

Winder's Pond Homes Association

Procedures for Enforcement of the Covenants, Conditions and Restrictions (CC&R) and Rules and Regulations

Whereas, the CC&R for the Winder's Pond subdivision grants the Association the right to enforce all restrictions, conditions, covenants, reservations, liens, and charges imposed by the provisions of the CC&R; and

Whereas, the Bylaws of the Winder's Pond Homes Association provide that the Board of Directors shall have the power to exercise for the Association all powers, duties, and authority vested in or delegated to the Association, except those reserved to the members; and

Whereas, the Virginia Property Owners' Association Act ("Act") provides that the Board of Directors shall have the power to establish, adopt, and enforce rules and regulations with respect to the common areas and with respect to such other areas of responsibility assigned to the Association by the CC&R, except where expressly reserved by the CC&R to the members; and

Whereas, the Act provides that the Board of Directors shall also have the power to adopt, by resolution, the authority to assess charges against any member for any violation of the CC&R or rules and regulations for which the member or his family members, tenants, guests, or other invitees are responsible; and

Whereas, for the benefit and protection of all of the members of the Association, the Board of Directors deems it desirable to adopt a resolution to enact the statutory power to assess monetary charges and to establish procedures for enforcement of the CC&R and the rules and regulations of the Association in a manner consistent with principles of due process and Virginia law.

Now, therefore, pursuant to the Act and the powers granted to it, the Board of Directors adopts the following rules and procedures for the enforcement of the provisions of the CC&R and the rules and regulations of the Association, and for the assessment of monetary charges against non-compliant members:

1. First Notice of Violation

a. On behalf of the Association, the President may issue a notice of violation to any member whose behavior or use of his/her lot does not conform to the Association's CC&R or rules and regulations.

b. A first notice of violation shall be in writing and hand delivered or sent by regular first-class mail to the member.

c. The first notice shall generally advise the member of the nature of the offense, cite the provision within the Association's CC&R and/or rules and regulations which has allegedly been violated, specify the remedy required, and, for offenses of a continuing nature, state the number of days within which corrective action must be completed.

2. Second Notice of Violation.

a. If the offense is not remedied as provided in the first notice, the President may issue a second notice of violation. The second notice of violation shall:

(1) Reference the alleged violation,

(2) Inform the member of his/her right to request a hearing before the Board of Directors to contest the violation, and to be represented by his/her own legal counsel at the hearing,

(3) Advise the member that he/she must notify the Board of Directors in writing by a certain date of his/her desire for a hearing to contest the violation,

(4) And advise the member that failure to request a hearing by the specified date shall authorize the Board to proceed to further action without holding a hearing.

b. A second notice of violation shall be in writing and hand delivered or sent by certified first-class mail, return receipt requested, to the member.

c. If the member has not requested, in writing, a hearing by or before the date specified in the second notice, the member shall be deemed to have waived their right to a hearing. The Board of Directors shall not be required to conduct a hearing unless the member requested a hearing in writing in a timely manner.

3. Notice of Hearing / Conduct of Hearing

a. When a hearing is requested by the member in writing by or before the deadline (or if the Board decides to hold a hearing even in the absence of a request), the Board of Directors shall set the time, date, and place of the hearing at its discretion.

b. Written notice of the time, date, and place of the hearing shall be delivered to the member by hand or mailed by certified first-class mail, return receipt requested, to the member at least fourteen (14) days in advance of the hearing date. At the hearing, the Board of Directors shall provide the member with a reasonable amount of time to present all relevant defenses to each alleged violation. The member may have his/her legal counsel present at the hearing. The Board has the discretion to hold the hearing in

executive session. If the member fails to appear at the hearing at the scheduled time, the Board may deem the alleged violation to be admitted by the member.

c. If additional time is needed to reach a decision, the Board may continue the hearing to an announced date and time, with no further written notice required. Or, if the date and time is not announced at the hearing, then the President will provide advance written notice of the continuance date and time to the member by hand delivery or first-class mail.

d. Following the member's presentation to the Board, or at its convenience if no hearing is requested or held, the Board of Directors shall meet in executive session to determine whether there is satisfactory evidence of the alleged violation and, if so, what action should be taken. The Board shall exit executive session to vote on what action should be taken, and the vote shall be recorded in the minutes of Board meetings. The Board shall advise the member of its decision by certified mail, return receipt requested, within seven (7) days of the date of the conclusion of the hearing.

Mailing

A notice or other mailing to a member as provided for herein shall be sent to the member at the address of record with the Association, if the member's record address is different from the property address. For mailings sent by certified mail, notification shall be deemed effective if a member fails or refuses to sign for the certified mailing.

General

The Board of Directors may hold members legally responsible for ensuring that their household members, tenants, guests, and invitees comply with the Association's CC&R and rules and regulations. Accordingly, the Board may also assess monetary charges or take other action against a member based on violations by the members of that member's household or by that member's tenants, guests, or invitees.

The procedures outlined in this Resolution may, in the Board's discretion, be applied to all violations of the Association's CC&R and rules and regulations, but do not preclude the Association from exercising other enforcement procedures and remedies authorized by the Association's legal documents and applicable law, including, but not limited to, the initiation of suit, filing a lien, or self-help remedies.

This resolution shall be effective on the date of its adoption.

Adopted by the Board of Directors: September 2, 2014

Amended by the Board of Directors: (date)