

**THE FAIR LAKES CROSSING COMMUNITY ASSOCIATION  
Resolution Action Record**

Resolution Type: Policy No. \_\_\_\_\_


Pertaining to: ~~Leasing of Units~~ Rules enforcement.

Duly adopted at a meeting of the Board of Directors held 03/10, 2015.

Motion by: Viridi Seconded by: Zini

VOTE:

	YES	NO	ABSTAIN	ABSENT
<u>KAV</u> <u>Viridi</u> Director	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<u>Azy</u> <u>Zini</u> Director	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
_____ Director	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

ATTEST: 

Attorney Rich Mallory Date: 03/10, 2015  
Secretary: \_\_\_\_\_

USB #86079  
Resolution effective March 10, 2015

**THE FAIR LAKES CROSSING COMMUNITY ASSOCIATION**  
**Resolution No. 2019-2**

Policies and Procedures Related to Rules Enforcement

WHEREAS, Article IV, Section 4.7 (1) of the Bylaws of Fair Lakes Crossing Community Association (hereinafter the "Bylaws") grant and assign the Board of Directors the authority to make and amend rules and regulations respecting the use of the Common Areas, and Section 55-513A of the Virginia Property Assn Act ("Act") grants the Board the power to regulate the use of Common Elements; and

WHEREAS, Article II, Section 2.3 (1) of the Declaration and Section 55-513A of the Act gives the Board of Directors the power and duty to enforce by legal means the provisions of the Declaration, the Bylaws (together, the "Association Instruments"), and the Rules and Regulations; and

WHEREAS Article II, Section 2.3 (13) of the Declaration, and Section 55-513B(ii) of the Act provides the Association through its Board of Directors with the general power to assess fines against Lot Owners for violations of the Association Instruments and the Rules and Regulations, for which the Lot Owner or his family members, tenants, guests, or other invitees are responsible; and

WHEREAS, the goal of the Association is to achieve voluntary compliance with all Association Instruments and Rules and Regulations of the Association, while strictly enforcing the provisions of the Rules and Regulations; and it is the intent of the Board of Directors to enforce the Association Instruments for the benefit and protection of the Association's Lot Owners and residents by establishing procedures to afford due process and consistency of enforcement.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board of Directors by the Act, the Association Instruments, and this Resolution is hereby empowered to assess fines and take other enforcement action for any violation of the Association Instruments pursuant thereto.

**This Resolution supersedes and overrides any previously enacted Rule regarding the enforcement of Association Instruments and Rules at the Association. This Resolution incorporates by reference the Resolution regarding Suspension of Privileges.**

## RESOLUTION

The above Recitals are hereby incorporated by reference.

### I. Complaint.

A. Any Lot Owner, tenant, Managing Agent, or Board member who requests that the Board take action to enforce the Association Instruments shall complete, date, and sign a Complaint in a form similar to and containing the information contained on Exhibit "A." The Board or management agent may take action without completing a complaint form.

B. Within seven (7) days of receipt of the Complaint, the Board or management agent shall deliver to the Complainant's address of record a written acknowledgement of receipt of the Complaint. Said acknowledgment shall be delivered via hand delivery, registered or certified mail, or electronic means, provided that the sender retains proof of the electronic delivery.

### II. Investigation and Demand.

A. The Board shall review the Complaint and make an initial determination as to whether it appears that a rule or provision of the Association Instruments allegedly has been violated.

B. If deemed necessary by the Board, the Board and/or the management agent shall conduct an investigation, which may include visiting the alleged scene and interviewing witnesses.

C. Based on the Complaint and the investigation, if any, the Board shall then take appropriate action, including but not limited to directing that a demand letter be sent, a hearing be set, or the matter be referred to counsel or county authorities.

D. If the Board determines that a written demand letter is in order, such a letter in a form similar to Exhibit "B" shall be sent via hand delivery or registered or certified mail to the lot owner's address of record. A copy may be sent to the tenant if there is a tenant.

E. The demand letter shall specify the alleged violation, the action required to abate the violation, and a date by which the alleged violation must be remedied. In the event that the violation may constitute a health, safety, or fire hazard, demand may be made to remedy the violation immediately.

F. The demand letter also shall give the alleged violator the opportunity to request a hearing before the Board to avoid assessment of violation charges. The letter shall make it clear that if no hearing is requested, charges may be assessed. The demand letter may be combined with the notice of hearing referenced in Section III at the discretion of the Board.

