

## **ARTICLE XII**

### **DUE PROCESS IN EXERCISE OF POWER**

The due process to be followed in exercising the powers and authority granted to the Board of Directors as set forth in **Article XI**, together with any covenant or provision in the platting of any addition to Holiday Lake, shall be as follows:

In the event that there appears to be a violation of any restrictive covenant, platting provision, these Bylaws or any rule promulgated by the Board of Directors the following due process procedures shall apply:

- A. Written notice shall be given to the person or persons involved, which notice shall be hand delivered to the individual or sent by certified mail to the address provided by the person to the Association.
- B. Such written notice shall set forth in general terms the nature of the violation. In the event the individual can take remedial or corrective action, then such recommended remedial or corrective action shall be set forth in the notice.
- C. Such notice shall be given or mailed not less than two (2) weeks prior to the date the action is to be completed, except in the case of action as set forth in **subsections J and K of Article XI**, in which case sixty (60) days notice shall be given.
- D. The notice shall provide that the person involved may meet with the Board of Directors if such person requests a hearing. Such request shall be made within ten (10) days after such notice is hand delivered or mailed. Such hearing shall be held at the next regularly scheduled meeting of the Board of Directors. A request for a hearing shall set forth the position of the person requesting such a hearing, and shall be mailed to the office of the corporation.
- E. At the requested hearing, the Board of Directors shall make a final decision as to the manner in which the dispute is to be resolved. Such hearing shall be confined to the issues created by the notice and the position of the lot owner as set forth in his request for a hearing. The hearing shall be limited in duration as determined by the Board, such limitation being necessary in view of the other demands and business of the Board.
- F. In the event a lot owner does not respond to the notice given to the lot owner, or if after hearing, the Board finds that the complaint of violation is valid, an appropriate corporate assessment or remedial action or both shall be prescribed consistent with the following:
  1. Unless otherwise set by Board for a particular type of violation, there shall be a \$50 assessment for each individual violation processed. A violation that is ongoing may result in multiple violations and assessments at a frequency as determined by the Board. (This \$50 assessment also applies to a failure to timely pay amounts owed pursuant to Article XIV.)
  2. In the event remedial action is required of a lot owner and the lot owner fails to complete such remedial action within ten (10) days of the written notice thereof, except in the case of remedial action required under Article XI subsection J and K of these Bylaws, in which case same must be completed within sixty (60) days of written notice thereof, the Board of Directors may complete the remedial action and issue a corporate assessment against the lot owner (1) for all remedial work contracted by the Lake at the actual amount of the resulting bill, (2) for all remedial work undertaken by Lake personnel using any motorized Lake equipment at a rate of \$250 per hour, and (3) for all remedial work undertaken by Lake personnel not using motorized Lake equipment at a rate of \$50 per hour. In addition or as an

alternative to taking remedial action, the board may opt not to complete all or some the remedial action and may pursue any other remedy, equitable or legal, afforded to the corporation by the laws of the State of Iowa or the United States.

3. Nothing herein shall prevent the Board or its personnel from commencing remedial action prior to notice or hearing if delay may reasonably risk injury, additional damage or significant inconvenience to the corporation, its members or the public. In that event, the Board may issue a notice consistent with subparagraphs A-D of this Article XII of the violation, the remedial action already taken and the assessment to be imposed for cost of the remedial action.
  4. Interest shall accrue at the rate of 1% per month on all assessments (including amounts owed pursuant to Article XIV or any other assessments under these bylaws) not paid within 30 days of notice of the assessment. Upon notice of the assessment and until all amounts, including interest, are paid in full, a lot owner loses the right to use the lake or any common area.
- G. In the event a lot owner does not pay an assessment (including amounts owed pursuant to Article XIV or any other assessment under these bylaws) within 30 days of the notice of assessment, the Board of Directors is authorized to bring suit to recover the assessment against the lot owner, along with any interest. Any money judgment rendered by the court may be executed upon in such manner as the Board of Directors, in the exercise of its unfettered discretion, determines appropriate. In addition to the above, violators may be subject to discipline imposed by resolution of the Board of Directors, which may be amended from time to time and include, but not be limited to, the issuance of warnings, the use of corporate assessments, and the loss of privileges normally afforded to lot owners, as well as the use of remedies, equitable or legal, afforded to the corporation by the laws of the State of Iowa or the United States.