

# CLOW CREEK FARM HOMEOWNERS ASSOCIATION

## Rules and Regulations

(Revised and Approved February 9, 2021)

- I. **Continuation of fifty dollar (\$50) start-up/transfer fee for home sales within Clow Creek.** When a home is sold within the subdivision the new owners shall pay a one time start up fee of fifty dollars (\$50) to the CCFHA. (Approved January 1998; Revision Approved December 1999)
- II. **Fences along creek and/or facing Book Rd.** : In an effort to maintain a clean, uniform look for fences facing Book Rd., the Board reserves the right to require new or replacement fences that face Book Road to be the same or of consistent pattern as any existing fences along Book Road, including the right to require stain colors to match existing fences in place. (Approved April 1998; Revision Approved December 1999; Revision Approved Feb 9, 2021)
- III. **No Sheds or Exterior Storage facilities are allowed in Clow Creek Farm Subdivision.** An example of Sheds or Exterior Storage Facilities are – but not limited to: Plastic Storage products, Rubbermaid storage products, metal sheds, metal storage facilities, Traditional sheds (as seen at home improvement centers etc.), and any exterior storage product larger than a deck box (see deck box rule/regulation IV. below) is not allowed. (Approved April 1998; Revision Approved December 1999)
- IV. **Dimensions and location for Deck Box.** As a result of the rules and regulation regarding “no sheds” (see III. above) passed in April 1998 (and revised and approved December 1999), Deck Boxes may be approved under the following conditions:
  - a. The size of the box must be no larger than 42”L x 22”H x 22”W, must open from the top and may not have doors on it.
  - b. The location of the box must be against the house or on the deck, and may not be visible from the street.
  - c. Under no circumstances may the deck box be placed on the side or front of the home.(Approved December 1999)
- V. **Fence construction.** All Fences installed in Clow Creek Farm Subdivision are to be constructed of cedar or redwood, architectural metal or composite/vinyl. Architectural and composite/vinyl fences are approved on a case by case basis. Wood fences must remain natural and allowed to weather; or stained of earthtone or natural color stain as approved by the Board. Color and fence type must be approved by the board prior to start of construction. Painting of fences is permitted with board approval. All fences shall be maintained and shall not have visible cracking, peeling, rotting or rust, nor shall

have missing or damaged boards, posts or rails. (Approved November 1999; Revision Approved Feb. 9, 2021)

- VI. **Pools.** Per the Codes and Covenants, above ground pools are not permitted in Clow Creek Farm, and all in-ground pools must be first permitted by the city of Naperville, then reviewed and approved by the Board. The Board has established the following requirements for review and approval of in-ground pools:
- a. Any CCFHOA member intending to construct an inground pool must secure permission from each adjacent property owner whose property may be infringed upon during construction. The CCFHOA Board shall not insert itself into property damage disputes between neighbors, but expects that the homeowner whose construction may have resulted in any damage to adjacent property, take responsibility to have secured permission and assure completion of any necessary repairs in a timely manner as described in section VI.c.v. below.
  - b. The pool must first be permitted with the City of Naperville, following their established guidelines. Once the permit is approved/granted, the homeowner must submit a copy of the packet used for the City of Naperville permit approval with a copy of the approved permit to the CCFHOA Board. The Board reserves the right to request any additional information it believes pertinent to rendering an approval decision.
  - c. Additional requirements of CCFHOA for in-ground pools:
    - i. A 54-inch fence (or such height fence currently required by City of Naperville code for in-ground pools) must be erected around the concrete apron of the pool. You may not use the fence around the property as a substitute for the fence around the apron. Your fence around the property must comply with the 48-inch requirement of the neighborhood should you choose to fence your lot as well.
    - ii. All heaters, filters, and related permanent pool equipment must be placed behind the house, not visible from the street or front side yards.
    - iii. If removing a deck/patio, the homeowner must dispose of the used building materials within 30 days from the time of completion of the pool; these construction items may not be stored on the outside portion/lots of the homeowner's property.
    - iv. As the builder of the pool, the homeowner is responsible for proper drainage of the property due to changing of the gradation as a result of the pool construction. Homeowner is responsible for compliance with city of Naperville drainage requirements.
    - v. If the homeowner will be using the property line between houses or any neighbor's property for equipment to be brought in, the homeowner must reach an agreement with them as to using their property for this process. Further, the homeowner must restore their neighbor's property (if damaged) to the same condition within 30 days of the completion of the project. Note: Failure to do this will result in the CCFHOA taking the corrective action and assessing the homeowner a 15% service charge plus the cost of the repair/restoration.

- vi. The homeowner must include in their request for CCFHOA approval appropriate information on design of the pool and layout, in addition to the time line for the contractor to complete the project.

