

PARK WEST COMMUNITY ASSOCIATION, INC.

POLICY RESOLUTION 16-02

**REGARDING POLICIES AND PROCEDURES FOR
THE ENFORCEMENT OF RULES AND REGULATIONS**

I, Mark Griffin, President of Park West Community Association, Inc. (“Association”), a non-stock corporation duly organized and existing under the laws of the Commonwealth of Virginia, hereby certify that the following is a true copy of a resolution unanimously adopted by the Board of Directors of the Association at a meeting convened and held on April 19, 2016, at which a quorum was present and voting throughout, in full replacement of a Resolution earlier approved (August 14, 2012) by said Board of Directors, and that such resolution is now in full force and effect and is in accordance with the provisions of the Declaration of Covenants, Conditions and Restrictions (“Declaration”) and By-Laws of the Association.

WHEREAS, Article VI, Section 1, et seq., of the Declaration of the Association personally obligates each Owner to observe and comply with the provisions contained in the Governing Documents of the Association, as well as the Rules and Regulations of the Association established from time to time by the Association’s Board of Directors, in accordance and in full compliance with said Declaration; and

WHEREAS, Article X, Section 6 of the Declaration sets forth the notification procedure for the Association to any Member; and

WHEREAS, Section 55-513 of the Virginia Property Owners Association Act and the Association’s Governing Documents empower the Board of Directors to assess certain remedies, including monetary charges and suspension of privileges, against Members of the Association who are responsible for violating the Association’s Governing Documents; and

WHEREAS, The Association is authorized to enact the statutory power to suspend membership use and assess monetary charges, and to establish revised procedures for enforcement of the regulations of the Association consistent with principles of due process and Virginia law,

NOW, THEREFORE, BE IT RESOLVED THAT the following policy and procedures are established and adopted to ensure compliance with the governing documents of the Association, as follows:

1) TERMS

- a) ‘Governing Documents’ refers to, but is not limited to, the Articles of Incorporation, the Declaration, the By-Laws, any Resolution, any Rules and Regulations, and any Community Guidelines duly adopted by the Association.
- b) ‘ACC’ refers to the Architectural Control Committee.

- c) 'ECC' refers to the Environmental Control Committee.
- d) 'Member' refers to any Owner (resident or non-resident) within the community.
- e) For Notices to Members, in addition to the Declaration, Article X, Section 6 the following also applies.
 - i) Notices may be delivered by hand to the Member.
 - ii) All fees and charges associated with mailing notifications via registered or certified mail, return receipt requested shall be applied and posted to the Member's account.
- f) 'VPOAA' refers to the Virginia Property Owners' Association Act.

2) OBLIGATIONS OF COMPLIANCE

- a) All Members shall comply with all provisions of the Governing Documents of the Association as established.
- b) The Board of Directors reserves the power to hold the Member legally responsible for ensuring that the members of their household, and their tenants, guests, invitees, and/or licensees comply with the Association's Governing Documents. (Declaration, Article IV, Section 2).
- c) The Association shall make available the Governing Documents of the Association by conspicuously posting such Governing Documents on the Association's website, and through other means as may be determined from time-to-time by the Board of Directors.
- d) The Association will make available to all Owners any changes or additions to the Declaration, the By-Laws, and Resolutions by posting on the Association's website and by notifying all Owners of said changes or additions in accordance with paragraph 1.E (hand delivered or via first class mail). Any other updates (e.g. Rules and Regulations, Guidelines) will be posted on the Association's website. No Member will be excused from the obligation to comply with such Governing Documents in the event that such notice is not received. Each Owner has a legal duty to seek out information regarding the Governing Documents if such notice is not received.
- e) In addition to the requirements specified in the Declaration, Article X, Section 6; all Members should consider providing the Association with their current telephone number and e-mail address for alternate contact methods.

3) DEFINITIONS OF VIOLATIONS

- a) Immediate Violations shall be defined as those violations which require immediate remediation or as otherwise authorized for immediate enforcement by the Board of Directors (BOD) or specific Association committee. Specific types of violations include the following:

- i) Any violation deemed to be an emergency situation by the Association or Managing Agent.
- ii) Any violation deemed to be of a nature that it is not able to be remedied in a timely manner (e.g., parking violations, permit violations).
- b) Five (5) Day Violations shall be defined as those violations which can be corrected within five (5) days without undue hardship or expense to the member. Specific types of violations include the following:
 - i) Debris located anywhere on private property.
 - ii) ECC-type items (e.g. mowing, trimming, weeding, edging, pruning of shrubs, light pruning of trees).
- c) Regular Violations shall be defined as all other violations. The timeline to remedy such violations varies based on the type of violation.
- d) Single Violations shall be defined as a one-time act or omission by a Member (or members of their household, and their tenants, guests, invitees, and/or licensees) determined by the Association to constitute a violation of any provision of the Association's Governing Documents.
- e) Continuing Violations shall be defined as the failure to remove, terminate, or abate the violation after the timeline delineated above or the recurrence of any single violation within six (6) months of date of the Notice of Violation.

