

#### **OPEN MEETING**

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

# Tuesday, February 28, 2023 – 9:30 A.M. 24351 El Toro Road, Laguna Woods, CA 92637 Board Room and Virtual with Zoom

Laguna Woods Village owner/residents are welcome to participate in committee meetings in-person and virtually. To submit comments or questions virtually for committee meetings, please using one of following options:

- 1. Join the Committee meeting via Zoom at: <a href="https://us06web.zoom.us/j/84903327041">https://us06web.zoom.us/j/84903327041</a> or by dialing 669-900-6833 Access Code: 849 0332 7041
- 2. Via email to <a href="mailto:meeting@vmsinc.org">meeting@vmsinc.org</a> 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.

# **NOTICE AND AGENDA**

This Meeting May Be Recorded

- 1. Call Meeting to Order
- 2. Approval of the Agenda
- 3. Approval of the Meeting Report for January 24, 2023
- 4. Remarks of the Chair
- 5. Member Comments (Items Not in the Agenda)
- 6. Response to Member Comments
- 7. Department Head Update
- 8. Items for Discussion and Consideration:
  - a. Appeal Policy
  - b. Compliance Letters
  - c. Barbeque Rules and Regulations
  - d. Co-Occupancy without a qualifying member
- 9. Future Agenda Items: All matters listed under Future Agenda Items are items for a future committee meeting. No action will be taken by the committee on these agenda items at this meeting.
  - Social Media Use Policy
  - Clutter Policy
  - Internal Dispute Resolution Policy
- 10. Committee Member Comments
- 11. Date of Next Meeting Tuesday, March 28, 2023 at 9:30 a.m.
- 12. Adjournment
- \*A quorum of the Third Board or more may also be present at the meeting.

Mark Laws, Chair Blessilda Wright, Staff Officer Telephone: 949-597-4254



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

Tuesday, January 24, 2023– 9:30 A.M.
Board Room/Virtual Meeting
Laguna Woods Village Community Center
24351 El Toro Road, Laguna Woods, CA 92637

MEMBERS PRESENT: Mark Laws - Chair, Cris Prince, Cush Bhada, Nathaniel "Ira"

Lewis and Jules Zalon (via Zoom)

MEMBERS ABSENT: None

ADVISORS PRESENT: Stuart Hack and Theresa Keegan

**ADVISORS ABSENT:** None

**STAFF PRESENT:** Jacob Huanosto and Ruby Rojas

#### 1. Call to Order

Mark Laws, Chair, called the meeting to order at 9:31 a.m.

## 2. Approval of Agenda

Director Bhada made a motion to approve the agenda as presented. Director Prince seconded the motion.

By way of consensus, the motion passed.

#### 3. Approval of Meeting Report

Director Prince made a motion to approve the December 27, 2022 meeting report. Director Bhada seconded the motion.

By way of consensus, the motion passed.

#### 4. Chairman's Remarks

Chairman Laws briefly stated that one of the goals of this Committee is to review policies to make them more clear, complete, and relevant.

# 5. Members Comments (Items Not on Agenda)

None.

### 6. Response to Members Comments

None.

## 7. Department Head Update

None.

#### 8. Items for Discussion and Consideration

# a. Compliance Process for Obvious Clutter Situations

Director Laws, Chair, shared why he asked for this agenda item and Mr. Jacob Huanosto gave an overview of the Compliance Process flow chart. Questions were asked and discussion ensued. Director Zalon suggested that many compliance issues are related to social problems. Mr. Robert Stace of 2381-3H Via Mariposa West addressed the committee regarding clutter in his building. The Committee made comments and asked questions. The Committee agreed with staff's recommendations to "receive and file".

#### b. Pet Policy

Director Laws, Chair, presented the Pet Policy for discussion. Mr. Robert Stace of 2381-3H Via Mariposa West made a comment regarding pet safety and dog-walking. The Committee made comments and asked questions.

Director Prince made a motion to send the Pet Policy to the Board of Directors for approval with minor changes. Director Bhada seconded the motion.

By way of consensus, the motion passed.

## c. Appeal Policy

Director Laws, Chair, presented the Appeal Policy for discussion. The Committee discussed the matter and asked questions.

The committee tabled the matter to update the proposed policy based upon the discussion and directed staff to bring the matter back at the next committee meeting.

# d. Resident Policy and Compliance Committee Charter

Director Laws, Chair, presented the Resident Policy and Compliance Committee Charter for discussion. The Committee made comments and asked questions.

Director Prince made a motion to refer the matter to the board of directors for approval. Director Lewis seconded the motion.

By a vote of 4-0-1, the motion passed. Director Zalon abstained, and advisors Hack and Keegan did not vote.

#### e. Compliance Determination Letters

Mr. Jacob Huanosto provided an overview of the Letter's template. The Committee discussed the disciplinary hearing Determination letters template and directed staff to specify if determination letters are from the Executive Hearings Committee or for the Board of Directors Executive Session. Additionally, the committee directed staff to remove the appeal policy verbiage from the determination letters sent from the Executive Committee.

# f. Noise Problems in Multi-story Buildings

Mr. Jacob Huanosto, presented the Hard Surface Flooring Policy. The Committee discussed the matter and asked questions. Mr. Robert Stace of 2381-3H Via Mariposa West addressed the committee and stated that the Mutual should provide information to potential buyers/ members advising of possible noise in multi-story units.

The Committee elected to refer the matter to Architectural Controls and Standards Committee or the Maintenance and Construction Committee.

# 9. Items for Future Agendas

- Social Media Use Policy
- Barbeque Rules and Regulations
- Clutter Policy
- Appeal Policy
- Determination Letters
- Internal Dispute Resolution Policy

## **10. Committee Member Comments**

None.

# 11. Date of Next Meeting

Tuesday, February 28, 2023 at 9:30 a.m.

## 12. Adjournment

With no further business before the Committee, the meeting was adjourned at 11: 47 a.m.

