

**Sully Station II Community Association
Enforcement Policy and Procedures**

SULLY STATION II COMMUNITY ASSOCIATION
POLICY RESOLUTION NO. 14
ENFORCEMENT POLICY AND PROCEDURES

Relating to Enforcement of the Governing Documents, to include the
Founding Documents and Rules and Regulations of the Association
(originally adopted on 10/21/1993, revised on 9/20/2004 and 10/22/2020)

WHEREAS, Article VI, Section 8 of the Bylaws of the Sully Station II Community Association (henceforth referred to as the "Association") states that "the Board of Trustees (henceforth referred to as the "Board") shall have all powers for the conduct of the affairs of the Association which are enabled by law, the Declaration and Articles of Incorporation which are not specifically reserved to Members or the Developer;" and,

WHEREAS, Article III, Section 3 (c) (7) of the Declaration of Covenants, Conditions and Restrictions for the Sully Station II Community Association stipulates that the Board of Trustees shall have the power "to perform acts, as may be reasonably necessary or appropriate, including bringing suit, causing a lien to be foreclosed or suspending membership rights, to enforce or effectuate any of the provisions of the Governing Documents, subject to any appeal which may be filed and is pending;" and,

WHEREAS, Article III, Section 3 (c) (7) of the Declaration of Covenants, Conditions and Restrictions specifically provides that the Board shall have the power to enact rules assessing charges against a Member for the violation of the Governing Documents; and,

WHEREAS, the Board previously approved versions of this resolution which superseded in its entirety Policy Resolution No. 5, which established due process procedures; and,

WHEREAS, for the benefit and protection of the Association and of the individual Members, the Board deems it necessary and desirable to establish and operate by a procedure to assure due process in cases where there is a question of compliance by a Member with the Governing Documents, thereby attempting to minimize the necessity of seeking action in or through a court of law;

NOW, THEREFORE, BE IT RESOLVED THAT the following be adopted by the Board.

I. DEFINITIONS

- A. Violation. A Violation is defined as an act or omission that is not in conformance with the Association's Governing Documents.
- B. All capitalized terms not defined herein shall have the same meaning as set forth in the Declaration or Bylaws, as the case may be.

II. APPLICABILITY

- A. The procedures set forth herein shall be followed prior to the imposition of a fine, a suspension of a Member's privileges, or filing of a lawsuit for injunctive relief in the applicable General District Court.

**Sully Station II Community Association
Enforcement Policy and Procedures**

- B. The procedures delineated herein may be applied to Violations, but do not preclude the additional independent application of any other specialized and more expeditious enforcement procedures and remedies, as authorized in the Association's Governing Documents and state law.

III. PROCEDURES

- A. Violation. A Violation may be observed and reported by a member of the Board, the Managing Agent, Association staff, a Member, or any resident. If a Member reports a possible Violation, the Member must report the same in writing, which may be electronic, and sent to the Managing Agent. The complaint must include a concise statement of the Violation 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.
- B. Preliminary Investigation. The alleged Violation will be investigated, and if appropriate, confirmed by a site visit by the Managing Agent. If the condition has been corrected, or the complaint is unsubstantiated or erroneous the Managing Agent shall respond in writing to the Complainant, preferably by email. If the Managing Agent is unsure if there is adequate information/evidence to support a possible finding of a Violation, the Managing Agent will work with the Board President to make an initial determination of the same.
- C. Informal Notice. If preliminary investigation indicates that a Violation exists, and the Violation is not of an urgent nature as determined by the Managing Agent, the Managing Agent will first attempt to communicate with the Member to remedy the Violation.
- D. Formal Notification. If the Violation is of an urgent nature or the Managing Agent is unable to resolve the matter informally with the Member, the Managing Agent will mail a written notice via first class mail, to the Member at the Member's address listed on the records of the Association and to the property address, if the record address is different. The notice shall advise the Member of the nature of the Violation, the specific provision(s) within the Governing Documents which has allegedly been violated, the specific remedy required, and notice that the violation must be remedied within fifteen days (15) from the date of mailing of the notice in order to preclude the possible imposition of a penalty or other remedy.
- E. Repeat Violations. If the violation is one for which the Association has sent the Member the written notice identified in paragraph D above on two or more prior occasions in the immediately preceding twelve (12) months for similar Violations, then the Managing Agent may immediately send the Member in violation a certified mailing, return receipt requested, informing the Member of the time and place of a hearing by the Board, thereby bypassing the initial notice.
- F. Hearing. If written notice to the alleged offender does not result in an abatement of the alleged offense by the specified date, the Board may impose the enforcement remedies below but not until opportunity for a hearing has been provided to the alleged offender. The following guidelines apply to the hearing procedure:
 - 1. At least fourteen (14) days prior to the hearing, 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 a hearing before the Board.

