMPLE

EXHIBIT “B”

PETITION FOR DESIGNATING A BUILDING AS SMOKE-FREE

SAMPLE

EXHIBIT “C”

OWNER’S PETITION AGREEMENT FORM

SAMPLE



Checklist for Designation of a Building as Smoke-Free

This checklist is designed for use in keeping track of the steps required to designate a building in Third's development as smoke-free (the "Designation") and documenting the completion/satisfaction of such steps, consistent with Third's procedure for Designation.

Building Address: _____
(the "Building") _____

Petitioner: _____

Completed (check)	Step	Date of Submittal/ Action	Task (as more fully described in the Smoke-Free Building Designation Policy and Procedure)
	1		Receipt of a completed "Petition for Designating a Building as Smoke-Free" (the "Petition") signed by a Third member(s) who is a record owner(s) of a unit in the Building (the "Petitioner").
	2		Receipt of a completed and notarized "Petition Agreement Form" (an "Agreement Form"), which is an attachment to the Petition, signed separately by each of the Third members who are owners of a unit in the Building (collectively, the "Applicable Members").
	3		<p>Upon Receipt of the completed Petition and Agreement Forms, coordinate with Third's legal counsel for the preparation of the "Covenant to Run With the Land Regarding Designation of a Building as Smoke-Free" (the "Covenant") for the Building to be signed by each of the Applicable Members and Third.</p> <p><i>*The Amendments and Covenant must be prepared and mailed to the Applicable Members within thirty (30) days of Third's receipt of a complete Petition and complete Agreement Forms, to the Applicable Members' mailing addresses on record with Third.</i></p>

Completed (check)	Step	Date of Submittal/ Action	Task (as more fully described in the Smoke-Free Building Designation Policy and Procedure)
	4		<p>Mailing of the applicable Amendments and the Covenant to the Applicable Members.</p> <p><i>*The Amendments and Covenant must be prepared and mailed to the Applicable Members within thirty (30) days of Third's receipt of a complete Petition and complete Agreement Forms, to the Applicable Members' mailing addresses on record with Third.</i></p>
	5		<p>Receipt of notarized signatures by each of the Applicable Members for the Covenant.</p>
	6		<p>Verification that the executed Covenant copies received are signed by all Applicable Members, original and notarized, as applicable (the "Verification").</p> <p><i>*If the forms are not complete, the Petitioner should be advised in writing of same, why the forms are incomplete and what is required for the forms to be complete and the Designation process to move forward.</i></p>
	7		<p>Schedule a hearing before the Board to determine if any of the Applicable Members oppose the designation of the Building as smoke-free (the "Hearing").</p> <p><i>*The Hearing must occur within sixty (60) days of the Verification.</i></p>
	8		<p>Mailing of the notice of the Hearing to all of the Applicable Members.</p> <p><i>*The notice must be sent by first class mail at least fifteen (15) days prior to the Hearing, to the Applicable Members' mailing addresses on record with Third</i></p>
	9		<p>The Hearing is held.</p>
	10		<p>Petition and Designation approved by Board</p> <p><i>* If any Applicable Member opposes the Petition at the Hearing, then the Board will deny the Petition. If no Applicable Member opposes the Petition at the Hearing, then the Board will approve the Petition.</i></p> <p><u>IF PETITION DENIED, STOP HERE</u></p>

Completed (check)	Step	Date of Submittal/ Action	Task (as more fully described in the Smoke-Free Building Designation Policy and Procedure)
	11		<p>If the Petition and Designation were approved by the Board, the effective date of the Designation for the Building (the "Conversion Date") must be set.</p> <p><i>*The Conversion Date will be the date that is forty-five (45) days after the Hearing.</i></p>
	12		<p>Mailing of the Hearing results.</p> <p><i>*The Applicable Members must be advised of the Hearing results via first class mail within fifteen (15) days after the Hearing, to the Applicable Members' mailing addresses on record with Third. If the Petition and Designation are approved, the Applicable Members should be advised of the Designation approval and the Conversion Date. If the Petition and Designation are not approved, the Applicable Members should be advised of the Designation denial and that the Petitioner or any other Applicable Member can resubmit a Petition for Designation of the Building, provided that a Petition may be submitted to Third for the Building only once during any six (6) month period.</i></p>
	13		Third executes the Covenants, and the executed Covenants are submitted to the Orange County Registrar-Recorder for recordation.
	14		Upon receipt of the recorded Covenants from the County Recorder, a copy of each of the Covenants is mailed to the respective Applicable Members.
	15		A copy of the recorded Covenant is placed in Third's corporate records for each of the Units in the Building.
	16		A copy of the recorded Covenant is distributed to the employees and/or contractors of Third and/or Third's managing agent (e.g. persons or parties managing membership, real estate, Unit maintenance and escrow matters for Third) who are responsible for providing information regarding the Units to Members, prospective Members (through the current Member, and/or through the current Member's real estate broker or agent, as applicable) and lenders of either.

