

PARK WEST COMMUNITY ASSOCIATION, INC.

POLICY RESOLUTION 17-02

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

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, Article IV, Section 2 of the Declaration of the Association provides every Member with the capability to delegate their rights of enjoyment to the members of his family who reside permanently with him and to his tenants, contract-purchasers and guests, invitees, and/or licensees all subject to such reasonable rules and regulations which the Association may adopt and uniformly apply and enforce; and

WHEREAS, Article VI of the Declaration of the Association provides specific provisions of compliance for all Members and provides for adoption of further Rules and Regulations of the Association as 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, 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) 'VPOAA' refers to the Virginia Property Owners' Association Act.
- b) The name of the corporation is Park West Community Association.
- c) 'Association' and 'PWCA' are synonyms that refer to the Park West Community Association, its successors and assigns.
- d) 'Property' refers to that certain real property as described in the Deed of Dedication and Subdivision and is composed of Parcels B1, C1, D1, H, K, L, M, O1, and P in Section 26; Kings Park West.

- e) 'Declaration' refers to the Declaration of Covenants, Conditions and Restrictions applicable to the properties recorded in the Office of the Clerk of Court, Fairfax County, Virginia.
- f) 'Governing Documents' refers to the Articles of Incorporation, the Deed of Dedication and Subdivision, the Declaration, the By-Laws, any Resolution, and the Rules and Regulations duly adopted by the Association.
- g) 'Common Area' refers to all real property (including the improvements thereto) owned by the Association for the common use and enjoyment of the members of the Association.
- h) 'Member' and 'Owner' are synonyms that refer to every person or entity who is a record owner of a fee or undivided fee interest in any Lot which is subject by covenants of record to assessment by the corporation including contract sellers, but excluding those having such interest merely as security for the performance of an obligation.
- i) 'Board of Directors' refers to the entity vested with the affairs of the Corporation, identified as the Park West Community Association.
- j) 'Management Agent' refers to the entity employed by the Board of Directors to perform such duties and services as authorized in writing at an established rate of compensation.
- k) 'ACC' refers to the Architectural Control Committee.
- l) 'ECC' refers to the Environmental Control Committee.
- m) For Notices to Members, in addition to the Declaration, Article X, Section 6 the following also applies. Notices may be delivered by hand to the Member.

2) OBLIGATIONS OF COMPLIANCE

- a) All Members shall comply with all provisions of the Governing Documents of the Association as established.
- b) The Member is 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.
- 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.M (hand delivered or via first class mail). Any other updates (e.g. Rules and Regulations) 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 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) Regular Violations shall be defined as all other violations. The timeline to remedy such violations varies based on the type of violation.
- c) 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.
- d) 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. The majority of parking violations are deemed to be Immediate Violations.

c) Initial Notice.

- i) The Association may issue an Initial Notice.
- ii) This notice may be delivered through hang tags or by letter. If by letter, the letter may contain the following information:
 - (1) Advise the Owner of the identity, nature, and any associated history of the items.
 - (2) Citation of the applicable Governing Document(s).
 - (3) Specific remedies required.
 - (4) If applicable, the number of days in which corrective action must be completed.
 - (5) Any information necessary for the specific type of violation.
 - (6) If issued, the letter will be delivered in accordance with paragraph 1.M (hand delivered or via first class mail).

d) Notice of Violation.

- i) The Association will issue a Notice of Violation EXCEPT when the violation is classified as an Immediate Violation (e.g. parking violations).
- ii) The Notice of Violation will contain the following information:
 - (1) Advise the Owner of the identity, nature, and any associated history of the violation.
 - (2) Citation of the applicable Governing Document(s).
 - (3) If applicable, the specific remedies required.
 - (4) If applicable, the number of days in which corrective action must be completed.
 - (5) The Notice of Violation will be delivered in accordance with paragraph 1.M (hand delivered or via first class mail).
 - (6) For ACC Required Items, the Notice of Violation may contain the following information:
 - (a) 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.
 - (b) Cite the Initial Notice date and requested corrective action date.

e) Notice of Hearing

- i) The Association will issue a Notice of Hearing EXCEPT for specific Immediate Violations.
- ii) The Notice of Hearing will contain the following information:
 - (1) Cite the Initial Notice (if issued) date and Notice of Violation (if issued) date.
 - (2) Advise of the scheduled hearing date, time, and location.

- (3) Advise of potential imposition of sanctions in accordance with paragraph 5.C.
 - (4) Advise of the right to be represented by counsel.
 - iii) The Notice of Hearing will be delivered in accordance with paragraph 1.M (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).
- 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 by the respective Committee. If a majority of the Directors are attending the hearing, the hearing will be deemed to have been conducted by the Board of Directors.
 - v) Following the hearing, the presiding officer and attending directors may meet in executive session to determine the adjudication of the alleged violation(s) and potential sanction(s).
- g) Notice of Hearing Results.
- i) If not held before the full Board of Directors
 - (1) Within 7 days of the hearing, the hearing result will be delivered through a Notice of Adjudication.
 - (2) The Notice of Adjudication will contain the following information:
 - (a) Cite the First Letter (if issued) date, the Notice of Violation (if issued) date, the Notice of Hearing date, and the hearing date.
 - (b) Provide the decision of the hearing.
 - (c) Advise of the right to appeal the hearing decision to the full Board of Directors.
 - (3) The Notice of Adjudication will be delivered in accordance with paragraph 1.M (hand delivered or via registered or certified mail, return receipt requested to the Member at the address of record with the Association).

- ii) Appeal of a Notice of Adjudication to the full Board of Directors.
 - (1) 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.
 - (2) 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:
 - (a) Deny the appeal.
 - (b) Modify the decision.
 - (c) Reverse the decision.
 - (3) A majority of the Board of Directors will comprise the decision at the Boards' sole discretion. That decision shall be final.
- iii) If the hearing was deemed to have been held before the full Board of Directors or upon the full Board of Directors meeting to hear an appeal of a Notice of Adjudication:
 - (1) Within 7 days of the Board meeting that attended the hearing or heard the appeal, the result will be delivered through a Notice of Directors Adjudication.
 - (2) The Notice of Directors Adjudication may contain the following information:
 - (a) Cite the First Letter (if issued) date, the Notice of Violation (if issued) date, the Notice of Hearing date, the hearing date, the Notice of Adjudication (if issued) date, the date of the Member's written appeal (if applicable), and the date of the Board of Directors meeting where the appeal was heard (if applicable).
 - (b) Provide the decision of the Board of Directors.
 - (c) Inform that the decision is final.
 - (3) The Notice of Directors Adjudication will be delivered in accordance with paragraph 1.M (hand delivered or via registered or certified mail, return receipt requested to the Member at the address of record with the Association).

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.
 - v) For Immediate Violations:
 - (1) Towing from the community by the Association's towing service.
 - (2) The confiscation of parking permits
- 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 be 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 and adopted by the Board of Directors for the Park West Community Association at a duly convened meeting held on 17 OCTOBER, 2017 and incorporated into the Book of Resolutions of the Association. This Resolution replaces Resolution 16-02 earlier approved on April 19, 2016 by said Board of Directors.

The effective date of this Resolution shall be 15 NOVEMBER, 2017

By: Mark J C Griffin 23 OCT 17
Mark Griffin, President of the Board of Directors DATE

Attest: Joan Murphy 10-23-17
Joan Murphy, Secretary of the Board of Directors DATE

