



PROCEDURE TO REPORT A FAILURE TO MAINTAIN PRIVATE PROPERTY IN WFCA NEIGHBORHOODS

Bent Tree, Laurelwood, Olde Mill, New Bent Tree, and Sweetbriar

WINSLOW FARM COMMUNITY ASSOCIATION

Management: Pegasus Properties

PO Box 37

Smithville, IN 47458

“The Declaration of Covenants, Conditions and Restrictions (CCRS) of Winslow Farm Association, ... provides for protective covenants and restrictions with the intent of preserving the character of Winslow Farm and to protect property values therein by requiring property owners to maintain the Lot and his Residence, Building or other structure situated thereon in a first-class condition and in such a manner as to prevent the Lot, the Residence, Building or other structure from becoming unsightly.”

In compliance with the stated CCR for Winslow Farm Community Association, the Board of Directors presents this document with the understanding that WFCA Board of Directors will not initiate a complaint, nor will it act upon complaints that are deemed to not have significant financial impact on the surrounding properties or are otherwise the jurisdiction of the city. The procedures outlined to submit challenges to decisions and request for corrective action are in compliance with the Indiana Homeowners Association Act, Code § 32-25.5.

- 1. CITY CODE VIOLATIONS COMPLAINTS.** Complaints about trash, weeds, lawns, and snow removal, or other City of Bloomington Code Violations on private property are to be submitted to the City of Bloomington HAND (Housing & Neighborhood Development) Department by visiting the City's uReport system at <https://bloomington.in.gov/ureport>. Complaints may be submitted anonymously.
- 2. MAINTAIN PRIVATE PROPERTY MAINTENANCE UNDER WINSLOW FARM COMMUNITY ASSOCIATION COVENANTS, CONDITIONS AND REGULATIONS (WFCA CCRS)** Should a **WFCA homeowner** believe a WFCA property is not maintained in accordance with the WFCA CCRs, the homeowner is encouraged to personally bring the violation to the attention of the property-in-violation owner (**Respondent**). The member reporting the violation (**Claimant**) should amicably share the relevant CCR text and ask that the violation be corrected within a mutually agreed upon timeframe.
- 3. FILING A REPORT.** If the Claimant is reluctant to personally address the property-in-violation owner (Respondent) about the violation, OR if the issue is not resolved within the stated timeframe, Claimant may complete a [Report for Property Maintenance WFCA CCR Violation](#) (See Form below) and submit it to the WFCA Management, Pegasus Properties, Inc. at above address, or to Pegasus.properties@gmail.com

If an Architectural Committee (AC) exists for the specific Neighborhood, Pegasus will forward the Report to the AC for initial review and assessment of the complaint. If no neighborhood AC exists, the Report will be forwarded directly to WFCA Board of Directors for review and assessment of the complaint.

- 4. RESPONSE TO A WFCA CCR VIOLATION COMPLAINTS REPORT.**
 - A. ONSITE INVESTIGATION.** The AC and/or WFCA Board will conduct an on-site investigation to determine the status of the complaint. Where an AC is functioning, it will forward its assessment to the WFCA Board.
 - B. OFFICIAL NOTICE.** If the AC/WFCA judges the assessment to be of sufficient concern to warrant action, the WFCA Board will send an Official Notice to the Respondent (property-in-violation owner). The definition for legal notice is specified in Section 11.4 of the WFCA CCRs and

determines that a notice is properly sent by regular U.S. mail to the owner at the last known recorded address in the Monroe County Auditor's Office. Section 11.4 also provides that valid notice may include giving it to any adult resident of the property or by affixing it to or sliding it under the front door of the residence.