Mark W. Laws

Mark W. Laws (Jan 31, 2023 09:53 PST)

Mark W. Laws, Chair Third Laguna Hills Mutual



#### STAFF REPORT

**DATE:** February 28, 2023

FOR: Resident Policy and Compliance Committee

**SUBJECT: Appeal Policy** 

#### RECOMMENDATION

Discuss and consider adopting changes to the Appeal Policy

#### **BACKGROUND**

Third Laguna Hills Mutual's ("Third") Governing Documents require a Member to seek approval from the Board of Directors ("Board") on various matters of Corporate business by way of the Committee structure for review of a question that may/will ultimately be determined by the Board. For example, a resident requesting an alteration variance or landscape change is to be reviewed at the Committee-level before it is brought to the Board for final decision.

Civil Code Section §4765 provides that decisions made by the Board or of a committee having the same composition as the Board relating to a member's architectural and/or landscape request that occur in an Open Session Board meeting in compliance with the requirements of Civil Code §4900 et seq. (the Open Meeting Act) may be final, without the right of a Member to appeal said decision.

On August 20, 2019, the Third Laguna Hills Mutual amended the Appeal Policy (Resolution 03-19-79) to conform with Civil Code §4765; allowing Board decisions to be final. The policy also streamlined the process to provide guidelines for a Member, if they meet the criteria for an appeal. The policy amendment added further review stipulating that if new relevant information is brought to the Board's attention relating to a matter previously decided by the Board- the Board may, in its sole discretion, revisit such decision due to extraordinary circumstances but shall have no obligation to do so and no Member shall be entitled to such reconsideration as a matter of right.

The purpose of the Appeal Policy is to set forth appeals of certain decisions by the Board, Committees, or Management on architectural and landscape matters, Lease Authorization Permits, Co-occupancy Applications, Caregiver Applications, non-escrow membership transfer applications and Resale related matters, as well as, decisions made regarding Member Discipline and reimbursement to Third's Mutual by Members for expenses incurred by Third's Mutual for which the Member is responsible- including without limitation when applicable, legal fees and costs. (Attachment 1)

On December 27, 2022- the Committee reviewed the Appeal Policy and proposed changes to simplify the process of appeals and provide uniformity and clear guidelines (Attachment 2).

On January 24, 2023, the Committee tabled the matter to further update the policy.

Third Laguna Hills Mutual Board of Directors **Appeal Policy** February 28, 2023 Page 2

# **DISCUSSION**

Review the proposed Appeal Policy.

# **FINANCIAL ANALYSIS**

None.

Prepared By: Jacob M. Huanosto, Interim Compliance Supervisor

Reviewed By: Blessilda Wright, Compliance Supervisor

# ATTACHMENT(S)

Attachment 1: Appeal Policy – Existing Policy Attachment 2: Appeal Policy Proposed Version



# Appeal Policy Resolution 03-19-79; Adopted August 20, 2019

# I. Purpose

Third Laguna Hills Mutual ("Third") requires a Member to seek approval from the Board of Directors ("Board") on certain matters of Corporate business by way of the committee structure for review of a question that may ultimately be determined by the Board in Open session, including without limitation, certain architectural and landscape approvals, and variance requests, or in Executive Session, including without limitation, approvals for Lease Authorization Permits, Co-occupancy Applications, Caregiver Applications, non-escrow membership transfer applications and Resale, as well as decisions on discipline of members for governing document violations and reimbursement for expenses incurred by Third.

Depending on the circumstances and the powers granted to the Committee (as defined below), the Committee may either act to approve or deny a Member's request, or, if such request requires Board consideration, forward the Committee's recommendations regarding the Member's request to the Board for its consideration and decision.

The purpose of this document is to set forth the Appeal Policy for appeals of certain decisions by the Board, Committees, or Management on architectural and landscape matters, Lease Authorization Permits, Co-occupancy Applications, Caregiver Applications, non-escrow membership transfer applications and Resale related matters, as well as decisions made regarding Member discipline and reimbursement to Third by Members for expenses incurred by Third for which the Member is responsible, including without limitation when applicable, legal fees and costs.

A decision made by a Committee or Management, within its powers, to deny a Member's request shall be appealable to the Board if permitted by the Community Rules and/or required by statute. However, except as specifically provided in this Policy or otherwise in the Community Rules (as defined below), or as may otherwise be required by law, all decisions, including other matters of Corporate business made by the Board, whether in an Open Meeting or in Executive Session, shall be final and not subject to additional review or a right of appeal by Third Members.

#### II. Definitions

For the purposes of this Policy:

- a. Committee is a group of individuals appointed by the Board for a specific function. For example, the Architectural Control and Standards Committee and Landscape Committee review Member requests for nonstandard architectural or landscape changes and make recommendations to the Board for approval or denial.
- b. Community Rules shall mean and refer to the Articles of Incorporation and Bylaws of Third, 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.
- c. Executive Hearing Committee is comprised of three (3) Directors and two (2) alternate Directors for the purpose of making decisions on disciplinary/confidential matters in Executive Session, including without limitation, discipline for Governing Document violations and decisions regarding the imposition of reimbursement assessments on Members for Common Area damage.
- d. **Executive Session** is defined as a closed meeting of the Board to address disciplinary/confidential matters as described in Civil Code Section 4935.
- e. **Management** shall mean and refer to Village Management Services, Inc., the managing agent for Third.
- f. **Member** is defined as any person who is an owner of a Unit in Third's development who has been approved for membership in Third.
- g. Open Meeting is defined as a meeting open to the Members of Third as provided in the Open Meeting Act as codified in the Civil Code at Section 4900 et seq. Per Civil Code Section 4765, decisions made by the Board relating to a Member's architectural and/or landscape request that occur in an Open Session meeting may be final.
- h. **Subject Matter Expert** ("SME") is defined as the Staff Member from Management with the highest level of expertise in the specialized job, task, or skill pertinent to a Member's appeal request.

## III. Architectural and Landscape Decisions

As further described in the Community Rules, including without limitation, the Architectural Review Procedures, applications for Standard Plan alterations submitted to the Manor Alterations and Permits Division may typically be approved without Board review.