4) VIOLATION PROCESS

- a) On behalf of the Association, the Board of Directors and/or an Association Committee may undertake enforcement action upon detection of a violation of any provision of the Association's governing documents or upon determination that a violation may have occurred based on reports from any other source. At the discretion of the Board of Directors or Association Committee, initial enforcement action may be issuing a verbal or informal written notification to the offending Member. The managing agent may act for the Board of Directors or the Association Committee in providing the initial notification with the permission of the Board of Directors or Association Committee chairperson, when applicable.
- b) Unless the Board declares an emergency or deems a violation to be an Immediate Violation, the Board of Directors must provide a Member with a written notice and an opportunity to cure any alleged violation of the Association's Governing Documents.
- c) ACC and ECC Only. The ACC and ECC may issue a first letter. If issued, the first letters are titled "ACC Semi-Annual Inspection Letter" for the ACC and "ECC First Letter" for the ECC and contains required items (which will become violations) and recommendations (which may become future violations). The letter will be delivered in accordance with

paragraph 1.E (hand delivered or via first class mail). The letter will contain the following information:

- i) Advise the Member/Owner/Lessee of the identity, nature, and any associated history of the items.
 - ii) Citation of the applicable Governing Document(s).
 - iii) Specific remedies required.
 - iv) Number of days in which corrective action must be completed.
 - v) Any information necessary for the specific type of violation.
- d) Notice of Violation.
- i) For ACC and ECC items:
 - (1) If the Member does not remedy the offense within the number of days requested in the first letter, the Board of Directors may issue a Notice of Violation. If issued, the Notice of Violation will be delivered in accordance with paragraph 1.E (hand delivered or via first class mail).
 - (2) The Notice of Violation will contain the following information:
 - (a) Cite the first letter date and requested corrective action date.
 - (b) Re-state the information contained in the first letter.
 - (c) State that pool passes will not be issued until the specific required items are resolved. Items with approved deferral dates will be treated on a case-by-case basis.
 - ii) For all other violations:
 - (1) The Board of Directors may issue a Notice of Violation. If issued, the Notice of Violation will be delivered in accordance with paragraph 1.E (hand delivered or via first class mail).
 - (2) The Notice of Violation will contain the following information:
 - (a) Advise the Member/Owner/Lessee of the identity, nature, and any associated history of the violation.
 - (b) Citation of the applicable Governing Document(s).
 - (c) Specific remedies required.
 - (d) Number of days in which corrective action must be completed.
- e) Notice of Hearing. If the Member does not remedy the offense within the number of days requested in the Notice of Violation (if issued), the Board of Directors will issue a Notice of Hearing. The Notice of Hearing will be delivered in accordance with paragraph 1.E (hand delivered or via registered or certified mail, return receipt requested at least 14 days prior to

the scheduled hearing to the Member at the address of record with the Association). The Notice of Hearing will contain the following information:

- i) Cite the first letter date (if issued by the ACC or ECC) and Notice of Violation (if issued) date.
 - ii) Advise of the scheduled hearing date, time, and location.
 - iii) Advise of potential imposition of sanctions in accordance with paragraph 5.C.
 - iv) Advise of the right to be represented by counsel.
- f) Hearings.
- i) The Member is requested to confirm attendance at the hearing and whether counsel will attend with the Member at least 7 days prior to the hearing.
 - ii) The Member shall be determined to have waived their right to request a hearing if they fail to attend the hearing without providing a reasonable explanation for their absence.
 - iii) At the hearing, the Member shall be provided a reasonable amount of time to present any and all evidence, testimony, and defenses to the violation; to include counsel or other outside relevant parties to the defense.
 - iv) The hearing will be conducted in private.
- g) Post Hearing
- i) Following the hearing, the presiding officer and attending directors shall meet in executive session. The attending directors will determine the adjudication of the alleged violation(s) and potential sanction(s).
 - ii) Notice of Adjudication: Within 7 days of the hearing, the hearing result will be delivered through a Notice of Adjudication in accordance with paragraph 1.E (hand delivered or mailed by registered or certified mail, return receipt requested, to the Member at the address of record with the Association). The Notice of Adjudication will contain the following information:
 - (1) Cite the first letter date (if issued by the ACC or ECC) the Notice of Violation (if issued) date, the Notice of Hearing date, and the scheduled hearing date.
 - (2) Provide the decision of the hearing.
 - (3) Advise of the right to appeal the hearing decision to the full Board of Directors.
- h) Appeal of a Hearing Adjudication to the full Board of Directors.
- i) Member must submit a written request for appeal to the Management Agent prior to the date specified for actions to begin in the Notice of Adjudication letter. The request must specify whether the Member is requesting modification or reversal of the adjudication.
 - ii) The Board of Directors shall respond to the appeal at the next regularly scheduled Board meeting following receipt of the appeal. The response will be in one of three ways:
 - (1) Deny the appeal.

