

Longboat Key Estates Club Association

Community Guide

To assist the membership in understanding its legal obligations, the Board of Directors and the Bylaws Committee have prepared this Community Guide based on review of Florida statutes, Longboat Key ordinances, Association ByLaws, and the few remaining Association restrictions. Final interpretation of those governing provisions (only a portion of which are summarized below) are a matter for the government and the judiciary. However, review and analysis suggests that the following constraints, restrictions and requirements are among those which exist for all of us:

1. We are a single family residential community and must comply with Longboat Key's zoning and building codes, regulations, and all other applicable governmental building codes and regulations, as well as Florida Statutes 617 (Governing Corporation Not For Profit) and Florida Statutes 720 (Governing Homeowner Associations).

(Second Amended and Related Restrictions of Longboat Key Estates February 2007 ("2007 Restrictions") ¶2; Florida Statutes 617 and 720)

2. Our zoning category ("District Use") is R-4SF. This means we are a Single Family Medium Density Residential District with four dwelling units per acre. (Longboat Key Municipal Code 158.008)

3. The governing code provision states that "RESIDENTIAL USE" may allow occupancy periods of less than 30 days by one family, and only that same family, and shall not preclude visitation by guests, provided that such property is not used as a Tourism Use for remuneration". "TOURISM USE" is defined as the "use, or occupancy, or the design for such use or occupancy, by any person, of any property for transient lodging purposes where the term of occupancy, possession or tenancy of the property by the person entitled to such occupancy, possession or tenancy is less than 30 consecutive calendar days or one entire calendar month, whichever is less."

(Code §158.006)

4. Unpaid association assessments constitute a lien upon our property from the date of assessment, and bear interest at the rate of ten per cent (10%) a year beginning sixty (60) days after the date of the assessment if it is not paid. The Association may enforce assessments by foreclosure and "shall recover"

collection costs, including reasonable attorneys' fees, as well as the amount of the lien and interest.

(2007 Restrictions ¶3)

5. Association dues shall be considered in arrears if not paid by May 1 and interest at the rate of 1.5% per month will be charged after that date.

(Second Amended and Restated ByLaws Longboat Key Club Association, Inc. February 2007 ("2007 ByLaws") Article I, Section 3)

6. Utility Easements exist within the front five feet of each lot and within the five foot strip adjoining each side boundary of a lot or contiguous ownership parcel.

(2007 Restrictions §9)

7. Because our properties are subject to covenants (the Restrictions), a prospective owner "must be presented a disclosure summary describing the Association restrictive covenants before executing the contract for sale." There is a risk of the sales contract being voided if this is not done.

(¶720.401 Florida Statutes)

8. Details and issues pertaining to water usage are addressed on the town website, www.longboatkey.org in the "Water Conservation and Irrigation" section.

9. Some watering exceptions noted on the town website pertain to hand watering, watering new and replacement lawns, and other new plant establishment.

(Town website)

10. Unless they are in a carport or garage, motor homes, trailers, travel trailers and the like (described as "any structure appended for or useable for human habitation, mounted on or susceptible of being mounted on wheels, and which can be moved from place to place"), cannot be parked, placed or located for more than five days in any 30 day period. Further, it is unlawful to use as a sleeping accommodation, to cook or serve food, or to connect such vehicles to any source of electrical power or potable water, during that time.

(Code §72.06)

11. Only "generally accepted" household pets can be kept or maintained.

(Code, §91.02)

12. No person shall keep a dangerous animal as defined by the Code. The Code also provides that an unreasonable sound violation exists where any animal "continuously and/or intermittently for an extended period howls, barks,

yelps, meows, squawks, or makes other sounds in such a manner as to annoy, disturb, injure or endanger the comfort, repose, health, peace or safety of a reasonable person of normal sensibilities”.

(Code 91.00 and 91.15) and (Code 130.02(C)(2)(d))

13. Dogs and cats are not permitted "to be on any beaches within the town".

(Code, §91.17)

14. Dog excreta must be removed from any public property and all private property which does not belong to the dogs' owner or keeper.

(Code §91.18).

