

**BRAMBLETON COMMUNITY ASSOCIATION  
POLICY RESOLUTION NO. 4**

**ENFORCEMENT PROCEDURES**

Relating to Enforcement of the Rules and Regulations and Legal Documents

WHEREAS, Article 4, Section 4.1 of the Bylaws states that “The Board of Directors shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not required by the Act or the Association Documents to be exercised and done by the Members;” and

WHEREAS, Article 12, Sections 12.1.(g) of the Declaration provides that the Board of Directors, or the Covenants Committee, as appropriate, may suspend the right of an owner or resident to use the Recreation Facilities or other Common Areas for a period not to exceed sixty (60) days, with the exception of any streets or access ways, for a violation of the Association Documents or an infraction of the Association’s Rules and Regulations; and

WHEREAS, Article 12, Section 12.1.(h) of the Declaration further provides that the Board of Directors, or the Covenants Committee, as appropriate, may impose charges for violations of the Association Documents or reasonable Rules and Regulations adopted by the Board; 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 with the Association's Managing Agent or the Board of Directors or Covenants Committee.

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 or a member of the Board or Covenants Committee may make a preliminary investigation as to the validity of the complaint. If the condition has been corrected, or the complaint is invalid for any reason, the Managing Agent shall respond in writing to the Complainant in writing. 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 a member of the Board or Covenants Committee shall ask the Board or Covenants Committee to investigate and provide direction.

- C. Notice. If preliminary investigation indicates further action is necessary, the Managing Agent shall mail a written notice by certified mail, return receipt requested, 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. In instances when certified mail is refused or not picked up, notification shall be deemed effective three days after mailing.

If the violation is not of an urgent nature, as determined by the Managing Agent or the Board or Covenants Committee, an informal notice may be sent prior to the certified notice.

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 or Covenants Committee may pursue enforcement remedies, which may include the following measures:

- A. The suspension of use privileges of the Recreation Facilities and other Common Areas (except for streets and access ways) for a period not to exceed sixty (60) days for any infraction of the Association Documents and/or Rules and Regulations of the Association.

The effective date of the suspension is to be determined by the Board or Covenants Committee and may be deferred to a date certain.

The levying of a monetary charge in the maximum amount of \$50.00 for a single violation and \$10.00 per day for a continuing violation, not to exceed a total of \$900.00, or such lesser amounts as may be established by the Board of Directors.

### III. HEARING GUIDELINES

None of the enforcement remedies cited above may be pursued by the Board or the Covenants Committee 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 registered or certified mail, return receipt requested, to the member, advising the member of his or her right to contest the complaint at the hearing before the Board of Directors or Covenants Committee, which hearing may not be scheduled earlier than fourteen (14) days following the mailing of the notice letter.
- 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, and of an earlier date, at least five (5) days following the date of the mailing of the notice, by which 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 at least two (2) days prior to the scheduled date of the hearing.

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

When no response is received by the Association from the alleged offender by the hearing confirmation date, or the member confirms attendance but 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. In such a case, the Board or Covenants Committee may impose enforcement sanctions in the absence of the alleged offender. No such action shall be effective until a motion of the Board or Covenants Committee is duly passed. The minutes of the hearing at which the motion is passed must contain a written statement of the results of the motion, the imposed sanction, if any, and proof that the notice and invitation to be heard was mailed.

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 or Covenants Committee 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 or Covenants Committee shall be mailed to the alleged offender by certified mail within seven (7) calendar days of the hearing or such other period of time provided by the Virginia Property Owners Association Act.

When the judgment is unfavorable to the member, the Board or Covenants Committee shall instruct the Managing Agent to undertake the administrative actions require to implement the sanction(s) imposed. 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 or Covenants Committee 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 notice of the decision made at the hearing and ending with the date on which the Association's Board of Directors, Covenants Committee 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. A member shall deemed to have received notice of an action three (3) days from the date of mailing of a certified letter.

#### IV. RIGHT OF APPEAL

Any member upon whom a sanction has been imposed by the Covenants Committee in accordance with this Resolution may appeal such decision to the Board of Directors. The appeal must be in writing and submitted to the Board within ten (10) days from the date of an action by the Covenants Committee. In the event of an appeal, any sanctions imposed by the Covenants Committee shall be suspended until the Board has acted on the appeal.

#### V. APPLICABILITY

The procedures delineated herein may be applied to violations of the rules and regulations and legal documents of the Association, but do not preclude the additional independent application of any other enforcement procedures and remedies, as authorized in the Association's Legal Documents, 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. 6, Vehicle Policies.
- B. The removal of pets from the property for causing or creating a nuisance or disturbance, as authorized by Policy Resolution No. 7, Pet Policies.

C. Initiation of legal action as authorized by the Association Documents.

# BRAMBLETON COMMUNITY ASSOCIATION

## RESOLUTIONS ACTION RECORD

Resolution Type \_\_\_\_\_ Policy \_\_\_\_\_ No. 4

Pertaining to: Enforcement Procedures

Duly adopted at a meeting of the Board of Directors of the Brambleton Community Association, held July 18, 2002.

Motion by: Ms. Bisaga Seconded by: Ms. Adams

OFFICER	TITLE	YES	NO	ABSTAIN	ABSENT
William Fox	President	X			
Meryl Bisaga	Vice President/Treasurer	X			
Kim Adams	Secretary	X			

ATTEST:

\_\_\_\_\_  
Secretary

July 18, 2002  
Date

Resolution Effective, August 1, 2002