



BEL ARBOR COMMUNITY ASSOCIATION, INC.

**Violation and Appeal Policy
Approved: by Board of
Directors on
June 8, 2016**

WHEREAS, Section 55-513(A) of the Code of Virginia (The Virginia Property Owners' Association Act) provides that the Board of Directors of Bel Arbor Community Association, Inc. ("Association") has the power to establish, adopt and enforce rules and regulations regarding use of common areas and other areas of responsibility assigned to the Association by its Amended and Restated Protective Covenants ("Protective Covenants"); and,

WHEREAS, Section 55-513(B) of the Code of Virginia (The Virginia Property Owners' Association Act) provides that the Board of Directors of the Association has the power to assess charges against Members for violations of the Protective Covenants or rules and regulations for which the Member, his family members, tenants, guests or other invitees are responsible; and,

WHEREAS, Section B of the Association's Articles of Incorporation provide that the Association shall conduct any and all business of the corporation under the Virginia Non-Stock Corporation Act insofar as such business is not inconsistent with the Protective Covenants; and,

WHEREAS, Section C of the Articles of Incorporation provide that all Owners shall be Members of the Association; and,

WHEREAS, Article III, Section 3.1 of the Amended and Restated Protective Covenants grants to every Member the right and easement of enjoyment in and to the common area subject to: (1) the right of the Board of Directors to adopt and enforce rules and regulations including the imposition of violation charges; and (2) the right of the Board of Directors to suspend the Member's voting rights and right to use the common areas for violations of the published rules and regulations; and,

WHEREAS, Article III, Section 3.1(c) of the Amended and Restated Protective Covenants grants the Board of Directors the right to: (1) assess a violation charge against any Member for any violation of the Protective Covenants or any rules and regulation for which such Member or his/her/their family members, tenants, guests, or other invitees are responsible; and (2) suspend the voting rights and right to use the common areas of the Member for a violation of the rules and regulations, NOW THEREFORE, the Board of Directors desires to create and establish a procedure by which the Protective Covenants and rules and regulations can be enforced and community residents (Members and tenants of Members) can report their observations and make complaints regarding matters which appear to be in violation of the Protective Covenants and

rules and regulations; and,

Further, that the Board of Directors desires to establish a procedure by which facts and information pertaining to an alleged violation are brought to the attention of the responsible Member by the Association and that Member be given a chance to cure an identified violation; and,

Further, that if no such cure is timely made, the Board of Directors, or a committee appointed by the Board on behalf of the Association, can review facts and information and has options to attempt to resolve the matter in a manner other than through legal action.

BE IT RESOLVED, that the Rules Violation and Appeal Procedures are as follows:

1. Any Association Member or tenant who believes that another Member or tenant is in violation of the Protective Covenants or rules and regulations of the Association should first contact the Call Center with information about the alleged violation ("Complaint"). Complaints may be made to the Call Center verbally or in writing.

Upon receipt of the Complaint, the Call Center shall, with the assistance of members of the Board of Directors and/or the Architectural Control Council, determine if there is a violation and take the following actions:

NOTE: Written notes of the content of any phone conversations with the Member or tenant concerning any confirmed violation(s) shall be maintained. Copies of these notes and any e-mail correspondence relative to the violation shall be submitted to the Community Manager for inclusion in the Lot's master file.

- A. If it is determined by of the Board of Directors and/or the Architectural Control Council that there is no violation, the reporting Member or tenant shall be informed and the incident closed.
- B. If an emergency situation is reported, the Vice President, President or Community Manager is to be contacted immediately by the Call Center and a decision may be made by the person(s) contacted, in his/her/their sole discretion, to proceed immediately to paragraph 2 below or with legal action to enforce the Protective Covenants and rules and regulations.

If it is determined that a non-emergency violation has occurred, the Community Manager shall be instructed by the President or Vice President to send the Member in violation a warning letter via certified US Mail, return receipt requested. A copy of the letter shall be made a part of the Lot's master file and copies will be sent to the Association President and Vice President via e-mail.
NOTE: All Complaints will be confidential.

