

Iluka Homeowners' Association Inc.

PO Box 119 JOONDALUP WA 6919

Email: [Committee @iluka.org.au](mailto:Committee@iluka.org.au)

POLICY	RULES MANAGEMENT	VERSION 1.3 MARCH 2023
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1.0 Scope.

This policy applies to all members of the Iluka Homeowners' Association (IHA). Every person who owns residential property located in the suburbs of Iluka is a member of the IHA. Every property in the suburb of Iluka is subject to the *Rules* described in Annexure A (attached).

Upon purchase of a property in the suburb of Iluka, postcode 6028, in the state of Western Australia, hereafter "Iluka", the purchaser agrees to be and remain a member of the IHA, for as long as the purchaser is the owner of the property in Iluka.

The IHA was formed under a Constitution as amended from time to time. A copy of the Constitution for the IHA may be downloaded from the IHA website or a copy will be provided upon request.

In accordance with rules 19(2) and 19(3) of the Constitution of the Iluka Homeowners; IHA, the *Rules* bind all residents of Iluka.

1.1 Rented Properties.

Property owners who rent their properties have a duty to inform their tenants of their obligations under the Iluka *Rules* and ensure that tenants comply with the Iluka *Rules*. The duty to comply with the Iluka *Rules* shall be a contractual obligation implied or otherwise in all rental agreements between the Iluka property owner and their tenants.

2.0 Context.

Each and every Iluka Homeowner takes benefits from the Iluka *Rules* and accordingly each and every Homeowner has a duty to abide by the Iluka *Rules*. Benefits include: superior property values, enhanced aesthetic environment, and a cordial community spirit. Duties of owners and visitors include abiding by the Iluka *Rules* and advising visitors to abide by the Iluka *Rules*.

The *Rules* of the IHA shall not be enforced in an arbitrary manner. Any action required by this policy shall be subject to and undertaken in accordance with; Commonwealth Law, State Law, the IHA Constitution and this policy. No resident shall be subject to an action the IHA, or any other resident, unless there is a breach of the Iluka *Rules* or the Constitution of the IHA.

All residents are equal before the IHA. All residents have equal rights and all residents are subject to the Iluka *Rules* and the Constitution without favouritism. The Iluka *Rules* and the Constitution of the IHA shall be applied to all residents equally. No resident shall be discriminated against in any way.

This policy is intended to enhance the community spirit in Iluka, to encourage residents to "do the right thing" and to honour their obligations. Predominantly it is only a minority of residents, who blatantly breach the *Rules* for reasons of self-interest, poor community spirit and general obstinacy.

3.0 Policy Statements.

Any statement in this policy shall not limit the effect of the Iluka *Rules* or the Constitution of IHA. Where there is a conflict in interpretation, the Iluka *Rules* take precedent over this policy.

4.0 Decisions and actions of the IHA.

All decisions and actions taken by the Committee of the IHA are decisions and actions taken by the IHA as a whole, by all residents in the interests of all residents. Where residents choose not to attend Committee meetings and not to participate in the running of the IHA, it is deemed that they vote in accordance with the majority of the Committee vote.

The IHA's decision is final and cannot be objected to after a vote is taken.

5.0 The Process.

Breaches of *Rules* will be managed in accordance with the process provided in this section.

5.1 Alleged breach of *Rules* received by the IHA.

All alleged breaches of *Rules* set out in the rules of the IHA must be submitted to the IHA in writing.

The allegation must:

1. Clearly state the name and address of the person making the allegation, "The Plaintiff". Anonymous allegations cannot be entertained and will be ignored.
2. Contain a statement that the allegation is true and not mischievous, or vexatious to the best of the plaintiff's knowledge.
3. Clearly state the address at which the alleged breach of the *Rules* occurs.
4. Clearly state which *Rules* listed in Annexure "A" they believe have been breached.
5. Contain a statement that they **have** or **have not** attempted to approach the property owner at which the alleged breach occurs. If they **have** approached the property owner at which the breach occurs, provide what outcomes resulted from that approach.
6. Be signed and dated.