The **Official Notice of Maintenance Violation** will include:

1. The nature of the Claim, including the date, time, location, persons involved, and the Respondent's role in the claim.
2. The basis of the Claim, including the Section number(s) of the CCRs or other authority out of which the Claim arises.
3. Action required to address the violation within 30 days (with the opportunity to mutually adjust the timeframe as appropriate.)
4. Notice that the Respondent has a right to request a Negotiating Meeting with the Board or its representative. A written request to meet is to be made no later than ten (10) business days after the date of the Official Notice.
5. The official contact information will be provided the Respondent.

C. **NEGOTIATION MEETING.** If agreed, the Respondent and the Board or Board Representative will meet in person or by Zoom at a time and place agreed upon by both WFCB Board and Respondent to negotiate in good faith a Settlement Agreement identifying actions to be completed by a mutually agreed upon deadline. A written Settlement Agreement is to be signed by both parties.

5. **WFCB AUTHORITY:** Pursuant to IC 25.5-5-16 of the Indiana HOA Act, Powers of board Sec. 16. The board, on behalf of the homeowners' association, and without the consent of the members of the homeowners' association, may do any of the following:

- A. (1) Negotiate settlements of claims or legal proceedings under this chapter.
- B. (2) Execute settlement agreements, waivers, releases of claims, or any other documents resulting from application of this chapter.
- C. In accordance with Section 3.2.9 of the WFCB Bylaws: WFCB has the authority to "act in place of the Architectural Committees for the following neighborhoods if there is not an official functioning committee in place using the same guidelines as provided for in the respective neighborhood Declaration of Covenants: Olde Mill, Bent Tree, New Bent Tree, Laurelwood, and Sweetbriar.

6. **IMPASSE, SUBMISSION TO MEDIATION /BINDING ARBITRATION**

A. **IMPASSE.** The parties are at an IMPASSE if:

- The Respondent fails to respond within 30 days following an official notice.

- The Respondent does not agree to resolve the Violation and does not request a Negotiation Meeting, or
- Either party fails to attend an agreed upon Negotiation Meeting, or
- The Parties are unable to settle the Claim at the Negotiation Meeting.

- B. MEDIATION.** After an impasse is determined, either party may, not later than ten (10) days, submit a request in writing for mediation or binding arbitration. **Note: the party making the request is responsible for the costs of the mediator or arbitrator.**

If a settlement is agreed upon, the settlement of the claim must be documented in a written agreement and signed by the Board or Board Representative and the Respondent.

7. WFCA PROCEDURE TO RESPOND TO A FAILURE TO CORRECT A CCR VIOLATION IN THE NEIGHBORHOODS OF BENT TREE, LAURELWOOD, NEW BENT TREE, OLDE MILL AND SWEETBRIAR.

A. FAILURE TO CORRECT CCR VIOLATION AFTER INITIAL NOTIFICATION

- In the event the Respondent fails to correct the CCR violation within 30 days of a written notice of a CCR violation (or the agreed upon deadline), WFCA will obtain legal counsel to address the claim against the Respondent. WFCA will obtain legal Counsel if the Respondent:
 - Fails to respond to notices and/or
 - Fails to contribute towards negotiating a Settlement Agreement and/or
 - Fails to abide by the details of an Agreement as outlined in a Negotiation or Mediation Meeting.
- The Legal Notice will outline the procedure WFCA will follow to correct the CCR violation(s) and include the following:
 - The original notices identifying the violations to the referenced WFCA CCRs
 - The respondent will be given a final opportunity to correct the CCR violation within thirty (30) days of receiving the legal notice or negotiate an agreed upon deadline-
 - If the respondent fails to correct the violation within the 30 days from when the legal notice was sent (or the agreed upon deadline), WFCA will take steps to correct the violation. WFCA will charge all expenses needed to correct the violation to the Respondent, including legal expense.
- WFCA repairs related to CCR property maintenance violations are specifically limited to external maintenance issues which negatively impact the safety and/or property value of the surrounding WFCA homes. No internal issues, heating/air conditioning, window replacement or utility problems will be addressed, unless the utility issue presents a danger to the community.

