

CHAPTER THIRTEEN - Section 13.02

GENERAL REQUIREMENTS

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I. APPLICABILITY

- A. The rules and regulations of [Ref:] Chapter 13 of this Policy Manual shall apply to numbered residential lots, Marina Point Condominium Units, and LMOA owned community property (common areas) shown on the recorded plats of the various sections comprising Lake Monticello.
- B. The Environmental Control Committee, hereinafter the ECC, recognizes that specific deviations from these rules and regulations might now exist on certain lots. Irrespective of how these deviations have occurred, the ECC shall not consider them as setting a precedent when making future determinations.
- C. No unimproved lot of record shall be altered in any manner without prior written approval of the ECC. Any new construction or alteration of any existing improved property shall be in compliance with [Ref:] Sections 13.03 through 13.07 of this Chapter.
- D. In the event that Federal, State, or Fluvanna County ordinances are more restrictive than the provisions of this chapter or the recorded Covenants, Restrictions, and Reservations (CR&R), then the more restrictive requirements shall prevail.
- E. It is the lot owner's responsibility that the LMOA and ECC policies and procedures are followed.
- F. The invalidation by judgment or court order of any one or more of the rules and regulations contained in this [Ref:] Chapter 13 of the LMOA Policy Manual shall in no way affect the validity and enforceability of the remaining provisions hereof.

II. ENFORCEMENT OF RULES AND REGULATIONS

- A. If, upon notification that a violation of the rules and regulations exists, the violation is not corrected within a reasonable time, the violation will be reported to the LMOA Compliance Committee for adjudication.
- B. A finding by the Compliance Committee that a violation exists will result in a ruling requiring the correction of and/or removal of the violation. The Compliance Committee may also assess a charge of up to \$50 for a one-time violation or a charge of up to \$10 per day for a continuing violation.
- C. The ECC will not consider any application from members who are not in good standing; provided, however, the ECC may consider an application if it is for the purpose of getting

approval to correct a violation of the restrictive covenants or rules and regulations.

- D. It is the intention of the Association to enforce compliance with the CR&Rs contained in the statements of subdivision and with the rules and regulations by either judicial or Compliance Committee action. In the event that there is a reported violation of the covenants or of the rules and regulations of the Association and a question arises as to whether or not the covenants or rules and regulations are enforceable in a particular case, the matter shall be referred to counsel for the Association to render an opinion as to whether or not such matter is enforceable by judicial or Compliance Committee action. If counsel advises the Board that a particular violation is not enforceable by judicial or Compliance Committee action due to the statute of limitations, estoppels, waiver, or other legal defense, the Board of Directors may pass a resolution stating that on the advice of legal counsel the violation is not enforceable by judicial or Compliance Committee action and that, accordingly, no action will be taken against the property owner. With respect to such violation for which the Board of Directors adopts a resolution that it will not take any action, the Compliance Committee shall not take any action with regard to complaints concerning such violation. For such violations, the Association shall state in the disclosure packet required by the Property Owners' Association Act that there is a violation of (description of the violation), but by resolution dated (date of resolution) the Board of Directors has determined that no action shall be taken against the property or property owner. When the Board determines that such a violation is unenforceable and passes a resolution to that effect, the existence of the violation shall not adversely affect the owner's good standing with the Association.

III. LAND USE

- A. Single-family residences
1. The properties shown as numbered lots on the Subdivision Plat Maps are restricted to the use of a single family. Only one (1) single-family residence shall be erected on a lot.
 2. Each Marina Point Condominium unit is a single-family residence.
- B. Definition of Family - For the purposes of this chapter, the term "family" shall be defined as follows:
1. an individual;
 2. a husband, wife, and dependent children;
 3. two or more persons related by blood to the first degree of consanguinity (e.g., father, son, aunt, uncle, niece, nephew) marriage, adoption, plus not more than one unrelated person living together as a single housekeeping unit in a dwelling; or
 4. not more than two persons not related by blood, marriage, or adoption including their dependent children living together as a single housekeeping unit in a dwelling.