An application with plans not in conformance with the approved Standard Plan alterations or for which neighbor objections have been received are considered and reviewed by the Architectural Control and Standards Committee ("ACSC").

Applications that are not in conformance with Third's architectural standards may be recommended for denial by the ACSC.

Meanwhile, an application that may otherwise meet the application requirements, but with plans that do not conform to the approved Standard Plan alterations, requires the approval of a variance request, which must be submitted for review by the ACSC. The ACSC reviews the architectural application, variance request, and other documentation provided regarding the proposed alteration at its regularly scheduled meetings and makes a written recommendation to the Board as to whether the architectural/variance request should be granted or denied.

Similarly, requests by Members for landscape modification are submitted to the Landscape Division for review by Management and/or the Landscape Committee, which may approve standard landscape alterations without Board review. Nonstandard landscape requests will be reviewed by the Landscape Committee, who will then make a written recommendation to the Board as to whether the landscape modification should be approved or denied.

The recommendation from the ACSC or Landscape Committee, as may be applicable, on a matter to be ultimately determined by the Board is considered by the Board at the next regularly scheduled Open Meeting, at which time the Board will either approve (either with or without conditions) or deny the Member's architectural/variance or landscape modification request.

Such decisions made by the Board at an Open Meeting are not subject to appeal, in accordance with Civil Code Section 4765. Nor shall decisions made by the Board on such matters in Executive Session, as may be applicable, be subject to appeal.

Notwithstanding the foregoing, if new relevant information is brought to the Board's attention relating to a matter previously decided by the Board, the Board may, in its sole discretion, revisit such decision due to extraordinary circumstances, but it shall have no obligation to do so and no Member shall be entitled to such reconsideration as a matter of right.

The SME will review any request for reconsideration based on extraordinary circumstances if submitted in writing within thirty (30) days from the Board's determination or the discovery of such extraordinary circumstances; in no event, however, shall any reconsideration request be considered by the Board after one (1) year from the date of the original, final decision by the Board. Reconsideration of the Board's decision may be considered in the following circumstances: (1) the application or documentation provided had an error which would otherwise have resulted in approval; (2) the Board or recommending Committee misinterpreted provisions of the application or the requirements of law or the Community Rules in its decision; (3) an aberration from the review and approval procedures as laid out in the Community Rules is discovered; and (4) any other situation in which the Board, in its sole discretion, believes that an additional review is necessary to ensure the equal and fair treatment of all Members.

# IV. Disciplinary Decisions

The Executive Hearing Committee makes decisions on disciplinary/confidential matters, including discipline for governing document violations and decisions regarding the imposition of reimbursement assessments on Members for Common Area damage, in Executive Session meetings, to which the Member has been invited to be heard, and issues written decisions to Members within fifteen (15) days from the date of the noticed hearing in accordance with the hearing and enforcement procedures in Third's Community Rules.

Within thirty (30) days of receipt of a written decision by the Executive Committee relating to Member discipline or a reimbursement by the Member to Third, made at an Executive Session meeting, the Member may appeal to the Board the Executive Committee's decision by providing an explanation, in writing, as to why the Member believes the Committee made an incorrect decision, along with any additional evidence or documentation pertinent to the Member's appeal.

Upon receipt of such appeal request, the information will be reviewed by the SME for consideration. If approved, a new hearing will be scheduled before the Board, at which the Board will consider the written appeal as well as any evidence or documentation previously provided, after which the Board will make a decision and provide notice of same in accordance with Third's Governing Documents and applicable statute.

No further appeals, other than as directly referenced above, will be granted upon reconsideration by the Board of the matter that was the subject of the initial hearing before the Executive Committee and a final determination by the Board. In addition, the decision on any such matter heard directly before the Board (rather than first being heard by the Executive Committee) shall be final and not subject to appeal.

# V. Occupancy and Membership Decisions

Pursuant to Third's Lease Policy, Care Provider Policy, Resale Policy and the Governing Documents, a Member seeking authorization to occupy or obtain Membership must submit the required Permit application to the Community Services Division along with all required supporting documentation. The application is then reviewed by Management, who may either approve or deny the application based on the conformance of the application to the requirements in the Lease Policy, Care Provider Policy, Resale Policy, and the Governing Documents and ability of the Member to pursue such action as otherwise specified in the Community Rules and/or based on prior disciplinary action against the Member.

If Management denies the request within its authority (without consideration by the Board), the Member may appeal such decision to the Board upon written appeal by providing an explanation, in writing, as to why the Member believes Management made an incorrect decision, along with any additional documentation pertinent to the Member's appeal. Upon receipt of such appeal request, the information will be reviewed by the SME for consideration as well as any evidence or documentation previously provided, for consideration by the Board, which will make a final decision on the Member's application.

In some instances, Management may refer the approval/denial decision directly to the Board, and provide a recommendation for approval or denial of the application based on its review of the submitted application and documentation.

A decision on the approval or denial by the Board, whether in an Open Meeting or in Executive Session shall be final, and not subject to appeal or further review by the Member.

Notwithstanding the foregoing, if new relevant information is brought to the Board's attention relating to a matter previously decided by the Board, the Board may, in its sole discretion, revisit such decision due to extraordinary circumstances, but it shall have no obligation to do so and no Member shall be entitled to such reconsideration as a matter of right.

The SME will review any request for reconsideration based on extraordinary circumstances if submitted in writing within thirty (30) days from the Board's determination or the discovery of such extraordinary circumstances; in no event, however, shall any reconsideration request be considered by the Board after one (1) year from the date of the original, final decision by the Board. Reconsideration of the Board's decision may be considered in the following circumstances: (1) the application or documentation provided had an error which would otherwise have resulted in approval; (2) the Board or recommending Committee misinterpreted provisions of the application or the requirements of law or the Community Rules in its decision; (3) an aberration from the review and approval procedures as laid

Attachment 1
Third Laguna Hills Mutual
Appeal Policy
Resolution 03-19-79

out in the Community Rules is discovered; and (4) any other situation in which the Board, in its sole discretion, believes that an additional review is necessary to ensure the equal and fair treatment of all Members.