Where an allegation does not comply with the aforementioned criteria, the IHA Committee shall inform the plaintiff and not proceed with the allegations any further.

5.2 Verification of breach.

Upon receipt of an allegation of a breach of *Rules* in accordance with section 1 above, the IHA Committee will verify that the allegation has merit.

5.3 First Letter to alleged offender.

Where the IHA Committee believes that an allegation of breach of *Rules* has merit, the IHA shall send a "First Letter" to the property owner informing them that the IHA believes that they are in breach of the *Rules* of the IHA. Further, the first letter shall respectfully request that the breach of *Rules* be rectified. The "First Letter" template is Attachment A of this policy.

5.4 Reply to the plaintiff.

The IHA Committee shall write to the plaintiff informing them of the progress of their allegation.

5.5 Compliance time.

The IHA Committee shall allow at least 30 days for the alleged breach offender to consider their position and take any advice they see fit. The IHA Committee shall entertain any reasonable request for time to comply with the IHA's *Rules*

5.6 Verify compliance.

Where an alleged offender claims that the breach has been rectified, the IHA Committee shall verify that the property is then compliant with the IHA Constitution.

5.7 Response to plaintiff.

The IHA Committee shall write to the plaintiff informing them of the progress of the allegation that

5.8 Decision by the IHA to join the plaintiff.

Where an allegation of breach of *Rules* cannot be resolved by the preceding actions the IHA Committee must advise the plaintiff that the IHA can only proceed in one of the following:

1. Do nothing. If the plaintiff wants to proceed they need to engage a lawyer of their choosing and the IHA no further part to play in the matter.
2. Impose a fine(s) on the property in accordance with this policy and the IHA has no further part to play in the matter.
3. Join the plaintiff in the matter and proceed to engage a lawyer to have the matter dealt with in court.

The above decision must be based on the Iluka community interest and not on the interest of individual homeowners. The IHA can only use resources of the IHA if it can be shown that there is a benefit to the community of Iluka as a whole. Where a matter only affects a small number of properties then it is a matter for those property owners to enforce their rights at their own expense.

5.9 Second Letter from lawyer in the event of the IHA joining the Plaintiff.

In the event that the IHA deems that a "Second Letter" is warranted, the IHA may direct the IHA preferred lawyer to send such letter.

5.9.1 Cost of letter from lawyer

The cost of the Second Letter is home borne by the plaintiff. The IHA may at its discretion, pay part or the whole of the legal costs for the Second Letter.

5.9.2 Discretion to impose fine(s)

Where the IHA believes that it is in the community interest it may exercise its discretion to impose a fine(s) on the property.

5.10 Verification of non-compliance.

Before proceeding to imposing a fine(s), the IHA must verify that the alleged breach is still in existence.

5.11 Impose fine(s).

In accordance with rule 3(h) of the IHA Constitution the IHA may assist to impose a fine(s) on the property. All fine(s) must be paid prior to any caveat being lifted for the purposes of transfer of land.

5.12 Communication dishes, television and radio antenna.

As cable TV services are not available in Iluka, a temporary general waiver may be voted on at AGMs. A temporary general waiver is in place to allow small Foxtel dishes but in the event that any cable TV provider installs a service, the waiver on communication dishes will be automatically rescinded.

Television and radio antenna and satellite dishes are not permitted unless contained wholly within the residence or within the roof space between the ceilings and the residence and to the underside of the roof of the residence.

5.13 Parking.

In the case of “commercial vehicles”, as defined by this policy, such vehicles are not to be parked on the land or on the road or on any other land near or next to the land, anywhere in the suburb of Iluka unless parked on a temporary basis for a commercial activity in accordance with the Local laws of the City of Joondalup. Commercial vehicles include but are not limited to trucks, utilities, caravans, trailers, boats or any other mobile machinery unless housed or contained wholly within a carport or garage on the land or are hidden or screened from public view.