Completed (check)	Step	Date of Submittal/ Action	Task (as more fully described in the Smoke-Free Building Designation Policy and Procedure)
	17		The “Smoke-Free Building” list compiled and maintained by Third will be updated to reflect that the Building is subject to the Designation as of the Conversion Date.
	18		The “Smoke-Free Building” webpage on Third’s website will be updated to reflect that the Building is subject to the Designation as of the Conversion Date.
	19		Third will post Board-approved signs containing the language “ <u>No Smoking Anywhere in Building</u> ” at the main/common entrances to the Building (both at the exterior and interior entrances), if any, as well as in at least two (2) prominent places within common hallways/walkways on the floor of the Building, as may be applicable.
	20		All Applicable Members will be sent a notice reminding them to either remove all tobacco products, medical marijuana and other substances that generate smoke from their Units and the Building or to place on notice persons who enter their Unit of the Designation of the Building as smoke-free and the prohibition of smoking in the Unit.



Notice of Hearing Regarding Designation of a Building as Smoke-Free

Pursuant to Third's "Smoke-Free Building Designation Policy and Procedure" (the "Procedure"), Third's Board of Directors has received completed forms petitioning for the designation of the building located at _____, Laguna Woods, California 92637 (the "Building") as smoke-free.

The Board has scheduled a hearing, in accordance with the Procedure, to determine if any of the members of Third who are record owners of units in the Building (the "Applicable Members") oppose the designation of the Building as smoke-free. The forms received by Third regarding designation of the Building as smoke-free indicate that all of the Applicable Members approve such designation.

The hearing will be held as follows:

Date: _____

Time: _____

Location: _____

Please be advised that if any Applicable Member opposes the designation of the Building as smoke-free at the hearing, then the Board will deny the petition for such designation. If no Applicable Member opposes the petition at the hearing, then the Board will approve the petition and the Building will become smoke free on a permanent and irrevocable basis forty-five (45) days from the date of the above noticed hearing.

This hearing will be held at an open session meeting of Third's Board, and this notice has been prepared and distributed/posted in accordance with the requirements of the Procedure, Third's other governing documents and applicable state statute.



**Results of Hearing Regarding Designation of a Building as Smoke-Free
(Approval of Designation of Building as Smoke-Free)**

On [REDACTED], a hearing was held before/with Third's Board of Directors to determine whether the building located at [REDACTED], Laguna Woods, California 92637 (the "Building") would be designated as smoke-free, in accordance with Third's Smoke-Free Building Designation Policy and Procedure (the "Procedure"). All members of Third who are record owners of a Unit in the Building (the "Applicable Members") were sent notice of that hearing in accordance with the requirements of the Procedure, Third's other governing documents and applicable state statute. Prior to the hearing, all Applicable Members had submitted forms in accordance with the Procedure evidencing unanimous Applicable Member support for the designation of the Building as smoke-free.

At the hearing, none of the Applicable Members opposed the designation of the Building as smoke-free. Accordingly, in accordance with the Procedure, the Building will be designated as smoke-free on a permanent and irrevocable basis as of [REDACTED] (the "Conversion Date"), forty-five (45) days after the above noted hearing date. All Applicable Members will be required to remove all tobacco products, medical marijuana and other substances that generate smoke from their Units and the Building on or before the Conversion Date or, in the alternative, place on notice persons who enter their Unit of the designation of the Building as smoke-free and the prohibition of smoking in the Unit. All current and future persons residing in, occupying, leasing or visiting a Unit in the Building, and the family members, guests and invitees of each, shall be prohibited from smoking anywhere in the Unit and Building as of the Conversion Date on a permanent and irrevocable basis.