15. We must keep our land "cleared of all underbrush and debris; weeds or grass in excess of 12 inches in height from the ground; noxious material of any kind which tends to be a breeding place for mosquitoes, or tends to be a breeding place or haven for snakes and vermin of all kinds and character; or noxious material which tends to create a fire hazard and endanger the lives and property of the citizens of the town, or which tends to create a nuisance or other unsightly or unsanitary condition."

(Code 104.09(D)(1)).

16. A parcel of land "without vegetation resulting in dust or erosion" is "detrimental to the health, safety and welfare of the citizens of the town, a public nuisance and is prohibited".

(Code 104.09(D)(2)).

17. Procedures exist for the town to correct the two above-described violations if the Code Enforcement Board finds that a "property owner has failed to maintain his property pursuant to in 104.12(D)(1) and (2) of the Code. Among other things, upon a finding by the Code Enforcement Board that the property owner has failed to maintain his property pursuant to this Section, the town may direct appropriate remedial action "in addition to imposing a lien."

(Code 104.09(D)(3)).

18. Those of us owning properties where the lighting "can be seen from the beach" should consult the Code at 100.06, pertaining to sea turtle protection, with respect to lighting from May 1 to October 31 of each year.

19. Sound regulations are set forth in detail in 130.02 of the Code. This is to enforce the public policy "that every person is entitled to ambient sound levels that are not detrimental to life, health, and enjoyment of his or her property" and declares that "the making, creation, or maintenance of excessive and unreasonable sound within the town affects and is a menace to public health,

comfort, convenience, safety, welfare and prosperity of the people of the town.”

(Code 130.02(A) and provisions and prohibitions following thereafter)

20. The loud and unnecessary noise ordinance also generally prohibits (1) building repair, erection and delivery of materials, etc. other than between 8:00am and 5:00pm on Monday through Saturday, and (2) dredges, pneumatic hammers, pile drivers, etc. from operation other than between 8:00am and 5:00pm on Monday through Friday.

(see Code 130.02(C), including but not limited to subsections (e), (h), and (i) thereof)

21. Annoying spotlights and floodlights are prohibited and such devices must be "installed, regulated, and maintained...so as to reflect the light away from any adjoining residential premises and avoid disturbance, annoyance, or interference to persons upon these adjoining premises".

(Code 103.03)

22. All signs, including real estate signs, are subject to Longboat Key Code provisions, as amended from time to time.

23. Our property setbacks (for our R-4SF use) are governed by the Code at 158.145. The minimum street and rear setbacks are 20 feet each. Our two side yard setbacks must collectively total 20 feet, and neither side yard setback can be less than 8 feet.

24. Street yard walls and fences may not exceed three feet in height. Side and rear yard wall, fences and hedges shall not exceed six feet, except in waterfront yards where the height restriction is instead three feet.

(Code 158.152(A)-(C); see also Code §158.148 pertaining to intersection visibility and wall, fence and hedge conformity therewith)

25. Section 95.25(C) of the Code makes it illegal to park or openly store "boats, boat trailers, cars, trucks, motorcycles, motor scooters or tractors not displaying a current license plate and not having a current state registration ..." Moreover, where such property has a current license or registration, parking or storage must be in compliance with 158.128 of the Code. (Code 95.25(D). 158.128(H) (pertaining to utilization of yards for parking in R districts (which we are)) suggests that such parking area must have a 20 foot setback and be located at least 8 feet from any abutting side or rear property line.

(Code 158.128(H)(2)(b)(e))

26. Requirements with respect to burglar alarm systems are set forth in Chapter

101 of the Code. Of critical importance is the fact that the town must be notified of the existence of a system and be provided with the names, addresses and phone numbers of at least two people who can be notified and respond within 45 minutes in the event of a system activation.

(Code 101.02)

27. Requirements with respect to fertilizer management are set forth in Chapter 102 of the Code. Of critical importance is the fact that fertilizers containing nitrogen or phosphorous cannot be used between June 1 and September 30.

(Code 102.01)

28. "All containers for junk, solid waste, yard waste and recycling within the public right-of-way or within five feet of the public right-of-way, shall be removed or otherwise effaced from public view within 48 hours of placement". This not only means that containers must be taken in within 48 hours, BUT ALSO that they must be removed from public view; that is, stored inside or screened from public view if outside.

(Code 95.25(E))

29. If an enforcement related complaint arises which a member does not feel comfortable trying to resolve himself or herself, it is suggested that said member contact a board member.