5.14 Commercial vehicles.

For the purposes of the Constitution of the Iluka Homeowner's IHA, any Iluka Rules document and this policy, a **commercial vehicle** takes the meaning of **heavy vehicle** as provided in section 3(1) of the *Road Traffic (Vehicle Standards) Regulations 2002*;

heavy vehicle means –

- (a) a vehicle with an MRC exceeding 4 500 kilograms that is an agricultural vehicle, a car or bus, a goods vehicle, a motor home, a prime mover or a special purpose vehicle;
- (b) a heavy trailer;

section 3(1) also defines the following **vehicles** as:

goods vehicle means a motor vehicle built or modified to be used primarily to carry goods or materials used in any trade, business or industry;

motor home means a motor vehicle built for human habitation;

prime mover has the meaning given to that term in the *Road Traffic (Vehicle Standards) Regulations 2002*;

special purpose vehicle means a vehicle, other than a tow truck or an agricultural vehicle, built for a purpose other than carrying passengers or a load;

heavy trailer means a trailer, other than a towed special purpose vehicle, with an MRC exceeding 4 500 kilograms;

MRC is as defined in the *Road Traffic (Licensing) Regulations 1975*.

Pursuant to Section 3 of Annexure A, “commercial vehicle” also includes caravans, boats, trailers or any other mobile machinery.

5.14.1 Cars are exempt.

For the purposes of the definition of “commercial vehicles” in section 5.14 a car is exempt.

5.15 Caravans.

This includes but is not limited to caravans, fold-up caravans, camping trailers, campervans, motorhomes, Winnebagos.

5.16 Trailers.

This includes but is not limited to gardening trailers, truck trailers, semi-trailers, box trailers, enclosed trailers, horse floats, boat trailers, refrigerated trailers, motorcycle trailers, tradesmen trailers, brickies trailers, painter’s trailers carpenter’s trailers, bobcat trailers, dog wash trailers.

5.17 Boats.

For the purposes of the *Iluka Rules*, a “boat” includes: any water or sea going craft of any size or shape used for any purpose.

5.18 Mobile machinery.

This includes but is not limited to bobcats, trench diggers, tractors, cranes, concrete mixers, compressors.

5.19 Screened from public view.

Screened from public view means that any member of the public cannot see the object that is being screened. The screen must be a permanent structure constructed such that the object to be screened cannot be seen from by a member of the public, from any public space.

Covering with a tarpaulin or non-permanent structure is not regarded as being screened from public view.

5.20 Signs.

For the purposes of the *Iluka Rules*, unless exempted by the said *Rules*, a “**sign**” includes:

- (a) any commercial logo, trademark or wordage, that promotes any commercial endeavour,
- (b) any surface, visible from any adjoining property, public space or street, containing wordage or symbols, drawing attention to that property promoting any issue including but not limiting to commercial activity, business activity, sporting activity, gratuitous service or promotion, political notice or social activity.

5.20.1 Real Estate “For Sale Signs”

Pursuant to Section 6 of the *Rules*, Real Estate “For Sale Signs” are exempt from this section and no other “For Sale Signs” are exempt.

5.21 Fine(s) for breach of Iluka Rules

It is not the intention of the IHA to benefit from fine(s) imposed for breaches of *Iluka Rules*. All fine(s) shall be accumulated in the *Rules* Management Fund. The *Rules* Management Fund shall only be used for the purpose of enforcing the *Iluka*, including any form of legal action.

5.22 The Committee to set the value of fine(s).

The value of fine(s) to be imposed is to be set by the IHA. In the case of parking commercial vehicles in breach of the *Iluka Rules* the value of fine(s) is not to be less than the commercial rate for storage at a local storage facility. That is, it is not to be cheaper to breach the *Iluka Rules* than to store the offending item at a commercial facility.

