

1.

**THE GREENS OF PARK RIDGE HOMEOWNERS ASSOCIATION, INC.  
POLICY RESOLUTION NO. 2018-2**

(Due Process Enforcement and Procedures)

**WHEREAS**, Section 55-515 of the Virginia Property Owners' Association Act ("Act") obligates every Lot Owner and all those entitled to occupy a Lot to comply with all provisions of the Declaration and any lack of such compliance shall be grounds for an action or suit to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity; and

**WHEREAS**, Article II of the Declaration provides that every person or entity who is a record Owner of an interest in any Lot which is subject by covenants of record to assessment by the Association shall be a Member of the Association; and

**WHEREAS**, Article IV, Section 1(c) of the Amended and Restated Declaration of Covenants, Conditions and Restrictions for The Greens of Park Ridge Homeowners Association, Inc. ("Association") authorizes the Association to adopt and enforce rules and regulations governing the use of the Common Areas and Lots, including the imposition of fines and suspension of membership privileges and voting rights for the violation thereof; and

**WHEREAS**, Article IV, Section 1(d) of the Declaration authorizes the Association to suspend the voting rights and rights of a Member to the use of any recreational facilities constructed on the Common Area for any period during which any assessment against his or her Lot remains unpaid, and for a period not to exceed sixty (60) days for any infraction of the Declaration, Articles of Incorporation, By-Laws, or its published rules and regulations ("Governing Documents"); and

**WHEREAS**, Article VI, Section 16, authorizes the Board of Directors to adopt rules and regulations relating to parking and use of vehicles throughout the property, including the Common Areas and Lots; and

**WHEREAS**, Article VI, Section 18 of the Declaration authorizes the Association to adopt such rules and regulations relating to Article IV, as it may from time to time consider necessary or appropriate; and

**WHEREAS**, Article IX, Section 1(a) of the Declaration authorizes the Association to enforce any building restrictions which are imposed by the terms of the Declaration or which may be imposed on any part of the Property; and

**WHEREAS**, Article IX, Section 1(k) of the Declaration authorizes the Association to enter on any Lot to perform emergency repairs or to do other work reasonably necessary for the proper maintenance of the Property, and to assess the related costs against the Lot and Owners; and

**WHEREAS**, Article IX, Section 2 (b) of the Declaration, mandates that the Association make and enforce rules and regulations governing the use of the Common Areas and Lots,

including, but not limited to, the imposition of monetary charges against Owners and Lots, the suspension of voting rights and the rights to use the Common Areas, and the right to seek injunctive relief against offending Owners and Lots; and

**WHEREAS**, Article XI, provides the Association or any Owner shall have the right to enforce, by a proceeding at law or in equity, all restrictions, conditions, covenants, reservations, liens and charges and further provides that failure by the Association to enforce any right, provision, covenant, or condition which may be granted by the Declaration will not constitute a waiver of the right of the Association to enforce such right in the future no will exercise of any one or more of those rights be deemed to constitute an election of remedies; and

**WHEREAS**, the Board deems it to be in the best interest of the Association to adopt a uniform and systematic procedure to ensure due process in the enforcement of the Governing Documents that is in accordance with the provisions of the Virginia Property Owners' Association Act and the Governing Documents; and

**NOW, THEREFORE**, be it resolved that the Board of Directors does hereby adopt the following policies and procedures to ensure due process in the enforcement of the Governing Documents:

#### **I. NOTICE OF VIOLATION**

- A. If determined appropriate, a written Notice of Violation letter shall be sent by first class and certified mail or shall be hand delivered to the Owner at the address which the Owner has provided to the Association or at the Lot address, if no other address has been provided. While the Board may copy such notices to any tenants involved, if there is a tenant, the Owner bears the primary obligation to so notify the involved tenants and any failure of the Association to notify the tenants shall not affect the imposition of monetary charges or other enforcement remedies.
- B. The Notice of Violation letter shall specify the alleged violation, the action required to abate the violation and grant a reasonable amount of time that the alleged violation must be remedied. When the violation may constitute a health, safety or fire hazard, the period for correction shall be appropriate to the level of potential threat.
- C. The Notice of Violation letter shall state that if the violation is not remedied, the Owner must request in writing a hearing before the Board. **The Notice of Violation may be combined with the Notice of Hearing Opportunity referenced in Section II of this Resolution at the Board of Directors' discretion.**

#### **II. NOTICE OF HEARING OPPORTUNITY**

- A. If the alleged violation has not been cured in response to the Notice of Violation, or if otherwise determined appropriate by the Board, a Notice of Hearing Opportunity shall be issued in writing and be sent by first class mail and certified mail or shall be hand delivered to the Owner at the address which the Owner has provided to the Association or at the Lot address, if no other address has been provided. A copy may be sent to the tenant if there is a tenant.