Email:

# Appeal Form Compliance Division

PO BOX 2220, Laguna Hills, CA 92654; 949-268-CALL; compliance@vmsinc.org

If you disagree with the Determination Notice by the Third Laguna Hills Mutual (Third) Executive Hearings Committee, you may appeal the decision(s) to the Board of Directors by completing this form and explaining why you disagree. You must sign the form and return it to the Compliance Division. YOU HAVE 30 DAYS FROM THE MAIL DATE OF THE DETERMINATION NOTICE TO FILE A TIMELY APPEAL. The Subject Matter Expert (SME) will review the appeal request for consideration. If approved, a new hearing will be scheduled before the Board, in accordance with Resolution 03-19-79, Appeal Policy.

Telephone #

Unit #

Section I: Member(s) Information

Name:

**Action Taken By:** 

Appeal Approved

		-			
Name:	Unit #	Telephone #	Email:		
Date of Disciplinary Hearing:					
Section II: Appeal Statement					
- Cotton in Appoul Glatomont	PLEASE	PRINT			
Explain the reason for you If required, attach additional pag	ur appeal and	why you disagree with the	e decision(s).		
ii requireu, attacii additional pag	jes to tilis 10111	n and write your name and	unii on each page.		

FOR OFFICE USE ONLY

Appeal Denied

Date:

# MARK – do people have an option to give up confidentiality and request their appeals be discussed in open, rather than closed session?

# Third Appeal Policy

Resolution 03-23-XX; Adopted MMMMMM DD, 2023

## I. Purpose

Third Laguna Hills Mutual ("Third") utilizes a committee structure to review certain matters that may ultimately be determined by the entire Board. Certain business matters that could be addressed in public committee sessions that may include, without limitation, architectural and landscape approvals, and variance requests. In addition, the Board COMMITTEES??? may decide, in executive session, issues such as lease authorization permits, co-occupancy applications, caregiver applications, non-escrow membership transfer applications and resale, as well as member discipline for violations and possible reimbursement demands for expenses incurred by Third addressing these issues.

Depending on circumstances, the committees may either approve or deny a member's request, or forward the committee's recommendations about the request to the full Board for its consideration and decision.

This document establishes the policy to appeal certain decisions by the Board, by committees, or management on subjects such as architectural and landscape matters, lease authorization permits, co-occupancy applications, caregiver applications, non-escrow membership transfer applications, resale related matters, member discipline and Board reimbursement including potential legal fees and costs.

The board will consider a member's requested appeal as long as the following steps in section II are followed.

, except as specifically provided in the Community Rules (as defined below), or as required by law. All board decisions, whether made in open or executive session, are final and not subject to additional review or appeal.

#### II. Policy Process

Members have the right to appeal decisions made by a committee made up of less than the full Board. The appeal process will be included in the Committee's determination letter, which is sent to the affected member.

A member who disagrees with the committee's findings has 30 days, from receipt, to appeal to the full board. The appeal must be received in writing (electronic version is acceptable) **to WHOM???** The appeal must explain why the member believes the board's committee's decision is incorrect. The member may – but is not obliged to – provide new evidence or documentation to aid the appeal. All new evidence or documentation must be submitted within 30-days after the determination letter is received. No new material is acceptable after that date.



#### STAFF REPORT

**DATE:** February 28, 2023

FOR: Resident Policy and Compliance Committee

**SUBJECT: Compliance Letters** 

## **RECOMMENDATION**

Receive and file.

## **BACKGROUND**

On July 20, 2004, the Board of Directors established a "Member-Discipline" process for the purposes of holding Disciplinary hearings in a timely manner and ensuring progressive discipline (Attachment 1, Resolution 03-04-12) amongst the mutual. The Board of Directors are obligated to evaluate and impose- if appropriate, Member-Discipline under its Bylaws and California Civil Code.

The Member-Discipline process is coordinated by the Compliance Division. Upon notice of an alleged violation, Staff investigates and should they identify objective evidence of a violation by a Member or their guests, Staff will send a Courtesy Notice to the offending party describing the allegation(s) and the Disciplinary Action that may ensure if not corrected. Staff will monitor the situation and if compliance is not evident, Staff will send a Final Notice requesting compliance. Additionally, the matter is scheduled for a disciplinary hearing with the Board of Directors to determine if member-Discipline is merited. If the alleged violation has been resolved, no further action is required.

If a Disciplinary Hearing is merited, Staff will proceed with noticing the Member for a hearing. During a Member Disciplinary Hearing the member has the right to meet before the Board of Directors in executive session. If the board finds the Member to be in violation of the Governing Documents, the Board may impose a fine based on the Monetary Fee Schedule, suspend Member privileges for delinquency, and/or consider legal action.

The Executive Hearings Committee meets for four-hours on a monthly basis for Damage Restoration and Disciplinary Hearings. For 2021, the Committee averaged six disciplinary hearings per monthly meeting.

On August 23, 2022, the Resident Policy and Compliance Committee requested samples of the following notices mailed by the Compliance Division: Courtesy notices, Final notices, Hearing notices and Determination notices.

On January 24, 2023, the Committee discussed the Disciplinary Hearing Determination letters template and directed Staff to specify if determination letters are from the Executive Hearings Committee or for the Board of Directors Executive Session. Additionally, the Committee directed

Third Laguna Hills Mutual **Compliance Letters**February 28, 2023
Page 2

Staff to remove the appeal policy verbiage from the determination letters sent from the Executive Committee.

## **DISCUSSION**

Third's current legal counsel has reviewed the Compliance Letters. The Committee is reviewing these changes.

