

NEWINGTON COMMUNITY ASSOCIATION

VIOLATIONS PROCEDURES POLICY

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NEWINGTON COMMUNITY ASSOCIATION VIOLATIONS PROCEDURES POLICY

1.0 Purpose

To establish a fair and reasonable procedure for identifying and acting upon alleged violations of covenants, architectural standards and other rules or policies as specified in governing documents - especially in those cases where a violation might result in a special assessment.

2.0 Authority

In accordance with Article VIII, Section 1, paragraphs (a) and (b) of the By-Laws, the Board of Directors is empowered to "adopt and publish rules and regulations governing the use of the common area and facilities, and the personal conduct of the members and, their guests thereon, and to establish penalties for the Infraction thereof" and "exercise for the Association all powers, duties and authority vested in or delegated to this Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration".

3.0 General

3.1 Fairness

All residents will be treated without regard for personal characteristics not relevant to the alleged violation. These non-relevant factors include but are not limited to age, race, religion, creed, national origin, length of residence, current service to the community, prior service to the community, or any other factor not demonstrably relevant to the alleged violation.

3.2 Enforcement

The Community Manager shall be responsible for hiring and directing part-time personnel as necessary for the purpose of checking for violations on a regular and continuing basis.

The Board shall be responsible for ensuring that the Community Manager assigns due importance to regular and continuous enforcement of all policies and rules. The Board shall also be responsible for ensuring that the Community Manager has adequate funds to keep the enforcement mechanism in place and functioning effectively at all times.

3.3 Types of violations

For administrative purposes, violation shall be handled without regard for which specific governing document is involved (rules, policies, architectural, covenants, etc.) Violations will however, be handled

differently depending upon the degree of owner expense required to remedy the violation.

3.1.1 Class A violations

A Class A violation shall be any violation which, under reasonable circumstances, would involve spending an amount less than or equal to one third of that owner's quarterly assessment in order for that owner to remedy the violation. (Example: grass not mowed, toys in front yard, hose in front yard, trash out early.)

3.1.2 Class B violations

A Class B violation shall be any violation which, under reasonable circumstances, would require spending an amount equal to more than one third of that owner's quarterly assessment in order for that owner to remedy the violation. (Example: fence in disrepair, house needs painting, front door needs replacement.)

3.1.3 Indeterminate or uncertain violations

In any case where there is more than a reasonable doubt as to the expense involved, the violation shall be treated as a Class B violation.

4.0 Pre-hearing procedures

4.1 Identification and verification of violation

4.1.1 Trash policy violations

Identification and verification for trash policy violations shall, where appropriate, consist of a search of the materials for any physical evidence that clearly links the trash violation to a specific property. The search must be conducted by a Board member, the Community Manager, or their duly-appointed representative.

4.1.2 Other Violations

Any person may bring an alleged violation to the attention of the Association. No warning letter or other official action (other than a hang tag placed in accordance with the Hang Tag Policy) may be taken with respect to any alleged violation until it has been confirmed by at least two officials of the Association - one of which must be a Board Member. At least one of the two officials must have actually viewed the violation. The other official may confirm the violation by means of viewing a photograph or other physical evidence as appropriate. If a photograph or photocopy is used, this must have been created by a Board member, the Community Manager or their representative.

4.2 Warning Letters

4.2.1 When required

With the exception of trash violations, and unless otherwise specified in the applicable governing document, warning letters will be required for violations that could result in a hearing and the imposition of a special assessment. Due to the significant health and sanitation risks involved, *no warning letters will be required - or shall be issued - for trash policy violations.*

4.2.2 Limitation on warning letters

No owner will receive more than one warning letter for any specific alleged violation.

4.2.2.1 Class A violations

Each owner will be entitled to only one warning for Class A violations which involve the same section of the same governing document in any given 12 month period. (No warning letter will be issued for the second and any subsequent violations of that same section during any given 12 month period.)

For purposes of determining when the 12 month period begins and ends, all warnings will apply to the owner/property combination. A new owner of a specific property, for example, will be entitled to a new warning period regardless of the prior owner's status. The warning period will *not* restart, however, with a change of renters or other non-owner occupants.

If a subsequent hearing results in a Board decision that the facts did not support the allegation, any warning letter received for that alleged violation will not count. The fact that the Board did not impose a special assessment, however, will not reset the count.

