

EAGLE POINTE SHORES ASSOCIATION, INC.
POLICY RESOLUTION NO. 2019-__

RULE VIOLATIONS: COMPLAINT AND DUE PROCESS

WHEREAS, Article 4, Section 4.1 of the Bylaws of Eagle Pointe Shores Homeowners Association, Inc. (the "Association") provides that the Board of Directors ("Board") shall have all of the powers and duties necessary for the administration of the affairs of the Association;

WHEREAS, Article 12 of the Declaration and Section 55-515 of the the Virginia Property Owners' Association Act (Va. Code §§ 55-508, *et seq.*, the "Act") require that each Member comply with all lawful provisions of the Act and the Association's Declaration, Bylaws and Rules and Regulations (collectively, the "Governing Documents");

WHEREAS, Article 12, Section 12.1 of the Declaration; and Section 55-513(A) of the Act grant the Association, through its Board, the power to suspend privileges and to assess charges against any Member for nonpayment of assessments or any violation of the Governing Documents for which the Member, his family members, tenants, guests or other invitees are responsible;

WHEREAS, Section 55-513(B) of the Act provides that certain procedures must be followed before privileges are suspended or charges are assessed; and

WHEREAS, it is the intent of the Board to enforce the Governing Documents for the benefit and protection of the Association's members and residents by establishing

procedures that ensure due process and consistency of enforcement.

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board adopts the following due process procedures.

I. Complaint

A. Written Complaint. Any Member, tenant, Management Agent, employee, or Board member who requests that the Board take action to enforce the Governing Documents shall submit a written complaint that includes the date, specific complaint, and signature of complainant.

B. Submission to Board. The Complaint shall be submitted to the Board for a determination as to whether a violation has occurred or if assessments are past due by at least sixty (60) days.

C. Action on Violation. If a violation is found, then the Board shall direct that appropriate action be taken, including but not limited to: (1) referring the matter to counsel; (2) referring the matter to local authorities; and/or (3) directing that a Notice of Violation be sent to the Member. Nothing herein shall be construed to mean that management cannot, on behalf of the Association, send a Notice of Violation to a Member based upon clear violations of the Governing Documents upon the discovery of said violation.

II. Notice of Violation

A. Notice of Violation. If determined to be appropriate, the Association's

Notice of Violation shall be issued in writing and delivered by hand or by first class mail to the Member at the Member's address listed in the Association's records, or at the lot address if no other address has been provided. A copy may be sent to the Member's tenant, if any.

B. Correspondence with Member. If the violator is not a Member, the Member shall be provided with copies of all correspondence pertaining to the violation and any ensuing penalties and hearings. The Member is ultimately responsible for all assessments of charges and the abatement/correction of all violations.

C. Contents of Notice. The Notice of Violation will notify the alleged violator of the nature of the alleged violation, the action required to be taken by the Member to abate the violation, and that the Member has 30 days, or such other reasonable period of time as the Board may determine, to correct the alleged violation.

D. Hearing Request. The Notice of Violation shall state that the alleged violator may request in writing a hearing before the Board to avoid assessment of charges or suspension of use of facilities or services. The Notice of Violation shall also state that if no hearing is requested, rules violation charges of: fifty dollars (\$50) per violation or ten dollars (\$10) per day for up to ninety (90) days for violations of a continuing nature may be assessed beginning the day after the expiration of the grace period if the violation is not remedied.

III. Notice of Hearing

A. Notice of Hearing. In the event that a violation is not abated as required in the Notice of Violation, and the Member requests a hearing or if the Board determines a hearing is necessary, a Notice of Hearing shall be sent to the Member. The Notice of Hearing shall be delivered by hand or by registered or certified U.S. mail, return receipt requested, at least fourteen (14) days in advance thereof, or within such other time as may be required by the Act. The Notice of Hearing will be delivered to the Member at the address in the Association's records or the lot address if no other address has been provided.