# **FINANCIAL ANALYSIS**

None

Prepared By: Blessilda Wright, Compliance Supervisor

**Reviewed By:** Jacob M. Huanosto, Interim Compliance Supervisor

# ATTACHMENT(S)

Attachment 1: Courtesy Notice Attachment 2: Final Notice Attachment 3: Hearing Notice

Attachment 4: Determination Notice

# Third Mutual Compliance Courtesy Notice Example

Re: Request for Compliance - Resolution 03-16-117, Care & Maintenance of Patios, Balconies, Breezeways & Walkways

Dear Member:

The purpose of this notice is to advise you may be in violation of the Third Laguna Hills Mutual ("Third") Governing Documents. The Third Board of Directors ("Board") has received a report alleging that you have personal items are stored on/in the [Location]. Subsequently, the site was inspected and the following observations were documented: [Description of items that are out of compliance and need to be removed].

[Insert photo here]

As managing agent for Third, we are requesting that you take the necessary action to ensure compliance to the cited restrictions. Please remove the following items within 10 days of the date of this Courtesy Notice, on or before [Date]: [Description of items that are out of compliance and need to be removed].

Be advised that pursuant to Resolution 03-16-117, Care & Maintenance of Patios, Balconies, Breezeways & Walkways states "...Common areas are for the use and enjoyment of all residents and while limited common area permit exclusive use of the area, it is essential that all residents be aware of the need for safety, attractiveness and the prevention of damage to the building by items placed by residents in or on the common or limited common areas..."

As a Third Member, and pursuant to Section 4.5 of Third's Bylaws, please be advised that you are personally responsible for ensuring that the obligations set forth in Third's Governing Documents, including without limitation the Articles of Incorporation, Covenants, Conditions and Restrictions, Bylaws, Rules and Regulations, and Policies are followed by anyone you allow into the community. This includes any Co-occupant, Lessee, or Guest. Your failure to comply with this notice and courtesy request for compliance could lead to disciplinary action by the Board pursuant to Third's Governing Documents.

If you feel that this notice was sent to you in error, please respond to these allegations in writing to the Compliance Department, P.O. Box 2220, Laguna Hills, CA 92654. Alternatively, you may email at <a href="mailto:compliance@vmsinc.org">compliance@vmsinc.org</a> or via phone at 949.268.2255. Thank you for your anticipated compliance.

Sincerely,

FOR THE BOARD OF DIRECTORS

. . .

#### Third Mutual Compliance Final Notice Example

Re: Request for Compliance - Collection and Lien Enforcement Policy

Dear Member:

The purpose of this notice is to advise that you may be in violation of the Third Laguna Hills Mutual ("Third") Ggoverning Ddocuments as your [Assessment/Chargeable Services/Broadband Services/Traffic Citations] account is still past due. Third's records indicate that you have a balance of [\$XXX.XX] in [Assessment/Chargeable Services/Traffic Citations] for [details], including late fees. Additionally, Third's records indicate that you have been informed in letters from Village Management Services, Inc. (VMS) [Accounting Department/Traffic Division], managing agent for Third, to no avail. The past due account is in violation of the Third's Collection & Lien Enforcement Policy.

As managing agent for Third, you are required to take the necessary action to ensure compliance to the cited restrictions. Please submit payment in full within 10 days, on or before [Date] to avoid further action. If payment has already been submitted, please disregard this notice.

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**Commented [h1]:** It is unclear here what the Board is attempting to communicate with the member, as a member is not a managing agent of the Mutual.

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Failure to comply may result in a disciplinary hearing before the Third Board of Directors ("Board").

Pursuant to Section 4.5 of Third's Bylaws, The the Third Board of Directors has the authority to impose monetary penalties, suspend Member privileges and bring forth legal action. Member privileges include, but are not limited to, deactivation of cable TV services, denial of access to GRF facilities, denial of lease authorization requests and/or denial of alteration permits and variance requests. (See Section Formatted: Font: Italic 4.5.3 of Third's Bylaws).

To make a payment by phone or if you have any questions you may contact: [Lori Bell, Chargeable Services Representative, Financial Services Department at (949) 597-4226 / Erica Solis, Assessments Representative, Financial Services Department at (949) 597-4221 / Traffic Division at 949-597-4297]

To make a payment by check, please make your check payable to GRF and mail to:

Laguna Woods Village

Attention: [Accounting Department/Traffic Division]

PO Box 2220

Laguna Hills, CA 92654-2220

If you feel this charge is in error and wish to dispute, you may do so by submitting a written request with the reasons your position by email to Resident Services at residentservices@vmsinc.org or by mail to:

Laguna Woods Village, Attention: Resident Services, PO Box 2220, Laguna Hills, CA 92654-2220

As a reminder, the Collection & Lien Enforcement Policy states:

"all fines, fees, or chargeable services are payable upon billing and become delinquent and subject to monthly late charges not paid within 25 days of the original invoice date." Additionally, the policy states: "Until the Shareholder has paid all amounts due, including delinquent assessments, late charges, interests and costs of collection, including attorneys' fees, and duly imposed fines, fees and/or related charges, the Board of Directors may suspend the Shareholder's right[s]..."

Commented [h2]: I was not able to confirm this language in the Mutual's Collection & Lien Enforcement Policy. Please provide the language that the Board is citing from. As a Third Member, and pursuant to Section 4.5 of Third's Bylaws, please be advised that you are personally responsible for ensuring that the obligations set forth in Third's Governing Documents, including without limitation the Articles of Incorporation, Covenants, Conditions and Restrictions, Bylaws, Rules and Regulations, and Policies are followed by anyone you allow into the community. This includes any Co-occupant, Lessee, or Guest. As a Third Member, please be advised that you are personally responsible for ensuring that the

rules, regulations, and policies are followed by anyone you allow into the community. This includes any Co-occupant, Lessee, or Guest.

If you feel that this allegation is sent to you by mistake or if you would like to make a statement, you may send your written correspondence at <a href="mailto:compliance@vmsinc.org">compliance@vmsinc.org</a> or PO Box 2220, Laguna Hills, CA 92654. If you have further inquiries, you may call at (949) 268-2255.

Sincerely,

FOR THE BOARD OF DIRECTORS

...