B. The Notice of Hearing Opportunity shall specify the alleged violation(s) and state that the Owner(s) is hereby given the opportunity to request in writing a hearing before the Board to contest the violation(s). The Notice shall also state that if no hearing is requested, the right is thereby waived. The Notice of Hearing shall also state that in the event that the Board determines a violation exists, it may: 1) suspend a Member's rights, to include suspension of parking privileges and rights to use the recreational facilities, 2) assess charges against a Lot in the amount of \$50.00 for a single violation or \$10.00 a day for a violation of a continuing nature for a maximum of 90 days; 3) pursue a lawsuit for injunctive relief and an award of related legal fees, and/or 4) pursue any other appropriate enforcement remedies permitted by applicable law.

C. If applicable, the Notice of Hearing Opportunity shall also state that failure to correct the violation by the compliance date stated on the letter, may result in the Association correcting the condition at the expense of the Owner and the Owner shall be assessed the costs of performing the corrective work.

D. If no request for a hearing is received within fourteen (14) days of the date of the Notice of Hearing Opportunity, then the opportunity for a hearing is thereby waived and the Board may make a decision regarding the alleged violation in its discretion as if the Owner(s) were present at a hearing.

### **III. NOTICE OF HEARING**

A. If the alleged violation is not remedied within the time specified in the Notice of Hearing Opportunity referenced in Section II and the Owner requests a hearing, or if the Board determines a hearing is necessary, a Notice of Hearing shall be sent to the Owner. A Notice of Hearing shall be hand delivered or mailed by first class and registered or certified United States mail, return receipt requested, at least fourteen (14) days in advance of the hearing, or within such other time as may be required by the Property Owners' Association Act, to the Owner at the address which the Owner is required to provide to the Association. Service by mailing shall be deemed effective three (3) days after the notice has been mailed in a regular depository of the United States mail. The Notice of Violation may be combined with the Notice of Hearing, if the Board deems it appropriate to automatically schedule a hearing.

B. The Notice of Hearing shall specify the following:

- 1) The time, date and place of the hearing.
- 2) That the Owner and tenant, if applicable, shall be given an opportunity to be heard and to be represented by counsel before the Board.
- 3) The alleged violation(s), citing provisions of the Governing Documents or rules and regulations which allegedly have been violated.
- 4) If the Board finds that a violation exists, it may:
  - i) Suspend Membership rights and rights to the use of recreational privileges for any period during which an assessment against his or her Lot remains unpaid, and for a period not to exceed 60 days for any infraction of the Governing Documents; and

- ii) Assess charges against a Lot in the amount of \$50.00 for a single violation or \$10.00 a day for a violation of a continuing nature, not to exceed 90 days, and shall be treated as an assessment against the Lot; and
- iii) Pursue a lawsuit for injunctive relief and an award of related legal fees; and/or
- iv) Pursue any other appropriate enforcement remedies permitted by applicable law.