B. Contents of Notice. The Notice of Hearing shall specify the following:

1. The time, date, and place of the hearing;
2. That the Member, tenant, or resident 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 Governing Documents; and
4. That charges for violations of the Governing Documents may include an assessment of fifty dollars (\$50) for a single offense or ten dollars (\$10) 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). In addition, if the violation involves a particular facility, the Member's privileges to use said facility may be suspended for a reasonable period.

IV. Hearing

A. Scheduling. The hearing shall be scheduled at a reasonable and convenient time and place within the Board's discretion. The Board, within its discretion, may grant a continuance. If the Member for which the hearing is scheduled requests a continuance to a different time or date, no further notice shall be required.

B. Privacy. The hearing shall be conducted in private unless the alleged violator requests that the hearing be open to Members 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, the Board, within its discretion, may afford those residents involved in the dispute or violation an opportunity to be heard within reasonable time limits.

C. Conduct of Hearing. The hearing need not be conducted according to the 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. Rights of Complainant. The Management Agent, Member, tenant, any person lodging a complaint, and members of the hearing panel shall have the right to: (1) call, examine, and cross-examine witnesses; (2) introduce testimony and evidence; and (3) rebut testimony and evidence, all within reasonable time limits imposed by the Board.

E. Failure to Appear at or Request a Hearing. After proper notice has been given, if the Member 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 or suspend privileges from the final compliance date of the Notice of Violation or take such other action as may be authorized by the governing instruments or by law.

F. Notification of Decision. The Board shall notify the alleged violator of: (1) its decision; (2) the assessment of any charges or suspension of privileges to use facilities or services; and (3) the date from which those assessments shall accrue and be due or suspension of privileges shall begin. Notice of the decision shall be delivered by hand or by registered or certified U.S. mail, return receipt requested within seven (7) days of the hearing.

V. Records

The Board or the Management Agent shall keep copies of all correspondence relative to rules violations in the Member's file or in a separate file for rules violations. Minutes of each hearing or meeting and a record of the results of the hearing or meeting shall be kept in the appropriate Association's files.

VI. Suspension of Privileges or Assessment of Charges

Pursuant to Section 55-513 of the Act, any suspensions imposed shall be in accordance with the Act and charges assessed for violations shall be in amounts authorized by the Act and shall be treated as an assessment against such Member's lot

for the purpose of Section 55-516 of the Act. Such amounts shall be a personal obligation of the Member.

VII. Other Remedies

This Resolution shall not be deemed to require a hearing prior to the assessment of charges if a hearing is not requested. The election of any remedy stated herein shall not prevent the Association from exercising any other remedies authorized or available under the Act, the Governing Documents, or by law.

This Resolution shall become effective on January 21, 2019.

Eagle Pointe Shores HOMEOWNERS ASSOCIATION

RESOLUTION ACTION RECORD

Resolution Type: Policy No. 2019 – 1

Pertaining to: Rule Violations: Complaint and Due Process

Duly adopted at a meeting of the Board of Directors of the Eagle Pointe Shores Homeowners Association held January 21, 2019.

Motion by: Jim Riccione Seconded by: Mike Gooden.

VOTE:

	YES	NO	ABSTAIN	ABSENT
<u>Gerald Denney</u> , Member	<u>X</u>	_____	_____	_____
<u>Cory Dine-DuGuay</u> , Member	<u>X</u>	_____	_____	_____
<u>Mike Figler</u> , Member	_____	_____	_____	<u>X</u>
<u>Susan Franklin-Smith</u> , Member	<u>X</u>	_____	_____	_____
<u>Mike Gooden</u> , Member	<u>X</u>	_____	_____	_____
<u>Margy Nolan</u> , Member	<u>X</u>	_____	_____	_____
<u>Jim Riccione</u> , Member	<u>X</u>	_____	_____	_____

ATTEST:

Susan Franklin-Smith
Secretary

January 21, 2019
Date

Book of Minutes - 2019

Resolution effective: January 21, 2019