#### Third Mutual Compliance Notice of Disciplinary Hearing Example

Re: [Laguna Woods Village Vehicle, Traffic, and Parking Rules]

Dear Member:

You were informed in letters from Village Management Services, Inc. (VMS) Staff, managing agent for Third Laguna Hills Mutual ("Third"), of allegations that you are in violation of Third's Governing Documents. As you have been advised, the following isyou are alleged to be conducting the following, in violation of Third's Governing Documentsallegation against you: [insert details and reason for the disciplinary hearing here]. The foregoing is ain violation of linsert rules citation here].

Due to the continued violations of Third's <u>G</u>governing <u>Edocuments Documents</u>, the Third Board <u>of Directors ("Board")</u> hereby calls you to a Disciplinary Hearing to address this matter. The Disciplinary Hearing will take place as follows:

Date: [Day, Date] Time: [Time]

Location: [Laguna Woods Village Community Center Building

24351 El Toro Road, Laguna Woods, CA 92637/Virtually ...]

If the Board determines that a violation(s) occurred, it will consider imposing disciplinary action against you, including monetary fines of up to five hundred dollars (\$500) for each incident and violation; suspension of Member privileges and/or the commencement of legal action against you, pursuant to Section 4.5 of Third's Bylaws and other related provisions of Third's Governing Documents. Member privileges include, but are not limited to, deactivation of cable TV services, denial of lease authorization requests and/or denial of alteration permits and variance requests (See Section 4.5.3 of Third's Bylaws).

You are strongly urged to attend the hearing as you have a right to be heard and to present argument and evidence on your behalf. —You also have a right to present and submit any statements or evidence in writing. If you do choose to be represented by counsel, please notify our office at least seven (7) days before the hearing date. Likewise, if you will be attending without counsel, please notify us at least seven (7) days before the hearing date. Failure to confirm attendance seven (7) days in advance of the hearing within the allowable time may result in you being unable to be heard by the Board. If you elect not to attend the hearing, a decision may be made in your absence. The Board will conduct the hearing in executive session.

The hearing will be conducted in accordance with the Article 4 of the Bylaws, and specifically, Article 4, Sections 4.4, 4.5 and 4.6 of the Bylaws, a copy of which is enclosed. These sections identify the procedures that will be followed in the hearing and the disciplinary action the Board may take against a Member for violations of Third's Ggoverning Delocuments. Please read these sections carefully before the hearing.

In addition to the remedies specified herein, a Member found to be in violation may be liable for costs of suit and a reasonable sum for attorneys' fees incurred in enforcing the Governing Documents of Third, including without limitation, these the Bylaws, the CC&Rs or the Rules and Regulations any rule or regulation of Third, or any obligation of a Member under the CC&Rs. Be advised that CC&R's Article XXI, Attorney Fees, provides, in pertinent part, as follows states:

"If an Owner defaults...in the performance or observance of any provision of these Restrictions, and the Mutual has obtained the services of an attorney...the Owner

**Commented [h1]:** Where is the Mutual's specific Fine Schedule setting these amounts forward?

Commented [h2]: Please note, we do not recommend that the Board refuse to allow a member to have a due process hearing in the event of late confirmation of attendance, rather, if the Board is no longer able to accommodate the proposed time, we recommend that the Board allow for at least a one-time reschedule as this is a due process hearing.

covenants and agrees to pay to the Mutual any costs or fees involved, including reasonable attorneys' fees..."

#### [Insert rules citation here]

Moreover, pursuant to Third Meeting Rules, Section IV(C), you will have five (5) minutes to address the Board on the matter referenced above. After the Disciplinary Hearing, the Board will deliberate as to what action to take if any. You will be advised in writing of the Board's decision within fifteen (15) days of the Disciplinary Hearing.

Please contact me at 949-268-2255 or at compliance@vmsinc.org to confirm your attendance at the hearing at least seven (7) days prior or to ask any questions you may have regarding the hearing procedure. Failure to confirm attendance within the allowable time may result in you being unable to be heard by the Board. [Upon your arrival, please check in with the Concierge Desk and wait in the lobby of the Community Center until you are called to address the Board/Upon logging into the virtual meeting, you will be placed in a waiting room until the Board is ready].

Sincerely,

At the Direction of the Board of Directors

. . .

**Commented [h3]:** We recommend that the Board consider changing this 5 minutes to possible 10 or 15 minutes, to allow members to have additional time to be heard in this due process hearing.

#### Third Mutual Compliance Disciplinary Hearing Determination Notice Example

Re: Bylaws, Article 4, Membership, Section 4.2.3.4, Guest Restrictions

Dear [Name]:

On [Date], the Third Laguna Hills Mutual ("Third") Board of Directors ("Board") noticed and held a disciplinary hearing during the Board of Directors—Closed Executive Session to consider an allegation that you have violated/are in violation of Third's Governing Documents. As you were advised, [insert details and reason for the disciplinary hearing here] continuing to reside in your unit without Board approval in violation of Third's Bylaws, Article 4, Membership, Section 4.2.3.4, Guest Restrictions.

The Board reviewed information presented by Village Management Services, Inc. (VMS) Staff, managing agent for Third. [The Board also heard oral testimony from you via video call].—Based on its review of all the information, the Board of Directors determined that you have failed to comply with Third's Governing Documents.

After the Following completion of the disciplinary hearing, the Board deliberated and voted and found that you did violate of Third's Governing Documents—, and failed to comply with Third's Governing Documents Documents. As such, the Board voted to and due deliberation the Board

elected to take the following actions:

- Impose a \$[amount] monetary penalty for violation of the occupancy restrictions set forth in Third's Governing Documents;
- 2. Require all unapproved occupants vacate the unit within 10 days from the date of the determination notice; and
- 3. Advise you that failure to comply may result in additional disciplinary action up to and including additional disciplinary action and potential legal action.

An invoice reflecting the \$[amount] monetary penalty will be mailed to you separately. The invoiced amount is due and payable to Golden Rain Foundation (GRF) upon receipt.