5.23 Grace Period to comply.

Where a resident has a genuine hardship and is unable to comply with a Breach of Rules Letter, the resident may apply in writing to the IHA for a grace period. The IHA may allow the resident a grace period to comply. A grace period shall not be any longer than 3 months. Additional grace periods may be granted at the discretion of the IHA. When allowing a grace period, the IHA shall take into consideration the effect of the breach on the neighbours of the resident and may seek their neighbour's comments. A resident who submits a request for a grace period with written consent from the neighbours of the property has a stronger case for grant of such a period.

5.24 Failure to pay fine(s).

All fine(s) owing to the IHA are a debt to the IHA and the IHA may recover that debt by any means, including through a court of appropriate jurisdiction, at any time and in any manner that the IHA deems fit. Fine(s) resulting from the conduct by Tenants renting a property are imposed on the legal owner of that property. Breaches of the *Iluka Rules* by Tenants of a rental property are deemed to be breaches by the property owner.

5.25 The cost of legal action.

The cost of legal action undertaken for breaches of the *Iluka Rules* that are not recoverable from the defendant shall be paid for by the IHA

5.26 Beaumaris Estate.

In any IHA document that refers to Beaumaris Estate it is taken to mean Iluka Estate

5.27 *Rules*

The Iluka *Rules* are those provided in Annexure A (attached)

Annexure A

Rules (Covenants) of Iluka Homeowners' Association

The Registered Proprietors (Members) of the Iluka Homeowners' Association agree to abide by the following Covenants:

1. NOT to construct, erect or install or permit to be constructed, erected or installed on the land hereby transferred ("the land") a permanent non-transportable private residence ("a residence") with a total floor area of less than 225 square metres inclusive of external walls but exclusive of garages verandahs and other unenclosed areas.
2. NOT to construct, erect or install or permit to be constructed, erected or installed on the land:
 - a) A residence or any alteration or addition to a residence:
 - Using wall materials which are not either predominantly concrete, clay bricks or stone or other similar materials in facework or render;
 - Using roof materials which are not either clay, slate or concrete tiles or colourbond metal;
 - Having a roof pitch less than 25°.
 - b) A residence which does not contain a garage making provision for parking of at least two motor vehicles side by side.
 - c) A garage, which if not located under the main roof of the residence:
 - Is not made of the same materials as the residence or
 - Does not match or complement the residence, in respect of the pitch of the roof, materials used, the design and external appearance including colour and the quality of construction.
 - d) Any structure exceeding 4metres x 4meters in area and 2.1 metres in height which does not use the same materials used in the construction of the residence and does not complement the design and external appearance of the residence in respect of colour and quality of construction.
 - e) Any shed or other outbuilding less than 4metres x 4metres in area and 2.1 metres in height which has walls and/or a roof made of or coated with zincalume, galvanised iron, fibro cement or other reflective material or is located within the front setback area.
 - f) A residence, unless a driveway and crossover between the road and parking area on the land and all fences are constructed and completed prior to the occupation of the residence.
 - g) A driveway which is not constructed of brick paving or approved material.
 - h) A residence, unless all ground areas which are visible from the street ("visible areas") are properly landscaped within 3 months after completion of the residence. "Properly landscaped" means that all visible areas must be cleared and grassed or planted.
 - i) Subject to provisions 1(2)(j) and 1(2)(k) any fence which is not comprised of:
 - Masonry or
 - Hardifence which is capped and painted on both sides in wheat coloured paint with capping to be painted with wheat coloured paint.