4.2.2.1 Class B violations

A warning letter must be sent when Class B violations are involved regardless of how many previous violation letters may have been sent.

4.2.3 Warning letter content

When a warning letter is required under the rules stated above, the Community Manager will prepare such a letter for the signature of the President - or the next available ranking Board member if the President is not available.

The warning letter will describe the violation and include a photograph of the violation in any case where a photograph might reasonably be taken.

The warning letter will cite the specific section of the applicable governing document which applies.

The warning letter will explain what must be done to remedy the violation.

The warning letter will include an explanation of the charges that may be assessed for failure to comply.

4.2.4 Warning period

4.2.4.1 General

The warning letter shall clearly state the expiration date of the warning period.

Regardless of expiration date, the owner shall be responsible for contacting the Community Office by phone when the violation has been corrected.

Upon expiration of the warning period, or on notice of correction by the owner, the Community Manager will check the status of the violation. The Community Manager will take the next step in accordance with this policy if the violation has not been remedied by the owner.

4.2.4.1 Warning Period for Class A violations

The warning period for Class A violations will be 7 calendar days starting with date mailed.

4.2.4.2 Warning Period Class B violations

The Community Manager and the signing officer shall agree upon a warning period that shall be appropriate for the violation. In no case shall the warning period be less than one week or exceed 8 weeks from the date the letter is posted unless previously approved by a vote of the Board.

4.2.5 Method of delivery

The letter will be delivered by any method which affords reasonable evidence that the letter was sent and delivered (e.g. certified mail, UPS, FEDEX, etc.)

4.2.6 Addressees

Where appropriate, warning letters will be addressed to both the physical property address and to the owner's address of record if

these are not the same. Refusal to accept or any other non-receipt of the warning letter by any party will in no way obligate the Association to further warning.

4.3 Probable cause determination

4.3.1 When required

A determination of probable cause must be made prior to scheduling any hearing that may result in a special assessment.

4.3.2 Procedure

4.3.2.1 Trash policy violations

The Community Manager and the President (or other officer if the President is not available) shall verify the existence of properly identified physical evidence linking a trash violation to a specific residence and will regard same as probable cause if so verified. In such cases, no Board vote will be required and a hearing will be scheduled forthwith. If no such physical evidence exists, the violation will be treated as any other violation.

4.3.2.2 Other violations

The Community Manager will provide the Board of Directors with a photograph (wherever a photograph might reasonably be obtained) of the violation which fairly depicts the violation. After considering the photograph and/or other evidence presented by the Community Manager, the Board will vote on whether probable cause exists to assess charges.

4.4 Scheduling of hearing

Once probable cause has been determined, the Community Manager will schedule a hearing. Hearings will be scheduled in conjunction with regularly-scheduled Board meetings unless the Board determines that the number and/or character of the hearings would be too disruptive for a Board meeting.

4.5 Notification of hearing

4.5.1 Content of notification

Upon scheduling the hearing, the Community Manager will draft a letter of notification for the signature of the President or next available ranking officer. The letter will describe the violation and include a photograph thereof in any case where a photograph might reasonably be taken (with the exception of trash violations which will, where appropriate, include a photocopy of the evidence which

identified this owner's property as the origin). The letter will cite the specific section of the applicable governing document. The letter will include an explanation of the charges that could be assessed. Finally, the letter will explain that the owner may be represented by counsel before the Board of Directors if so desired.

4.5.2 Timing of notification

The letter must be sent at least 14 days prior to the hearing.

4.5.3 Addressees

Where appropriate, hearing notification letters will be addressed to both the physical property address and to the owner's address of record if these are not the same.

4.5.4 Delivery method

The Community Manager will ensure that the letter is delivered by a method which affords evidence that the letter was sent and/or received (e.g. certified mail, UPS, FEDEX, etc.)

5.0 Hearings

5.1 Status of on-going violation

Hearings will proceed even if the violation was of an on-going nature but the violation has been remedied or otherwise no longer exists at the time of the hearing.

5.2 Owner's presence, written arguments, non-owners

The hearing will proceed even if the owner fails to appear.

Non-resident owners who live thirty-five road miles or more from Community Office may, at their discretion, choose to submit written arguments for the Board's consideration in lieu of appearance. Written arguments that contain abusive or other language not generally used in official discourse will not be considered.

Renters or other non-owner occupants of the property in question may not address the hearing on the owner's behalf *unless* the Community Office receives the owner's written request for same in writing at least one working day prior to the hearing.