- C. The Vice President shall monitor the violation, and if the violation has not been corrected within half of the allotted time, he/she shall contact the Member to remind him/her of the procedures that will follow if corrective action is not taken within the period allowed by the warning.

- D. If the violation is cured within the time allotted by the warning letter, the Vice President shall notify the Community Manager of such and a letter of satisfaction shall be sent to the Member by the Community Manager, a copy placed in the Lot's master file and the Call Center notified that the case is closed.
 - E. If the violation is not cured within the time allotted by the warning letter, proceed to paragraph 2 below.
2. If the violation(s) exists beyond the time period allowed by the warning letter, the Community Manager shall take the following action:

NOTE: From this point copies of all correspondence sent to the Member or his attorney on behalf of the Association regarding the violation shall be made by certified or registered US Mail with return receipt requested. Copies of all correspondence and of any notes made during telephone conversations regarding the violations shall become part of the violation file within the Lot's master file.

- A. The Community Manager is to review the matter with the Board President and with the President's approval; the first Notice of Violation shall be mailed by the Community Manager to the alleged violating Member.
- B. The Vice President shall monitor the situation, and if no cure is made within the period of time specified in the letter, he/she shall direct the Community Manager to mail the Second Notice of Violation and Notice of Hearing to the alleged violating Member. This second notice shall give the alleged violating Member at least 14 days advance notice of the hearing date, time and location. The notice shall specify the violation in reasonable detail and shall include the charges or other sanctions that may be imposed at the hearing.
- C. On the date of the next Board of Directors meeting that is at least 14 days after the date of the Second Notice of Violation and Notice of Hearing, an executive session for the purpose of holding a hearing will be scheduled prior to the normal business meeting. The Community Manager will present facts, other information relating to the alleged violation and review each of the notices mailed to the Member. The alleged violating Member may present facts and other information related to the matter. The alleged violating Member and the Association may each be represented by an attorney during this hearing. The type of notice, the date of the Second Notice of Violation and Notice of Hearing, by whom such notice was issued, and the determination made at the hearing shall be included in the minutes of the meeting. After hearing all facts and other information, the Member and the Member's attorney, if present, will be dismissed from the room and the Board will meet in executive session for the purpose of reviewing facts and information presented and to make a determination of what, if any, further action is to be taken. Within seven (7) days of the hearing, the Community Manager shall send notice of the Board's determination and any actions to be taken by either hand delivery or certified US Mail, return receipt requested, to the Member at the address of record with the Association. Any course of action determined by the Board must be within the scope of

authority and power available to them through Commonwealth law and the governing documents. Some options available to the Board are:

1. Removal of the Member's right to vote or to use the common areas for a period not to exceed sixty (60) days.
2. Imposing a violation charge of up to \$50.00 for a single violation or \$10.00 per day for any violation of a continuing nature. In accordance with Section 55-513 (B) of the Virginia Property Owners' Association Act, the total charge for any offense of a continuing nature shall not be assessed for a period exceeding ninety (90) days.
3. Waiver of the imposition of a violation charge. If the violation is cured before the date of the hearing or if cured within 30 days of the hearing date the imposition of a violation charge will be waived. If the violation is not cured within that time charges will be retroactive to the hearing date.
4. Pursue enforcement through the judicial process.

NOTE: It is important to note the Board must be consistent with the imposition of enforcement actions while also taking into consideration the nature of the violation and other facts and information specific to each particular violation.

- D. Any violation charge will be added to the Member's assessment account and be collectible in the same manner as any other assessment. See the *Payment and Collection Policy*.
- E. This Violation and Appeal Policy does not preclude the Association from addressing a violation through litigation or other legal process in lieu of utilizing the procedures set forth in this Policy. The Association is not required to send violation notices, hold a hearing, or otherwise follow this Violation and Appeal Policy prior to initiating litigation to correct a violation.