In the near future, a fully executed recorded copy of the Agreement and Covenant to Run with Land (Non-Smoking Building Designation), signed by each of the Applicable Members, will be forwarded to each such Applicable Member. Further communication with regard to this matter is forthcoming to you from Third, and this notice of hearing results is being sent in compliance with the Procedure, Third's other governing documents and applicable state statute.

Should you have any questions, please contact [REDACTED] via telephone at [REDACTED] or via email at [REDACTED].



**Results of Hearing Regarding Designation of a Building as Smoke-Free
(Denial of Designation of a Building as Smoke-Free)**

On [REDACTED], a hearing was held before/with Third's Board of Directors to determine whether the building located at [REDACTED], Laguna Woods, California 92637 (the "Building") would be designated as "smoke-free", in accordance with Third's Smoke-Free Building Designation Policy and Procedure (the "Procedure"). All members of Third who are record Owners of a Unit in the Building (the "Applicable Members") were sent notice of that hearing in accordance with the requirements of the Procedure, Third's other governing documents and applicable state statute. Prior to the hearing, all Applicable Members had submitted forms in accordance with the Procedure evidencing unanimous Applicable Member support for the designation of the Building as smoke-free.

At the hearing, one or more of the Applicable Members opposed the designation of the Building as smoke-free. Accordingly, in accordance with the Procedure, the Building will not be designated as smoke-free. As described in the Procedure, in six (6) months the Applicable Members may re-petition and re-submit documentation to seek designation of the Building as smoke free; such action may only be taken once in any six (6) month period.

Should you have any questions, please contact [REDACTED] via telephone at [REDACTED] or via email at [REDACTED].



STAFF REPORT

DATE: June 30, 2020
FOR: Resident Policy & Compliance Task Force
SUBJECT: Barbeque Grill Rules & Regulations

RECOMMENDATION

Adopt Barbeque Grill Rules & Regulations.

BACKGROUND

Third Laguna Hills Mutual's ("Third") members are currently directed to follow the guidelines for barbeque grill use and safety provided by the Orange County Fire Authority ("OCFA") and the City of Laguna Woods.

The guidelines include the following:

What is allowed in the Village?

- Electric Grills
- Propane grills with a container capacity no more than 2.5 pounds
- Grills that are stored in a safe manner and do not obstruct walkways

What is *not* allowed?

- Use of grills on balconies and decks
- Use of grills within 10 feet of buildings or combustible material
- Propane grills with a container larger than 2.5 pounds*
- Use of a grill that creates a nuisance (excessive smoke or odor) to neighboring units.

* an adapter can be purchased to convert to the smaller tank.

In addition to the above items, please follow the safety tips below when operating a BBQ grill:

- Follow the manufacturer instructions
- Fasten the propane tank securely to the grill
- Place your grill on a level surface so it will not topple over
- Light your grill with the top open
- Supervise the grill when in use and keep everyone away, including pets
- Use long-handled tools especially made for cooking on the grill
- Do not wear a loose apron or loose clothing while grilling, and always wear shoes
- Thoroughly clean grill after each use
- Keep a fire extinguisher nearby
- Always use or store cylinders outdoors in an upright (vertical) position

In the last five years there have been four fires started by barbeque grills; two in the past two months. Only one of the incidents required Third's insurance company to be involved. Since 2011, the Compliance Division has mailed seven disciplinary letters regarding nuisance violations caused by the use of barbeque grills.

DISCUSSION

The purpose to adopt Barbeques Grill Rules & Regulations is to provide guidelines on the use of barbeque grills. It would require members in multi-story units to use grills on common area. This can be a liability for Third if the member leaves the grill unattended during use while in common area.