#### IV. HEARING

- A. The hearing shall be scheduled at a reasonable and convenient time and place within the Board's discretion.
- B. The Board, within its discretion, may grant a continuance. If either the Association or the Owner for whom the hearing is scheduled requests a continuance to a different time or date, written notice to the other party shall be required unless waived by both parties. Once a new hearing date or time has been established, the Association shall give written notice of such date and time, which notice need not necessarily be fourteen (14) days in advance of such rescheduled hearing, and need not be sent via certified mail.
- C. The hearing need not be conducted according to technical rules of evidence applied in a court of law. The hearing shall provide the Owner with an opportunity to be heard and to be represented by counsel.
- D. The Board and Owner shall have the right to: (1) to call, examine, and cross-examine witnesses; (2) to introduce testimony and evidence; and (3) to rebut testimony and evidence, all within reasonable time limits imposed by the Board.
- E. The hearing shall be conducted in private executive session unless the Owner requests that the hearing be open to owners and residents. In instances of the latter, the Board, may impose a reasonable limit on the number of such persons who can be accommodated in the hearing room. During the course of any hearing held, the Board, within its discretion, may afford those residents involved with the dispute or violation an opportunity to be heard within reasonable time limits.
- F. After proper notice has been given, if the Owner fails to appear at the hearing or if no hearing is requested, the Board may render a decision concerning the alleged violation(s) and to establish appropriate penalties against the Owner, to include, but not be limited to, a lawsuit seeking injunctive relief, the suspension of membership rights and privileges, assessment of charges for the violations, and/or such other action as may be authorized by the Governing Documents or by law.
- H. **Within seven (7) days of either the hearing or of the Board's action on the matter if no hearing was requested**, the Board shall notify the Owner of its decision in writing. Said notification shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the owner at the address of record with the Association.
- I. The decision of the Board of Directors shall be final.

**V. REPEAT OFFENDERS**

A. If the Owner is found to be in violation for a second time within the same calendar year, the Association, at its discretion, shall forgo the Notice of Violation and instead issue a Notice of Hearing Opportunity as a first contact with the Owner.

B. If applicable, the Owner shall be assessed all the costs of any corrective action required to be taken by the Association to remedy the violation(s) and will be assessed additional charges in the amounts permitted under the Virginia Property Owners' Association Act, as amended.

**VI. FAILURE OR REFUSAL TO ACCEPT DELIVERY**

A. Failure or refusal to accept delivery of any Association notice shall not defeat these notice requirements.

**VII. PHOTOGRAPHS**

A. The Association may take photographs of any violations for which it deems appropriate. Photographs need not be included in the Notices sent to Owners but may be put in the Owner's file.

**VIII. RECORDS**

A. The Board or the Management Agent shall keep copies of all correspondence related to rules violations in the Unit Owner's file or in a separate file on rules violations.

**IX. OTHER RECORDS**

A. **This Resolution shall not be interpreted to require a hearing prior to the Board taking action if a hearing is not requested**, nor shall it be interpreted to prevent the Association from exercising any other remedies authorized or available under the Act, the Declaration, the Bylaws or this Resolution, and shall not constitute an election of remedies.

B. This Resolution shall not be construed to prevent the Association from immediately abating violations when the condition constitutes an emergency and requires immediate action, as contemplated by the Governing Documents or as otherwise required or justified by law. An emergency shall include, but not be limited to, any condition on a Lot which threatens the health or safety of any person, any Lot, or the Common Elements.

C. The Board may apply procedures outlined in this Resolution to all violations of the Governing Documents, and it is not precluded from exercising other enforcement procedures and remedies authorized by the Governing Documents, including but not limited to, the initiation of a lawsuit.

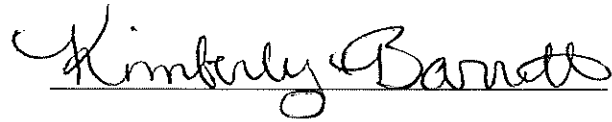
D. This Resolution shall not be construed to prevent the acting management company from exercising the same rights as held by the Board of Directors per the Governing Documents and current management contract.

E. This Resolution supersedes all previously adopted Resolutions governing the procedures to ensure due process and enforcement of the Governing Documents.

This Resolution was adopted this 9<sup>th</sup> day of August, 2018, by the Board of Directors.

**FOR ASSOCIATION RECORDS**

I hereby certify that a copy of the foregoing Policy Resolution was mailed or hand delivered to the Members of The Greens of Park Ridge Homeowners Association, Inc., on this 23, August, 2018




Handwritten signature of Kimberly Barrett in cursive script, underlined.

Kimberly Barrett, Property Manager

**RESOLUTION ACTION RECORD**

Duly adopted at a meeting of the Board of Directors of the Greens of Park Ridge Homeowners Association, Inc. held on 9 Aug 18.

Motion by: S. Younger      Seconded by: R. Townsend

DIRECTOR:	VOTE:			
	YES	NO	ABSTAIN	ABSENT
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