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VII. **Ornamental Ponds.** Ornamental ponds must first be permitted by the city of Naperville, then reviewed and approved by the CCFHOA Board of Directors. The Board has established the following requirements for review and approval of ornamental ponds:

- a. Any CCFHOA member intending to construct an ornamental pond must secure permission from each adjacent property owner whose property may be infringed upon during construction. The CCFHOA Board shall not insert itself into property damage disputes between neighbors, but expects that the homeowner whose construction may have resulted in any damage to adjacent property, take responsibility to have secured permission and assure completion of any necessary repairs in a timely manner as described in section VII.c.xi. below.
- b. The pond must first be permitted with the City of Naperville, following their established guidelines. Once the permit is approved/granted, the homeowner must submit a copy of the packet used for the City of Naperville permit approval with a copy of the approved permit to the CCFHOA Board. The Board reserves the right to request any additional information it believes pertinent to rendering an approval decision.
- c. Additional requirements of CCFHOA for ornamental ponds:
  - i. The backyard must be fenced per City of Naperville and Clow Creek fencing guidelines.
  - ii. All heaters, filters, and related permanent pond equipment must be placed behind the house, not visible from the street or front side yards. Note these may not be housed in a shed, Rubbermaid structure, or related storage container in the yard. They can be landscaped around to hide their appearance but may not be put inside a storage product of any kind.
  - iii. The pond must be set back from the easements per the City of Naperville requirements.
  - iv. The pond must not cross over or through any gas, power, communication, or other municipal services that are in the yard.
  - v. A plat of survey with the position of the pond including dimensions must be submitted to the CCFHOA Board of Directors.
  - vi. The pond may only be located in the back yard. It may not be placed on a side yard or a front yard.
  - vii. The pond may not take up more than 10% of the back yard. This dimension is found by taking the depth of the back yard (property line to closest spot of the back of the house) and multiplying it by the width of the lot (line at the back of the house). For example, if your lot is 60 feet wide, and the depth from the family room bay window (furthest point into your back yard) is 50 feet deep, then your allowable area for the pond is  $50 \times 60 \times 0.10 = 300$  square feet which would be roughly a 15 foot x 20 foot pond in this example. Additional landscaping around the pond does not count toward the size of the pond.

- viii. The homeowner must provide CCFHOA with documentation showing that the pond is covered under the homeowner's insurance policy, or provide a copy of supplemental insurance.
- ix. If removing a deck/paver patio/patio, the homeowner must dispose of the used building materials within 30 days from the time of completion of the pond; these construction items may not be stored on the outside portion/lots of the homeowner's property.
- x. As the builder of the pond, the homeowner is responsible for proper drainage of the property due to changing of the gradation as a result of the pond construction. Homeowner is responsible for compliance with city of Naperville drainage requirements.
- xi. If the homeowner will be using the property line between houses or any neighbor's property for equipment to be brought in, the homeowner must reach an agreement with them as to using their property for this process. Further, the homeowner must restore their neighbor's property (if damaged) to the same condition within 30 days of the completion of the project. Note: Failure to do this will result in the CCFHOA taking the corrective action and assessing the homeowner a 15% service charge plus the cost of the repair/restoration.
- xii. The homeowner must include in their request for CCFHOA approval appropriate information on design of the pond and layout, in addition to the time line for the contractor to complete the project

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## VIII. Codes, Covenants, Rules and Regulations Enforcement.

### a. Notice of Violation

- i. At the sole discretion of the CCF HOA Board of Directors (hereinafter "The Board"), if it is determined that a Clow Creek Farm Homeowner (hereinafter "Homeowner") is in violation of any of the provisions of the Declaration of Codes and Covenants, as amended, a Notice of Violation shall be issued by the managing agent, or by the Board.
- ii. Upon receiving information of a possible violation, such as from a homeowner via email or in person, the Board must have a minimum of 60% of current Board Members in agreement with the nature of the violation. Upon securing at least 60%, the Board shall determine the necessary timeframe at which the violation can be sufficiently addressed to remedy the violation.
  - 1. Specific "*per se*" violations (those violations expressly prohibited in the Declaration) do not require a Board vote, and will receive a Notice of Violation letter. Based upon the nature of the violation, the board will determine an appropriate timeframe to remedy the situation, before a Violation Letter/Fine Issued letter will be provided to the Homeowner.
- iii. The Notice of Violation shall be provided to the Homeowner in written form and may be delivered by hand or certified mail. If delivered by hand, the Board Secretary will record the date, time and party whom the notice

was delivered. Typically, notices will be delivered or sent within 10 days of determination that a violation has occurred. However, failure of the Board to issue a violation notice within 10 days does not alleviate the homeowner of the responsibility to correct any violation, nor does it void or negate the Board's ability to levy and collect fines or legal fees as a result of refusal to correct the violation.