- j) If the land is a corner lot, any fence which is not comprised of opened styled masonry along any part of any boundary of the land which faces any street, road, park, pedestrian way or reserve.
 - k) Any fence forward of the building frontage set-back line which is less than 900mm in height and does not match or compliment the residence or any fence which is greater than 900mm in height and does not match or compliment the residence and is comprised of masonry or an open styled masonry fence.
 - l) A letterbox which is not located adjacent to the driveway, is not clearly numbered or does not match or complement the residence.
 - m) An air conditioner or evaporative cooler, unless contained wholly within the residence or being of similar colour to the roof, or within the roof space between the ceilings of the residence, and the underside of the roof of the residence.
 - n) A solar hot water heater unless it fits the roof profile and is not elevated at an angle to the roof profile and otherwise matches or complements the residence.
 - o) A clothesline or rainwater tank except in accordance with the manufacturer's instruction and which is not screened from public view.
 - p) While a Cable Television System is operative and available a television and radio antenna and satellite dish unless contained wholly within the residence or within the roof space between the ceilings of the residence and to the underside of the roof of the residence.
3. NOT to park or allow to be parked on the land or on the road or on any other land near or next to the land, any commercial vehicles including but not limited to trucks, utilities, caravans, trailers, boats or any other mobile machinery ("commercial vehicles") unless such commercial vehicles are housed or contained wholly within a garage on the land or are screened from public view.
4. That where retaining walls or fences have been erected on any of the boundaries of the land by the Seller, NOT to alter or remove any of the retaining walls or fences, NOT to allow or permit the retaining walls or fences to fall into a state of disrepair, and NOT to repair or renew such retaining walls or fences except in the same style and colour as the existing retaining walls and fences.
5. That where retaining walls or fences have been erected on any of the boundaries of the land by the Seller, NOT to alter the level of the surface without written approval of the Seller.
6. Subject to this provision, NOT to erect or display or cause to be erected or displayed on the land any sign boarding or advertising of any description whatsoever PROVIDED THAT a FOR SALE SIGN may be erected or displayed on the land as per Development and Building Guidelines.
7. NOT to breach or allow to be breached the Beaumaris Estate Standard Lots Development & Building Guidelines which are attached to the sale of land contract and marked Annexure "A" (Development and Building Guidelines).
8. That the burden of the covenants hereinbefore contained shall run with the land for the benefit of every other lot on the plan or diagram of subdivision hereinbefore. The covenants shall be enforceable against the Buyer and every subsequent registered proprietor of the land, by the Seller and every subsequent registered proprietor of any other lot on the said plan or diagram of subdivision.
9. **That the covenants herein contained shall operate and be enforceable for so long as the Association exists.**

ATTACHMENT A

FIRST LETTER TEMPLATE (TO BE PRINTED ON IHA LETTERHEAD)

Owner Name
Postal Address

Date

Dear

RE PROPERTY ADDRESS

Thank you for choosing to live in Iluka. Iluka has a reputation for being a suburb which has a standard of properties far above the surrounding suburbs. It is this reputation that adds value to your property.

All property owners in the suburb of Iluka are members of the Iluka Homeowners' Association (IHA). The IHA Committee comprises of volunteer residents, who work hard to implement the objectives of the IHA. Predominantly the objectives are aimed at: engendering good community spirit, organising community activities, managing maintenance services to public areas and protecting the interests of the Iluka community as a whole. The objectives of the IHA are embedded in the IHA *Rules* and committee members are required to implement these objectives. The Iluka *Rules* may be viewed and downloaded from our website (<http://www.iluka.org.au>), if for any reason you are unable to access a copy of the Iluka *Rules* please write to us at the above address and a copy will be forwarded to you.

Please Note:

It has come to the IHA's attention that there may be a breach of the IHA constitution at this address. In order to comply with Section 3 of the Iluka *Rules*, the IHA must enquire into this matter. In a recent audit it was observed that your property was in breach relating to

Enter describe details of breach and applicable *Rule number*

If there has been an error or there is a good reason for it occurring, please write to us and let us know. The IHA understands that you were possibly unaware of this Breach and would sincerely appreciate it if you could please attend to this matter in a timely fashion. If you have any questions on this matter or any other matter about the IHA, please contact the IHA (as per above contact details).

It was also noted that your (insert a positive feature) _____

enhances your property and thus the suburb as a whole. Thank you for your contribution to our community.

If you have already attended to this Breach, we thank you for your assistance. Please disregard this letter. We hope to see you at one of the IHA organised community events in the future.

Yours faithfully

Iluka Homeowners' Association
Committee