### III. Notice of Hearing.

A. If the alleged violation is not remedied within the date or time specified in the demand letter 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. Notice of a hearing shall be hand delivered or mailed by registered or certified United States mail at least fourteen (14) days in advance thereof, or within such other time as may be required by the Act, to the lot owner's address of record. Service by mailing shall be deemed effective two (2) days after the notice has been mailed in a regular depository of the United States mail. The demand letter referenced in Section II may be combined with the notice of hearing.

B. The notice of hearing may be similar to Exhibit "C" attached hereto and shall specify:

1. The time, date and place of the hearing;
2. That the lot owner and tenant, if allowed by the Board, shall be given an opportunity to be heard and to be represented by counsel before the Board;
3. The alleged violation, citing pertinent provisions of the Association Instruments;
4. That charges for violation of the Association Instruments may include assessment of up to Fifty Dollars (\$50.00) for a single offense or Ten Dollars (\$10.00) per day for up to ninety (90) days for any offense of a continuing nature or such greater amounts as may be authorized by the Act.

### 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 the lot owner for which the hearing is scheduled requests a continuance to a different time or date, no further notice shall be required.

C. The hearing need not be conducted according to technical rules of evidence applied in a court of law. The hearing shall provide the alleged violator with an opportunity to be heard and to be represented by counsel.

D. The management agent, lot owner, tenant, any person lodging a complaint, and members of the hearing panel shall have the right 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 closed session unless the alleged violator requests that the hearing be open to owners and residents and further provided that the chair of the

hearing body 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 lot owner fails to appear at the hearing or if no hearing is requested, the hearing or meeting may continue as scheduled and the Board may assess charges from the final compliance date of the letter or take such other action as may be authorized by the Association Instruments or by law.

G. If the alleged violator acknowledges responsibility for the violation charged, or does not wish to contest the alleged charge, the Board may, in its discretion, dispense with a hearing.

H. Within seven (7) days of the hearing, the Board shall notify the Complainant and alleged violator via hand delivery or registered or certified mail of the Board's final determination. This determination letter shall include:

1. The Board's decision with respect to the facts;
2. The specific provisions of the Association Instruments or laws which were deemed violated;
3. The amount of any violation charges imposed, if any;
4. The date from which the violation charges shall accrue which shall not be earlier than the date given in the demand;
5. The Association's registration number on file with the Common Interest Community Board;
6. If applicable, the name and license number of the Association's Common Interest Community Manager; and
7. A statement explaining the Complainant's and alleged violator's right to file a notice of final adverse decision with the Common Interest Community Board via the Common Interest Community Ombudsman, accompanied by the contact information for the Ombudsman.

V. Records.

The Board or the management agent shall keep copies of all correspondence relative to rules violations in the lot owner's file or in a separate file on rules violations. Minutes of each hearing or meeting may be kept and a form similar to that attached hereto as Exhibit "D" shall be completed and placed in the lot owner's file and appropriate Association files.

VI. Other Remedies.

This resolution shall not be deemed to require a hearing prior to assessment of rules violation charges if a hearing is not requested or to prevent the Association from exercising any other remedies authorized or available under the Act, the Association Instruments or by law and shall not constitute an election of remedies.

VII. Final Adverse Decision.

Following a final adverse decision of the Association on a Complaint, a claimant may file a Notice of Final Adverse Decision within thirty (30) days on written forms provided by the office of the Common Interest Community Ombudsman. Claimants should contact that office for information on documentation and filing fee requirements.

Exhibit "A" to Resolution \_\_\_\_\_  
Rules Compliance Procedures

Rules Violation Complaint

Date Complaint delivered to Board or Management Agent:

\_\_\_\_\_

Name and Address of Complainant(s):

\_\_\_\_\_

1. Name of person(s) violating rules:

\_\_\_\_\_

2. Lot Number of person(s) violating rules: \_\_\_\_\_

3. Are the person(s) named in Question 1 tenants or Lot Owners (if known)?

\_\_\_\_\_  
\_\_\_\_\_

4. Describe in detail how and where the rules were violated (use a separate sheet if necessary):

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. At what date and time did the violation(s) occur?

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

6. Have you personally requested the Lot Owner or tenant to cease the rules violation?

Yes No (circle one).