- iv. If a Homeowner refuses to accept a hand delivered notice, or refusal of a certified letter, such notice will be considered delivered on the date of refusal. Such refusal does not alleviate the Homeowner of the responsibility to correct any violation, nor does it void, negate or delay enforcement of any fines or legal fees as a result of any violation or refusal to accept Notice of Violation.
  - 1. In the event that the person(s) currently occupying the property is a renter/lesser, the Board may, as its sole discretion, provide a courtesy copy of any notice to the occupant(s) of the property.
- v. The Notice of Violation will contain the exact nature of the violation and reference the Article and Section of the Codes and Covenants that address the terms and provisions on which the violation is based. The Notice of Violation will include the action(s) and timeframe required to correct any violations. The corrective action must be addressed in such a manner as to bring the property into compliance with the intent of the applicable Article(s) of the Codes & Covenants.
- vi. Any Homeowner not complying with the timeframe required to address any violation(s), may be subject to fines, as described below.

b. Fines

- i. Violations shall result in the imposition of the following fines. Any expense incurred by the Association resulting from a violation will be the responsibility of the Homeowner, including, but not limited to, legal fees and costs, such as those associated with lien.
- ii. Fine Schedule:
  - 1. First Notice - **Violation Letter/Warning** - No Fine if situation remedied within the guideline and timeframe outlined in the First Notice Letter.
  - 2. Second Notice - **Violation Letter/Fine Issued** – Up to \$50.00 Fine, at the discretion of the Board.
    - a. To be sent if the situation is not remedied within the guidelines and timeframe outlined in the First Notice, and in the event violation is not cured, regardless of whether the homeowner has requested a hearing under the provision in section #3 - Hearing
    - b. Additional guidelines will be specified in the Violation Letter/Fine Issued Letter that details the timeline for which the Homeowner must comply or be issued an additional fine.
  - 3. Third Notice - **Violation Letter/Additional Fine Issued** – Up to \$200.00 Fine, at the discretion of the Board.

- a. To be sent if the situation is not remedied within the guidelines outlined in the Violation Letter/Fine Issued letter, and in the event violation is not cured, regardless of whether the homeowner has requested a hearing under the provision in section #3 - Hearing
- iii. In the event of any ongoing and continuous violation, the Board reserves the right to levy a fine for each day that the violation continues. The daily fine shall not exceed \$100/day.

c. Hearing

- i. The Homeowner charged with the violation, upon receiving First Notice - Violation Letter/Warning, or having received a Violation Letter/Fine Issued letter and levy of fine, may challenge the Notice of Violation and request a Hearing in writing, or email before the board. A request for a Hearing must be in writing or email, be sent via certified mail to the Board President, or emailed to all board members no later than ten (10) days from receipt of the Notice of Violation. Board members' email addresses will be included in the violation notice. The President of the Board shall set a hearing date and notify the Homeowner by either certified mail, phone conversation or email. The Homeowner may request one (1) continuance of the hearing of not more than two (2) weeks duration. Any request of a continuance shall be by certified mail, or emailed to the entire board and shall be received by the Board not less than four (4) days prior to the scheduled hearing date.
- ii. Any failure by the Homeowner to request a hearing within the allowed timeframe, or to fail to appear at scheduled hearing, will result in a default ruling against the Homeowner, and the homeowner will have waived his/her rights to any further hearings related to the same violation.
- iii. The Board shall hear and consider arguments, evidence or statements from the Homeowner, regarding the violation. After the Hearing, and within five (5) days, the Board shall state its finding regarding the violation. The decision of the Board shall be final and binding on the Homeowner.
- iv. The Board shall notify the Homeowner of its findings via certified mail, as well as email, if possible. Upon a finding of guilty, the Homeowner shall remedy the violation(s) and pay all fines assessed within thirty (30) days of the notification by the Board. Failure to cure the violation and make payment within thirty (30) days shall subject the Homeowner to all legal and equitable remedies available under the laws of the State of Illinois. Should the board decide, following the hearing, that no violation has occurred, any and all fines levied related to the specific violation shall be expunged.
- v. The Board reserves its right to pursue any and all legal and equitable remedies to compel enforcement.
- vi. Any and all costs incurred by the Homeowner's Association, including attorney's fees shall be the responsibility of the Homeowner.

- vii. The board members will review the code violation site individual and offer comments back. After the 7 days the Secretary will review the comments and send the appropriate letter if there is a majority opinion.
- viii. If there is not a majority opinion, no action will be taken until such opinion is reached.
- ix. When possible, the Secretary will review the site and include comments for Board members who may be traveling.
- x. If the issue is resolved by the offending homeowner, no further action will be taken.
- xi. If the issue is not resolved, a second letter is sent that may include proposed solutions, and potential legal actions and associated costs and responsibilities. Depending on the nature of the violation, a letter may also be sent to the CCFHOA legal counsel so they can advise the time line for a legal response.

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