As a reminder, Bylaws, Article 4, Membership, Section 4.2.3.4, Guest Restrictions provides, as follows states:

"No person, except a Guest, may Reside in a Manor without the prior written approval of this Corporation. An applicant may seek to Reside in a Manor as a Qualifying Resident or, if another person is applying for, or has already been approved for residency as a Qualifying Resident, as a Co-occupant. No person shall be approved as a Co-occupant unless another person with whom he or she seeks to Reside has been approved as a Qualifying Resident."

Additionally, Bylaws, Article 2, Purposes, Powers, Governance, Definitions, Section 2.4.13, defines Guest as:

"An individual other than a resident, Qualifying Resident, Lessee or Co-occupant of any age. A Guest may stay in a Manor for up to sixty (60) days in any twelvementh period at the invitation of the Qualifying Resident or Co-occupant, subject to limitations on the maximum number of occupants in a Manor."

Furthermore be advised that CC&R's Article XXI, Attorney Fees, <u>states provides</u>, in <u>pertinent part</u>, <u>as follows</u>:

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"If an Owner defaults...in the performance or observance of any provision of these Restrictions, and the Mutual has obtained the services of an attorney...the Owner covenants and agrees to pay to the Mutual any costs or fees involved, including reasonable attorneys' fees..."

Be further advised that Third's Appeal Policy provides, in pertinent part, as followsstates:

"....all decisions, including other matters of Corporate business made by the Board, whether in an Open Meeting or in Executive Session, shall be final and not subject to additional review or a right of appeal by Third members."

In the event you have any questions regarding the Board's disposition of this matter, please do not hesitate to contact me at <a href="mailto:compliance@vmsinc.org">compliance@vmsinc.org</a> or call me at 949.268.2255.

Sincerely,

FOR THE BOARD OF DIRECTORS

• • •

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#### STAFF REPORT

**DATE:** February 28, 2023

FOR: Resident Policy & Compliance Committee

SUBJECT: Barbeque Grill Rules & Regulations

#### **RECOMMENDATION**

Staff seeks direction on the proposed changes to the policy.

#### **BACKGROUND**

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

On December 3, 2020, the Resident Policy and Compliance Committee approved the Barbeque Grill Rules and Regulations.

On February 3, 2021, the Resident Policy and Compliance Committee reviewed the Barbeque Grill Rules & Regulations.

On March 16, 2021, the Third Board approved Resolution 03-21-18 Barbeque Gill Rules & Regulations.

#### DISCUSSION

The Committee requested to review the Barbeque Grill Rules and Regulations.

Prepared By: Blessilda Wright, Compliance Supervisor

Reviewed By: Jacob Huanosto, Compliance Coordinator

#### ATTACHMENT(S)

Attachment 1: Barbeque Grill Rules & Regulations

Attachment 2: Proposed Barbeque Grill Rules & Regulations



# Barbeque Rules & Regulations Resolution 03-21-18; Adopted March 16, 2021

## 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 applying heat from below. There are three categories of grills common for residential use:
  - Gas-fueled grills typically use LPG (propane or butane) or natural gas as a fuel source and are known as an "open flame" source.
  - Charcoal grills are prohibited.
  - Electric grills typically use an electric element to supply a constant heat source with 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.
- d. 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.
- e. Enclosed Area is defined as an area closed in by roof and contiguous walls or windows, connecting floor to ceiling with appropriate opening for ingress and egress.
- f. Member is defined as any person entitled to membership in Third.
- g. Multi Story-Unit Residential Facility means a building or portion thereof that contains more than one story of dwelling units.
- h. Private residence is defined as that portion of any Condominium which is not owned in common with other owners.
- i. Combustible material includes materials made of or surfaced with wood, plastic compressed paper or other material that will ignite and burn. These materials shall be considered as combustible even though flameproofed, fire-retardant treated.

## III. General Rules for all Barbeque

- a. Hot Barbeque units may be left in place where used until cool.
- b. Barbeque units must be used and stored so as not to block walkways.
- c. Barbeque procedures must not cause excessive smoke or offensive odor or be a nuisance to neighboring residents.
- d. Open flame grills are prohibited in multi-story buildings. Only electric grills are permitted in multi-storied buildings.

e. Members with open fire barbeques will be allowed to retain their barbeques however, at time of replacement the new grill must adhere to the rules.

# IV. Rules specific to "open flame" Barbeque units (gas, LPG, propane)

- a. Active open flame units (gas, LPG, propane) must be located at least 10 feet from combustible material as defined above.
- b. Active open flame units must not be located under roof eaves, combustible patio covers or similar overhead coverings.
- c. Active open flame units (gas, LPG, propane) may not be used in an Enclosed Area.
- d. Any cooking device tanks shall contain no more than 15 pounds net weight of propane.

# V. Safety Tips

- a. Follow the manufacture instructions.
- b. Fasten the propane, or LPG, tank securely to the grill assembly.
- c. Place your grill on a solid and level surface to prevent accidental overturn.
- d. Ignite gas grills with the top open.
- e. If ignition of a gas grill does not occur immediately, or the flame goes out, turn the gas off and wait at least 5 minutes before attempting ignition. This includes safety tip v.
- f. Supervise the grill when in use and keep everyone away, including pets.
- g. Use long-handled tools especially made for cooking on the grill
- h. Do not wear a loose apron or loose clothing while grilling,
- i. Thoroughly clean grill after each use to help avoid grease fires.
- j. Keep a fire extinguisher nearby.
- k. Always use and store cylinders outdoors in an upright (vertical) position unless the Bar-B-Que manufacturer has designed the system otherwise.
- I. Leak test all gas connections with soap solution at least once each year and the tank connection every time a cylinder is replaced.
- m. Close the gas tank valve when finished Bar-B-Queuing if so equipped.
- n. Be sure any extension cords used with an electric grill are rated for the power (current) stated by the Bar-B-Que manufacturer and rated for outdoor use
- o. Be sure to locate power cords so as not to be a trip hazard.

#### VI. Enforcement

Third is authorized to take disciplinary action against a Member found to be in violation of these Barbeques Rules and Regulations. When a violation occurs, the Board is obligated to evaluate and impose certain 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.