- (2) Modify the decision.
 - (3) Reverse the decision.
- iii) A majority of the Board of Directors will comprise the decision at the Boards' sole discretion. That decision shall be final.
- iv) Notice of Directors Adjudication: Within 7 days of the Board meeting that heard the appeal, the result will be delivered through a Notice of Directors Adjudication in accordance with paragraph 1.E (hand delivered or mailed by registered or certified mail, return receipt requested, to the Member at the address of record with the Association). The Notice of Directors Adjudication will contain the following information:
 - (1) Cite the first letter date (if issued by the ACC or ECC) the Notice of Violation (if issued) date, the Notice of Hearing date, the Notice of Adjudication date, the date of the Member's written appeal, and the date of the Board of Directors meeting where the appeal was heard.
 - (2) Provide the decision of the Board of Directors.
 - (3) Inform that the decision is final.
- i) Appeal of Immediate Violations:
 - i) A Member may appeal any violation that does not involve imposition of a Board-designated monetary charge or privilege suspension (e.g. vehicle tow) at the next regularly scheduled Board meeting.
 - ii) The Board of Directors shall respond to the appeal in one of three ways:
 - (1) Deny the appeal.
 - (2) Modify the decision.
 - (3) Reverse the decision.
 - iii) A majority of the Board of Directors will comprise the decision at the Boards' sole discretion. That decision shall be final.
 - iv) Within 7 days of the Board meeting that heard the appeal, the result will be delivered through a Notice of Directors Adjudication in accordance with paragraph 1.E (hand delivered or mailed by registered or certified mail, return receipt requested, to the Member at the address of record with the Association). The Notice of Directors Adjudication will contain the following information:
 - (1) Cite the Immediate Violation that precipitated the appeal, the date of the Member's written appeal, and the date of the Board of Directors meeting where the appeal was heard.
 - (2) Provide the decision of the Board of Directors.
 - (3) Inform that the decision is final.

5) ENFORCEMENT REMEDIES

- a) Upon monetary charge determination and after any appeal process has been completed, the Management Agent will undertake the administrative actions required to execute any charge as an assessment against the Member's lot.
- b) The Association also may enforce the compliance of its Governing Directives by any method available to the owner of private property in Virginia, including, but not limited to, application for injunctive relief or damages, during which a court may award to the Association court costs and reasonable attorney fees.
- c) Actions available to the Association include, but are not limited to:
 - i) The assessment of charges against the Member.
 - ii) The suspension of such Member's voting rights.
 - iii) The suspension of the Member's right to use the Association's common areas, facilities and services.
 - iv) Self-help remedies.
- d) Monetary charges may not exceed fifty (\$50) dollars for a single violation or ten (\$10) dollars per day for any violation of a continuing nature. The total charges for any offense of a continuing nature shall not assessed for a period exceeding ninety (90) days.
- e) If total monetary charges exceed three hundred (\$300) dollars, the Board of Directors may refer the matter to the Association's legal counsel for further action in court.
- f) The board of directors may file or defend legal action in general district or circuit court that seeks relief, including injunctive relief arising from any violation of the declaration or duly adopted rules and regulations.
- g) After the date a lawsuit is filed in the general district or circuit court by:
 - i) the association, by and through its counsel, to collect the charges or obtain injunctive relief and correct the violation or,
 - ii) the lot owner challenging any such charges, then,
no additional charges shall accrue.
- 6) If the court rules in favor of the association, it shall be entitled to collect such charges from the date the action was filed as well as all other charges assessed pursuant to this section against the lot owner prior to the action. In addition, if the court finds that the violation remains uncorrected, the court may order the unit owner to abate or remedy the violation.
- 7) In any suit filed in general district court pursuant to this section, the court may enter default judgment against the lot owner on the association's sworn affidavit.

RESOLVED FURTHER: That the Secretary of the Corporation is hereby authorized and directed to certify to any interested party that this resolution has been duly adopted, is in full force and effect, and is in accordance with the provisions of the Declaration and By-Laws of the Corporation.

I further certify that this Corporation is duly organized and existing, and has the power to take the action called for by the foregoing resolution.

Mark J. Duffin
PRESIDENT

3 MAY 2016
DATE

To Wit:

Joan Murphy
SECRETARY

5-3-2016
DATE