IV. GENERAL CRITERIA

- A. The ECC shall have the right and shall be charged with the responsibility to disapprove any plans, specifications or details for the erection, modification, or alteration of any house or other structure which it deems not in accordance with the restrictive covenants as set forth on the property Deed of Record.
- B. Methods of Construction
1. The preferred method of construction is "stick built" on site. Houses which are

panelized and transported to the construction site are acceptable.

2. Modular homes will be considered provided all other requirements of the rules and regulations have been fully met and the installation process will not require the removal of an excessive number of trees.
3. Mobile homes and double-wide mobile homes are prohibited.

V. PROPERTY TRANSFERS, VARIANCES, RELEASES AND WAIVERS

- A. Property transfers, variances, releases, and waivers of the recorded CR&R will not be granted. However, on a case-by-case basis, the Board of Directors may waive enforcement of the CR&Rs or the provisions of this Chapter after consideration of individual circumstances, including the following:
1. the hardship, including cost, of correcting the violation;
 2. whether the owner or builder had actual prior knowledge of the fact that the restrictive covenant, rule or regulation was not being complied with or the owner acquired the property with knowledge that the property was not in compliance with the restrictive covenants, rules or regulations;
 3. the adverse impact on the adjoining properties;
 4. the adverse impact on the community;
 5. remedial steps that have been taken by the owner or which the owner agrees to take to minimize the consequences of the violation;
 6. the misconduct, if any, of the owner requesting the waiver; and
 7. such other factors as the Board may consider appropriate to reach a fair and equitable result.

The decision of the Association in granting a waiver of enforcement shall be in its sole discretion and final. This decision must be approved by a majority of directors. The waiver in a particular case shall not be deemed a waiver of the right to enforce said restrictive covenants, rules or regulations thereafter in other cases.

- B. The LMOA will oppose any request for a variance to a Fluvanna County ordinance when the granting of such a variance would result in a violation of the recorded CR&Rs.
- C. The Association will not surrender or transfer the buffer area between the lake and a lakefront lot to the property owners.

VI. NON-CONFORMING STRUCTURES/IMPROVEMENTS

- A. Any house or structure which does not conform to these rules and regulations shall be considered “non-conforming” and in violation of the rules and regulations. Any non-conforming house or structure that has not been granted a waiver as noted in [Ref:] 13.02, Section IV.A.1, shall be brought into compliance through improvement, replacement, repair, change or modification accepted by the ECC.

VII. DISCLAIMERS

- A. Neither the ECC nor any agent of the ECC shall be responsible in any way for any defects in any plans, specifications, or details submitted, revised, or approved in accordance with these rules and regulations, nor for any structural or other defects in any work done according to such plans, specifications and details.
- B. During the site inspection, the ECC relies on the property lines as marked on the lot by the

licensed land surveyor and does not make any independent confirmation that the property lines as marked are consistent with the plat of the lot.

- C. Designs, materials, and construction methods shall comply with the Fluvanna County Building Codes. The ECC is not authorized to enforce County building code requirements. The ECC's approval of building plans in no way guarantees compliance with said codes. However, Lake Monticello is generally more restrictive than the County in terms of exterior materials, designs, styles, colors, etc., that affect the harmony of the community. IT IS THE RESPONSIBILITY OF THE PROPERTY OWNER TO ENSURE COMPLIANCE WITH ALL BUILDING CODES THAT ARE APPLICABLE TO ANY EXTERIOR DESIGN TREATMENT APPROVED BY THE ECC.
- D. The applicant shall be responsible for ensuring that any changes, revisions or actions required by the ECC comply with all applicable building codes and ordinances, and the Association, the ECC and its agents assume no responsibility for ensuring compliance with other than the Association's rules and regulations.