5.3 Composition of hearing

The hearing shall consist of a quorum of Board members. No hearing will proceed unless a quorum of Board members is present. If a quorum cannot be achieved within 30 minutes of the scheduled time, the hearing will be canceled and rescheduled.

The President of the Association shall preside. If the President of the Association is not available, the next ranking Officer shall preside - and so on.

5.4 Conduct of hearing

The presiding officer will call the lot number involved and determine the presence or absence of the owner. If the owner is present, the presiding officer will explain the procedure to the owner and ask the owner to present their arguments. The owner and/or counsel shall be given a total of five uninterrupted minutes to present their case. The owner and/or counsel will restrict their comments to facts that are relevant to their case. The owner and/or counsel will conduct themselves in an orderly fashion at all times. The presiding officer may interrupt the owner and/or counsel and may deny them any remaining portion of their full five minutes if these requirements are not met at all times. The allotted time may be extended if the owner requests but only if a member of the Board so moves, the motion is seconded and majority of the Board votes to grant the request.

All questions from Board members and from the owner will be directed to the presiding officer. The presiding officer will reject, rephrase, or redirect these questions as the presiding officer sees fit.

When the owner and/or counsel have completed their arguments and any questions have been answered, the presiding officer will declare the hearing to be concluded. At the earliest convenient moment, the Board will reconvene in Executive Session to consider the evidence and arguments presented. After due consideration, the Board shall return to vote on disposition of the case in open session.

5.5 Board decision

The Board will first vote as to whether the facts supported the allegation of a violation. This ruling must be made even if the violation is on-going in nature but was corrected prior to the hearing. If the Board rules that the facts did not support the allegation, no further Board action will be required.

5.6 Imposition of special assessment

If the Board rules that the facts supported the allegation, the Board must then conduct a separate vote as to whether a special assessment should be applied, and if so, of its character and amount.

The Board may vote to apply no special assessment.

The Board may vote to apply a one-time special assessment up to the legal maximum (e.g. \$50) for any violation regardless of its duration.

The Board may also vote to apply a daily assessment (e.g. \$10 / day) for violations that persist for a number of days. If Board votes to apply a daily special assessment to a violation of a persistent nature, daily charges will

accrue from the date the hearing was set and will continue to accrue until the date the violation is/was corrected (up to the legal maximum). It shall be the sole responsibility of the owner to notify the Community Manager when the violation is corrected and request a re-inspection. The Board may not assess daily charges for a persistent violation if the violation was corrected before the hearing but may, in such cases, vote to assess a one-time special assessment up to the legal maximum (e.g. \$50).

6.0 Post-hearing procedures

6.1 Notification of Board decision and special assessment

Within the legally-required limit (but no more than seven working days) after the Board's decision, the Community Manager will draft a letter notifying the owner of the Board's decision and any special assessment. This letter will be signed by the President (or other officer if the President is not available). The letter will be sent by any method that affords reasonable evidence that the letter was sent and received (e.g. certified mail, UPS, FEDEX, etc.)

6.2 Non-payment of special assessment

If the owner fails to pay any special assessment within 14 days of the date of posting the notification letter, the Community Manager will take whatever action is necessary to ensure that the full amount of the special assessment is added to the owner's account with the Association. Thereafter, the unpaid special assessment will be treated as would be any other unpaid assessment due the Association.

6.3 Continued failure to comply

If the violation is on-going in nature and continues past the legally-established limit on daily special assessments (e.g. 91 days), the Community Manager will seek, if necessary, the preliminary advice of legal counsel regarding the advisability of bringing the case to court. Once this preliminary legal opinion is clear, the Community Manager will bring this information to the attention of the Board. The Board must then vote within 30 days whether to initiate legal proceedings against the owner to force compliance.

7.0 Definitions

Term	Definition
<i>Governing document</i>	Any official Association document which specifies the nature of the relationship between members of the Association and the member's conduct within that relationship. Examples: By-Laws, Covenants, Trash Policy, etc.

<i>Non-resident owner</i>	Any owner whose address of record with the Association is not the same as the property in question.
<i>Official</i>	Any person who has been elected to the Board, hired by the Board, hired by the Community Manager, or properly appointed by the Board or the Community Manager to act on behalf of the Association.

8.0 Revision History

Approved 7/05/2007