**Sully Station II Community Association
Enforcement Policy and Procedures**

2. Such notice shall advise the Member of the date, time and location of the hearing, and of the Member's right to be represented by counsel. The Board shall set all hearing dates at its discretion but shall make reasonable efforts to schedule a date that is available for the Member.
 3. If the Member attends the hearing, the Member has a right to be heard, be represented by counsel, present evidence, present and cross-examine witnesses.
 4. Following the evidentiary portion of the hearing, the Board may conduct its deliberations in executive session to determine whether satisfactory proof of the alleged offense exists and, if so, whether monetary charges and/or suspension of facility use privileges should be imposed. No such monetary charge or suspension shall be effective until a motion of the Board is duly passed in open session. The minutes of the hearing at which the motion is passed must contain proof that the hearing notice was mailed, a written statement of the results of the motion, the imposed sanction, if any, and a statement that a hearing was held.
 5. If the Member fails to attend the hearing, the Board shall hold the hearing in the Member's absence.
 6. Notice of the decision of the Board shall be mailed to the alleged offender by certified mail within seven (7) calendar days of the hearing.
- G. Emergency Procedures. The above procedures do not preclude the Board from taking accelerated measures, to include shortening the number of days by which the violation must be remedied, in the case of a Violation which constitutes an emergency situation, provided that the Member in violation has been properly notified by phone and/or e-mail (when possible, and if contact information has been previously provided by Member), followed up by a certified mailing, return receipt requested, and provided that the Board's actions are consistent with the provisions of the Association's legal documents.

- IV. ENFORCEMENT REMEDIES. The Board has the following enforcement remedies available, in addition to any additional action permitted by law or the Governing Documents:
- A. The suspension of recreational facility use privileges of the Member for a period not to exceed sixty (60) days for any infraction of the Governing Documents. The effective date of the suspension is to be determined by the Board and may be deferred to a date certain.
 - B. The levying of monetary charges in accordance with the current provisions, and in the maximum amounts, specified in Section 55.1-1819(D) of the Code of Virginia (Virginia Property Owners' Association Act). Section 55.1-1819(D) currently states that such amount shall not exceed fifty dollars (\$50.00) for a single offense or ten dollars (\$10) per day for any offense of a continuing nature and the charge shall be treated as an assessment against the Member's Lot. The total charges may be assessed for up to ninety (90) days for a continuing offense. The calendar days for which daily charges for a continuing offense may accrue will be those beginning after the date set by the Board, and ending on the date on which the Violation has been corrected. The Association reserves the right to inspect to confirm compliance.
 - C. The referral of the matter to legal counsel for appropriate action to secure compliance with the Association's Governing Documents.

Resolution Action Record Follows

**Sully Station II Community Association
Enforcement Policy and Procedures**

SULLY STATION II COMMUNITY ASSOCIATION
RESOLUTION ACTION RECORD

Resolution Type: Policy
Enforcement Policy and Procedures

No.: 14

Duly adopted at a regular meeting of the Board of Trustees of Sully Station II Community Association, held October 22, 2020.

Motion by: Bill Perry

Seconded by: Glenn Martin

TRUSTEE	POSITION	YES	NO	ABSTAIN	ABSENT
Karen Hogan	President	X			
Patrick Morris	Vice President	X			
Edvin Gusinac	Secretary	X			
Glenn Martin	Treasurer	X			
Bill Perry	Legal Liaison	X			
Lisa Forester	Trustee				X
Adrian Isaicu	Trustee	X			

ATTEST:

Secretary

Date

Resolution Effective: November 09, 2020

FILE: Governing Documents, Book of Regulations, Part One