If yes, please describe your request and response, if any, stating whether your request was made verbally or in writing and when it was made:

---

---

---

---

---

---

Signature(s) of Complainant(s):

Date of Signature: \_\_\_\_\_

---

---

---

---



EXHIBIT "B" to Resolution \_\_\_\_\_  
Rules Compliance Procedures

NOTICE OF VIOLATION AND DEMAND TO CEASE AND CORRECT

(Owner) \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are hereby notified that a Complaint has been made against you (or your tenants) for the alleged violation of the following rules and regulations of the Association:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You are requested to immediately cease and correct any of the above violations within ten (10) days from the date of this letter.

If you wish to contest the alleged violation and avoid imposition of charges you must request a hearing before the Board of Directors in writing within ten (10) days from the date of this letter. If you request a hearing, complete the bottom portion of this letter and return a copy to the Board of Directors. The Board of Directors or its agent will send you a notice by hand delivery or certified or registered mail stating the hearing time and place. Alternatively, if you elect to cease and correct the violation within ten (10) days, please send a copy of this letter to the Board of Directors noting that the violation has been stopped or corrected. If you fail to respond to this letter and the violation persists, you may be assessed rules violation charges of up to Ten Dollars (\$10.00) per day for a continuing violation or up to Fifty Dollars (\$50.00) for each single violation without further notice. The Board may also take other legal action against you.

Sincerely,

Board of Directors

cc: Lot owner file

Return to: Board of Directors, (Address)

Name: \_\_\_\_\_  
Address: \_\_\_\_\_

\_\_\_\_\_ I hereby request a hearing before the Board to contest the violation.

\_\_\_\_\_ I have ceased and/or corrected the violation and will refrain from further violations.

\_\_\_\_\_  
Signature

EXHIBIT "C" to Resolution \_\_\_\_\_  
Rules Compliance Procedures

CERTIFIED MAIL RETURN RECEIPT REQUESTED NO. \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Re: Notice of Rules Violation Hearing

Dear \_\_\_\_\_:

You are hereby notified that a hearing will be held before the Board of Directors of Fair Lakes Crossing Community Association, Inc. at \_\_\_\_\_ on the \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_, at \_\_\_\_\_ .m., for your tenant's or your alleged violation of the following rules of the Association:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

You may be present at the hearing, may but need not be represented by counsel, may present any relevant evidence, and you will be given full opportunity to examine and cross-examine all witnesses. You are entitled to request the attendance of witnesses.

Please be advised that if the Board determines that you are in violation of the Governing Documents and rules and regulations, charges of up to Fifty Dollars (\$50.00) for a one-time violation or Ten Dollars (\$10.00) per day for a continuing violation may be assessed against you and your lot. In addition to this hearing, the Board may elect such other remedies as are authorized by the Virginia Property Owners Association Act, the Governing Documents, and other laws.

If you have any questions or wish to communicate with the Board regarding this matter, please call \_\_\_\_\_.

Sincerely,

Board of Directors

cc: Lot Owner File  
Rules Violation File

EXHIBIT "D" to Resolution \_\_\_\_\_  
Rules Compliance Procedures

Hearing Date and Time: \_\_\_\_\_  
\_\_\_\_\_

Name of Alleged Violator (including name of lot owner if violator is a tenant): \_\_\_\_\_  
\_\_\_\_\_

Address of Alleged Violator: \_\_\_\_\_

Name of Complainant (including name of lot owner if Complainant is a tenant):  
\_\_\_\_\_

Address of Complainant: \_\_\_\_\_

Alleged Violation:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Provisions of Association Instruments Violated:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Persons in Attendance:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Decision of Board and Reasoning:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Remedies, including violation charges imposed and the commencement date of charges:  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Comments: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Fair Lakes Crossing Community Association  
Resolutions Action Record

Resolution Type: Regulatory No.: \_\_\_\_\_

Pertaining to: Complaint Procedures

Duly adopted at a meeting of the Board of Directors of Fair Lakes Crossing Community Association, Inc. held \_\_\_\_\_, 20\_\_.

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

VOTE:

	YES	NO	ABSTAIN	ABSENT
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____
_____	_____	_____	_____	_____

ATTEST:

\_\_\_\_\_  
Secretary Date

Resolution effective \_\_\_\_\_, 20\_\_.