

**WESTERLEY HOMEOWNERS ASSOCIATION
POLICY RESOLUTION 08-02-_____**

ENFORCEMENT PROCEDURES

Relating to Enforcement of the Rules and Regulations and Legal Documents

WHEREAS, Article VIII, Section VIII.1(c) of the By-Laws states that the Board of Directors shall have power “To exercise for the Corporation all powers, duties, and authority vested in or delegated to this Corporation, not reserved to the membership, or other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;” and

WHEREAS, Article III, Section III.3(c)(7) of the Declaration provides that the Board shall have the power and obligation “To perform acts, as may be reasonably necessary or appropriate, including bringing suit, causing a lien to be foreclosed or suspending membership rights, to enforce or effectuate any of the provisions of the Governing Documents;” and

WHEREAS, the Board deems it necessary and desirable to establish and follow procedures to assure reasonable and timely enforcement ‘of the legal documents and rules and regulations of the Association:

NOW, THEREFORE, BE IT RESOLVED THAT the procedures detailed below be adopted by the Board.

I. ENFORCEMENT OF LEGAL DOCUMENTS

- A. Written Complaint. Any member or resident may initiate the enforcement process by filing a written complaint by mail or e-mail, with the Association’s Managing Agent or the Board of Directors.

The complaint must include a concise statement of charges setting forth in clear language the specific act(s) or omission(s) with which the offending party is to be charged. The complaint should be as specific as possible with respect to times, dates, places and persons involved. All complaints must be signed by the Complainant.

- B. Preliminary Investigation. Upon receipt and consideration of the complaint, the Managing Agent, a member of the Board or their Agent, may make a preliminary investigation as to the validity of the complaint. If the preliminary investigation indicates the need for further action, the Managing Agent may proceed as appropriate. If it is questionable as to whether a violation exists, the Managing Agent or member of the Board shall ask the Board to investigate and provide direction.

- C. Notice. If preliminary investigation indicates further action is necessary, the Managing Agent shall mail a written notice to the alleged offender at the alleged offender's address listed on the records of the Association and to the property address, if the record address is different.

Written notice to an alleged offender shall advise the alleged offender of the nature of the offense, the identity of the specific provision within the legal documents which has allegedly been offended, the specific remedy required, and the number of days by which corrective action must be begun or completed in order to preclude the possible imposition of a penalty or remedy.

II. ENFORCEMENT REMEDIES

If written notice to the alleged offender does not result in an abatement of the alleged offense, the Board may pursue enforcement remedies, which may include either or both of the following measures, after compliance with Virginia Code.

- A. The suspension of use privileges of the common facilities (except for streets and access ways) for a period not to exceed one hundred and twenty (120) days for any infraction of the legal documents and/or rules and regulations of the Association. The effective date of the suspension is to be determined by the Board and may be deferred to a date certain.
- B. The levying of monetary charges in the amount of \$50.00 for a single offense or \$10.00 per day for any continuing offense, such monetary charges to be treated as an assessment against the offending member's lot. Fines shall not exceed a total of \$900.00 for each offense.

III. HEARING GUIDELINES

Neither of the two enforcement remedies cited above may not be pursued by the Board until an opportunity for a hearing has been provided to the alleged offender. The following guidelines apply to the hearing procedure:

- A. The Managing Agent shall send a written notice, mailed by certified mail, return receipt requested and first-class mail, to the member, advising the member of his or her right to contest the complaint at the hearing before the Board of Directors.
- B. Such notice shall advise the member of the date, time and location of the hearing, of the member's right to be represented by counsel. The alleged offender must, by written notification to the Association's Managing Agent, confirm the intention to attend the hearing or make a request for the hearing to be conducted on a date other than as specified in the notice. A request to reschedule a hearing must be submitted in writing within ten (10) days from the date of receipt of the notice from the Association.

This request may be granted if reasonable and satisfactory justification for rescheduling the hearing is presented. The Board shall set all hearing dates at its sole discretion.

When no response is received by the Association from the alleged offender, or the member fails to attend the hearing without providing reasonable and satisfactory explanation, the alleged offender shall be deemed to have waived the right to attend the hearing. The Board may impose a monetary charge or suspension of recreational use facility use privileges in the absence of the alleged offender.

When the member exercises his or her right to a hearing, the member has a right to present evidence, present and cross-examine witnesses, and a general right to be heard.

Following the evidentiary portion of the hearing, the Board may conduct its deliberations in Executive Session to determine whether satisfactory proof of the alleged offense exists and, if so, whether monetary charges or suspension of recreational or facility use privileges should be imposed.

Notice of the decision of the Board shall be mailed to the alleged offender by certified mail within seven (7) calendar days of the hearing.

When the judgment is unfavorable to the member, the Board shall instruct the Managing Agent to undertake the administrative actions required to effect the charge as an assessment against the member's lot and/or suspend the use of recreational facility privileges. When judgment is favorable to the member, the records of the Association shall be revised to so indicate, and the occurrence in question shall be disregarded for purposes of determining whether any alleged allegation of subsequent offenses are regarded as continuing offenses.

If the Board, after providing an opportunity for a hearing to the alleged offender, determines there is satisfactory proof that a member has committed or is committing a continuing offense, and that monetary charges should be assessed, the calendar days for which daily charges may accrue will be those beginning after the date the member is in receipt of the initial notice of the violation and ending with the date on which the Association's Board or Managing Agent observes that correction has occurred, or is notified by the member that such correction has occurred, subject to later confirmation by the Association; however, in no case may the daily charge for a continuing violation exceed a total of ninety (90) days.

IV. APPLICABILITY

The procedures delineated herein may be applied to offenses of the rules and regulations and legal documents of the Association, but do not preclude the additional independent application of any other specialized and more expeditious enforcement procedures and remedies, as authorized in the Association's Policy Resolutions and state law, including, but not limited to:

- A. Tagging and towing of prohibited or unauthorized vehicles as authorized under Policy Resolution No.____, Vehicle Policies.
- B. Initiation of legal action as authorized by the Declaration.
- C. Enforcement of Trash Violations under Policy Resolution No. _____.

V. _____

This Resolution supersedes all previously adopted Resolutions governing enforcement of the Rules and Regulations.

I hereby certify that this Policy Resolution was adopted by the Board of Directors on the _____ day of _____, 200.

WESTERLY HOMEOWNERS ASSOCIATION

By: _____
_____, President

ATTEST:

I, _____, Secretary for the Westerly Homeowners Association, hereby attest that the foregoing Policy Resolution was adopted a properly held meeting of the Board of Directors on the _____ day of _____, 2008.

_____, Secretary

CERTIFICATION OF POSTING AND MAILING OF

ADOPTED POLICY RESOLUTION

I, _____, Community Manager, _____, Managing Agent for the Westerly Homeowners Association, do hereby certify on this _____ day of _____, 2008, that copies of the foregoing Policy Resolution were posted conspicuously through out the community prior to the effective date of the Policy Resolution, and that copies of the Policy Resolution were mailed to each Unit Owner.

_____, Community Manager

WESTERLEY HOMEOWNERS ASSOCIATION

RESOLUTIONS ACTION RECORD

Resolution Type Policy No. 1

Pertaining to: Enforcement Procedures

Duly adopted at a meeting of the Board of Directors of the Westerley Homeowners Association, held _____.

Motion by: _____ Seconded by: _____

OFFICER	TITLE	YES	NO	ABSTAIN	ABSENT

ATTEST:

Secretary

Date

Resolution Effective: _____