Attachment 1
Third Laguna Hills Mutual
Barbeques Rules & Regulations
Resolution 03-21-18

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 <a href="mailto:compliance@vmsinc.org">compliance@vmsinc.org</a> or by calling the Security Department at 949-580-1400.

# Third Mutual Barbeque Rules & Regulations

Resolution 03-23-XX; Adopted Mmm DD, 2023

#### 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. <u>Barbeque Grills</u> are devices that cook food by applying heat from below. There are three categories of grills common for residential use:
  - Gas-fueled grills typically use LPG (propane or butane) or natural gas as a fuel source and are known as an "open flame" source.
  - Charcoal grills typically use charcoal or wood chunks as a fuel source and are known as an "open flame" source. Charcoal grills are prohibited.
  - Electric grills typically use an electric element to supply a constant heat source with no open flames.
- b. <u>Combustible material</u> includes materials made of or surfaced with wood, plastic compressed paper or other material that will ignite and burn. These materials shall be considered as combustible even though flameproofed, fire-retardant treated.
- c. Common Area means the area which is available for use by more than one person.
- d. <u>Community Rules</u> 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.
- e. <u>Enclosed Area</u> is defined as an area closed in by roof and contiguous walls or windows, connecting floor to ceiling with appropriate opening for ingress and egress.
- f. Member is defined as any person entitled to membership in Third.
- g. <u>Multi Story-Unit Residential Facility</u> means a building or portion thereof that contains more than one story of dwelling units.
- h. <u>Private residence</u> is defined as that portion of any Condominium which is not owned in common with other owners.

#### III. General Rules for all Barbeque

- a. Open flame grills are prohibited in multi-story buildings. Only electric grills are permitted in multi-storied buildings.
- b. Hot Barbeque grills units may be left in place where used until cool.
- c. Barbeque grills units must be used and stored so as not to block walkways.
- d. Barbeque procedures must not cause excessive smoke or offensive odor or be a nuisance to neighboring residents.

#### IV. Rules specific to "open flame" Barbeque units (gas, LPG, propane, charcoal)

- a. Active open flame grills units (gas, LPG, propane) must be located at least 10 feet from combustible material as defined above.
- b. Active open flame grills units must not be located under or within 5 feet of roof eaves, combustible patio covers or similar overhead coverings.
- c. Active open flame units (gas, LPG, propane, charcoal) may not be used in an Enclosed Area.

- d. Any <del>cooking device</del> barbeque grill's tanks shall contain no more than 15 pounds net weight of propane.
- e. Charcoal grills should be started only with an electric starter -- lighter fluid and charcoal chimneys are prohibited.
- f. Used charcoal must be cold to the touch before being disposed of.

## V. Safety Tips

- a. Follow the manufacture instructions.
- b. Fasten the propane, or LPG, tank securely to the grill assembly.
- c. Place your grill on a solid and level surface to prevent accidental overturn.
- d. Ignite gas grills with the top open.
- e. If ignition of a gas grill does not occur immediately, or the flame goes out, turn the gas off and wait at least 5 minutes before attempting ignition.
- f. Supervise the grill when in use and keep everyone away, including pets.
- g. Use long-handled tools especially made for cooking on the grill.
- h. Do not wear a loose apron or loose clothing while grilling.
- i. Thoroughly clean grill after each use to help avoid grease fires.
- j. Keep a fire extinguisher nearby.
- k. Always use and store cylinders outdoors in an upright (vertical) position unless the Bar-B-Que-Barbeque manufacturer has designed the system otherwise.
- I. Leak test all gas connections with soap solution at least once each year and the tank connection every time a cylinder is replaced.
- m. Close the gas tank valve when finished Bar B QBarbequeuing if so equipped.
- n. Be sure any extension cords used with an electric grill or electric starter are rated for the power (current) stated by the Bar-B-Que Barbeque manufacturer and rated for outdoor use.
- o. Be sure to locate power cords so as not to be a trip hazard.

#### VI. Enforcement

Third is authorized to take disciplinary action against a Member found to be in violation of these Barbeques Rules and Regulations. When a violation occurs, the Board is obligated to evaluate and impose certain 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 949-268-2255CALL or compliance@vmsinc.org or by calling the Security Department at 949-580-1400.



#### STAFF REPORT

**DATE:** February 28, 2023

FOR: Resident Policy and Compliance Committee SUBJECT: Co-occupant Without Qualifying Member

#### RECOMMENDATION

Staff recommends that staff's current approach to vetting co-occupancy applications be reaffirmed until additional research and data-driven reports may suggest another course of action.

#### **BACKGROUND**

When an application for Occupancy/Co-occupancy Permit is received, it undergoes a vetting process. Staff reviews the applicants' information to learn whether the application and related documents are complete and researches the history of violations and delinquency, if any. Staff notes whether the individual lives or has lived elsewhere in the Community. If the database history reflects the co-occupant has been approved as a lessee elsewhere, staff makes the broad assumption that the co-occupancy application will actually serve as a lease 'under the radar'. Sometimes, strategic questions posed to the applicant(s) will reveal that he/she has responded to an advertisement to lease. Other times, staff observes an advertisement in the Globe newspaper. Ultimately, staff makes a recommendation to the Board to approve or deny an application based upon the totality of information known or believed to be true.

#### DISCUSSION

Staff has obtained some anecdotal information but it is not definitive/complete enough upon which to chart a course of action going forward. Several current incidents that are pertinent to a discussion of co-occupants without Qualifying Members will be discussed orally in lieu of documentation within this staff report. Third Mutual Bylaws mirror California Civil Code and define a co-occupant as someone who seeks to reside with a Qualifying Resident, who is approved by the Board and certifies he is at least forty-five years of age; or a spouse of a Qualifying Resident; or a co-habitant of a Qualifying Resident; or a provider of primary economic support to a Qualifying Resident or a provider of primary physical support to a Qualifying Resident (Bylaws, Article 2, Subsection 2.4.9.)

#### **FINANCIAL ANALYSIS**

None

Prepared By: Pamela Bashline, Community Services Manager

**Reviewed By:** Jeff Spies, Community Services Supervisor