Prepared By: Blessilda Wright, Compliance Supervisor

Reviewed By: Francis Gomez, Operations Manager
Dan Yost, Risk Manager

ATTACHMENT(S)

Attachment 1: Barbeque Grill Rules & Regulations

Attachment 2: Resolution 03-20-XX, Barbeque Grill Rules & Regulations



Barbeque Rules & Regulations
Resolution 03-20-XX; Adopted August XX, 2020

I. Purpose

The purpose of this document is to define the policies of Third Laguna Hills Mutual ("Third") regarding the use of Barbeque Grills.

II. Definitions

For the purposes of this policy:

- a. Barbeque Grills are devices that cook food by apply heat from below. There are three categories of grills:
 - a. gas-fueled grill typically use propane or butane or natural gas as a fuel source
 - b. Charcoal grill typically use charcoal briquettes or natural lump charcoal as the fuel source. When burned the charcoal will transform into embers radiating the heat source
 - c. electric grill typically use an electric element to supply a constant heat source and no open flames
- b. Common Area means the area which is available for use by more than one person.
- c. Community Rules are defined as the Articles of Incorporation, Bylaws, the recorded Covenants, Conditions, and Restrictions (CC&Rs); and any rules and regulations adopted by Third. Any reference to the "Governing Documents" shall, for purposes of this Policy, be deemed a reference to the Community Rules set forth in this definition.
- d. Enclosed is defined as an area closed in by a roof and contiguous walls or windows, connected floor to ceiling with appropriate opening or ingress and egress.
- e. Member is defined as any person entitled to membership in Third.
- f. Multi-unit residential facility means a building or portion thereof that contains more than one dwelling unit.
- g. Nuisance reference Nuisance Policy
- h. Private residence is defined as that portion of any Condominium which is not owned in common with other owners.

III. Conditions

Permitted in Third:

- a. Electric Grills
- b. Propane grill with a container capacity no more than 5 pounds
- c. Grills are stored in a safe manner and do not obstruct walkways
- d. Use of grills outside of 10 feet of building or combustible material
- e. Charcoal grill only permitted in detached units and 10 feet from unit or combustible material

- f. After barbequing, the barbecue may be left in place overnight to allow the appliance to cool down.

Not Permitted in Third:

- a. Use of grills on balconies and decks
- b. Use of grills within 10 feet of building or combustible material
- c. Propane grills with containers larger than 5 pounds (adapter can be purchased to convert to smaller tank)
- d. Use of grill that creates a nuisance (excessive smoke or odor) to neighboring units.

IV. Safety Tips

- a. Follow the manufacture instructions
- b. Fasten the propane tank securely to the grill
- c. Place your grill on a level surface so it will not topple over
- d. Light your grill with the top open
- e. Supervise the grill when in use and keep everyone away, including pets
- f. Use long-handled tools especially made for cooking on the grill
- g. Do not wear a loose apron or loose clothing while grilling, and always wear shoes
- h. Thoroughly clean grill after each use
- i. Keep a fire extinguisher nearby
- j. Always use or store cylinders outdoors in an upright (vertical) position

v. Enforcement

Third is authorized to take disciplinary action against a Member found to be in violation of the Barbeques Rules. When a violation occurs the Board is obligated to evaluate and impose if appropriate, member-discipline as set forth in the governing documents. The Board of Directors has the authority to impose monetary fines, suspend Member privileges, and/or bring forth legal action.

The Member is entirely responsible for ensuring that the rules, regulations, and policies are followed by anyone they allow into the community. This includes any Co-occupant, lessee, guest, care provider, vendor, invitee or contractor.

A complaint may be registered with the Compliance Department by calling 949-268-CALL or compliance@vmsinc.org or by calling the Security Department at 949-580-1400.



RESOLUTION 03-20-XX

Barbeque Grill Rules & Regulations

WHEREAS, the Resident Compliance & Policy Committee has recognized the need to adopt a Barbeque Grill Rules & Regulations to set forth guidelines for the use of barbeque grills;

NOW THEREFORE BE IT RESOLVED, on XXX, XX, 2020, the Board of Directors of this Corporation hereby adopts the Barbeque Grill Rules & Regulations, as attached to the official minutes of this meeting; and

RESOLVED FURTHER, that the officers and agents of this Corporation are hereby authorized on behalf of the Corporation to carry out this resolution as written.