- d. The cost incurred to correct the violation will be charged as a special assessment to the property-owner-in violation.
 1. If the expenses total less than \$1,000 the property-owner-in violation may reimburse WFCA within 30 days or the amount will be charged for repayment as part of the annual fee assessment to the property owner and will be subject to judgement through the court if not repaid.
 2. If the expenses total more than \$1,000 the property-owner-in violation may reimburse WFCA within 30 days or in keeping with State of Indiana IC32-28-14, WFCA will proceed to place a lien against the property.
 - a) Legal proceedings resulting in a judgment favorable to WFCA, entitles WFCA to recover the following from the Respondent: court costs; attorney's fees; and all other reasonable costs incurred in enforcing the settlement agreement.
 - b) Once WFCA legally attaches the lien to the property, the lien is recorded in the office of the Monroe County Recorder.
 - c) The Respondent will be notified that the lien on the property has been registered.

B. IF THE RESPONDENT (PROPERTY-IN-VIOLATION OWNER) FAILS TO ADDRESS THE CCR VIOLATION WITH 30 DAYS AFTER LEGAL NOTIFICATION, THE WFCA WILL INITIATE THE PROCEDURES OUTLINED ABOVE IN SECTION 7.A



SUMMARY

PROCEDURE TO REPORT A FAILURE TO MAINTAIN PRIVATE PROPERTY IN WFC A NEIGHBORHOODS

Bent Tree, Laurelwood, Olde Mill, New Bent Tree, and Sweetbriar

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The following provides WFC A HOMEOWNERS with a SUMMARY of the *WFC A PROCEDURE TO REPORT A FAILURE TO MAINTAIN PRIVATE PROPERTY*. The steps outlined are in compliance with the Indiana Homeowners Association Act, Code § 32-25.5 and WFC A Covenants, Conditions, and Restrictions (CCRs). They address issues that impact the values of neighboring properties and therefore, are in violation of WFC A CCRs. This is a SUMMARY. References to the details of the document appear as italicized numbers in parentheses. The complete document as available at: winslowfarmcommunity.com/minutes-forms.

1. Determine if the problem falls under the City of Bloomington or WFC A authority. If it is a city matter, contact *HAND*. (1)
2. WFC A homeowners should first consider an amicable discussion. (2)
3. If a complaint remains unresolved, use the form “*REPORT FOR WFC A PROPERTY MAINTENANCE CCR VIOLATION*”. (3) The form can be found at: winslowfarmcommunity.com/minutes-forms
4. If after an onsite investigation of the property in question, the WFC A Board determines the complaint warrants action, the Board will send an *Official Notice* to the owner of the property in violation. (4-A, B).
5. The Owner of the property in question may request a *Negotiating Meeting* with the Board within ten (10) business days of receiving the notice. If a *Settlement Agreement* is reached, both parties must sign it. (4-C)
6. If an impasse occurs, the WFC A will take legal action. A written *Legal Notice* will be sent to Owner of the property in violation. (6-A)
7. Either party may request mediation or binding arbitration no later than ten (10) business days after an impasse is identified. The party who makes the request pays all expenses of the mediation. (6-B)
8. If the violation is not corrected within the time limit stated in the *Legal Notice*, WFC A will take practical action-steps to correct the violation. The owner of the property in violation will be charged and invoiced for all expenses, including legal expenses, incurred by WFC A to correct violation. (7-A)
9. If the WFC A is not reimbursed for the above expenses within the stated time limit after the date of the *Invoice*, WFC A will register a lien on the property in violation with the office of the Monroe County Recorder. (7-A-2)

Refer to the complete details of the WFC A PROCEDURE TO REPORT A FAILURE TO MAINTAIN PRIVATE PROPERTY IN WFC A NEIGHBORHOODS of Bent Tree, Laurelwood, Olde Mill, New Bent Tree, and Sweetbriar as posted on the website at winslowfarmcommunity.com/minutes-forms.