

# Waterford Place Homeowners Association, Inc.

## Policy Resolution for Violation Notices, Disputes, and Sanctions (Fines)

November 20, 2023

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**WHEREAS** the Waterford Place Homeowners Association, Inc. (“the Association”) is a Maryland corporation duly organized and existing under the laws of Montgomery County in the State of Maryland; and

**WHEREAS** Article V, Section 1 of the By-Laws for the Association states that the affairs of the Association shall be managed by the Association’s Board of Directors (“Board”); and,

**WHEREAS** Article VIII, Section 1(c) of the By-Laws and Article VII, Section 11 of the Declaration of Covenants, Conditions, and Restrictions (hereinafter referred to as “Declaration”) give the Board the powers and duties necessary to conduct the affairs of the Association, and to make such rules and regulations as the Board deem in the best interests of the Association; and

**WHEREAS** Article XI, Section 1 of the Declaration creates a duty to maintain and an exterior maintenance obligation for Unit Owners; and

**WHEREAS** Article VII, Sections 1-14 of the Declaration states use restrictions for the Lots and Common Areas of the Association’s community; and

**WHEREAS** Article VII, Section 14 of the Declaration states, “the Association shall have the right to levy fines against an Owner or his guests, relatives, lessees or invitees in the manner set forth herein, and such fines shall be collectible as any other assessment such that the Association shall have a lien against the Lot of such Owner as provided in this Declaration, the By-Laws and the Articles of Incorporation and such fine(s) shall also become the binding personal obligation of such Owner”; and

**WHEREAS** Article VII, Section 14 (e) of the Declaration authorizes the Association to pursue any other means of enforcement of the provisions of the Declaration, the By-Laws, Articles of Incorporation, or rules and regulations, including, but not limited to, legal action for damages or injunctive relief; and

**WHEREAS** Article XII, Section 4 of the Declaration states, “Enforcement of these covenants and restrictions shall be by any proceeding at law or in equity against any person or persons violating or attempting to violate any covenants or restriction, either to restrain or enjoin such violation or to remove such violation or to recover damages or all of the foregoing, and against any Lot to enforce the lien created hereby, all at the cost of the owner in violation; and the failure or forbearance by the Association or the owner of any Lot to enforce any covenant or restriction herein contained shall in no event be deemed a waiver of the right to do so thereafter”; and

**WHEREAS** Section 11B-111.10 of the Maryland Homeowners Association Act establishes a straightforward due process procedure before imposing penalties for violations of the Governing Documents and allows for the recovery of attorney's fees and;

**WHEREAS** the Association chooses to adopt Section 11B-111.10 of the Maryland Homeowners Association Act to supplement the existing Governing Documents and incorporate the Maryland Homeowners Association Act, Section 11B-111.10 due process procedures as outlined; and

**WHEREAS** there is a need to establish updated and orderly procedures to enforce the Declaration, Articles of Incorporation, By-Laws, or any rule or regulation promulgated by the Association;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board duly adopts the following due process procedure for enforcing the above-described Governing Documents to enforce the covenants, conditions, and restrictions of the Association to maintain a uniform neighborhood appearance and the protection of the property values in the Waterford Place Homeowners Association, Inc. community. The following enforcement, due process, and sanctions (fining) policy for infractions of the Association's Governing Documents have been adopted by the Board and will be enforced as outlined. To the extent there is a conflict between the Governing Documents, this Resolution, and/or the Maryland Homeowner's Association Act in regard to the amount of notice that must be given, whichever requires the most notice shall control.

The failure of the Association's Board or other governing body to enforce a provision of this policy, the Declaration, or By-Laws on any occasion is not a waiver of the right to enforce the provision on any other occasion.

## **I. REPORTS OF ALLEGED VIOLATIONS**

### **A. Complaints from Unit Owners:**

All reports of alleged violations must be sent, in writing or via email, in the care of the Management Agent, to the Board of Directors. The report must include the name (if available) and address of the alleged violator, the act the Unit Owner (or Tenant, if applicable) is committing that is in violation, the date and time of such actions, and the name and address of the complainant. Supporting documentation, including images and/or videos, should also be included as proof of the violation observed and being reported. All reports shall be kept confidential, if possible; however, confidentiality cannot be guaranteed. Upon receipt of such a report, the Board will verify the violation, and a notice shall be sent to the offending Unit Owner (and Tenant, if applicable) as stipulated below. The Management Agent will provide alleged violations from Unit Owners at each Board meeting during its Executive Session Report in the form outlined in Section II. B below.

**NOTE:** In the case of an alleged violation by a tenant, the violation letter/notice will be sent to the Unit Owner and Tenant. All fines (if any are imposed) are to be levied against the account of the Unit Owner.

**B. Complaints from Management, Architectural & Environmental Review Committee, or Board Members:**

Reports of alleged violations from the Management Agent, Architectural & Environmental Review Committee, or Board Members will be provided by the Management Agent at each Board meeting during its Executive Session Report. The violations report will list all Unit Owner violations and will be maintained by the Management Agent. The report will include the following information: name, address, violation (with a copy of the complaint received, including supporting documentation), 30-day notice date/status, hearings date/status, and sanctions date/status.

**II. NOTIFICATION**

- A. Upon the occurrence of an alleged violation that the Board verifies, a “First Notice” cease-and-desist letter/notice shall be sent to the Unit Owner. The letter shall specify the following: the nature of the alleged violation; the action required to abate the alleged violation; the period of time, not less than 15 days, during which the violation may be abated without further sanction if the violation is a continuing violation; or a statement that any further violation of the same rule may result in the imposition of sanction after notice and the opportunity for hearing if the violation is not continuing.

Within 12 months of the “First Notice” cease-and-desist letter/notice, if the violation continues past the period of time allowed in the cease-and-desist letter/notice for abatement without penalty, or if the same rule is violated subsequently, the Board shall provide the alleged violator/Unit Owner, at the alleged violator’s/Unit Owner’s address of record, with written notice of the alleged violator’s/Unit Owner’s right to request a hearing to be held by the Board in Executive Session (“Right to Hearing Notice”). The written “Right to Hearing” Notice shall include (i) the nature of the alleged violation; (ii) the right to request a hearing before the Board within thirty (30) days from the date of the “Right to Hearing Notice” letter, which shall follow the procedures under Section III of this policy, or in lieu of requesting a hearing to acknowledge in writing that the alleged violation has occurred, and it will cease and/or not recur.

For violations that are hazardous, life-threatening, or severe (as determined by the Board), the time allowed to abate shall be fifteen (15) days or less, depending on the nature of the hazard. The time allowed to abate shall be thirty (30) days for all other violations.

- B. If, upon inspection or notification, it is found after receipt of the acknowledgment of violation from the alleged violator/Unit Owner that the violation has ceased, no further enforcement action shall be taken unless and until a further violation occurs.

- C. If no hearing is requested, and upon inspection, it is found that the alleged violator/Unit Owner continues to be in violation after thirty (30) days following the “Right to Hearing Notice,” the Board, at the next meeting, in Executive Session, shall deliberate as to whether the violation occurred and decide whether a sanction is appropriate for the violation. The sanctions (if any) to be imposed shall be made by at least a quorum of the Board in Executive Session, pursuant to Article VII, Section 14 of the Declaration.
- D. All documents, correspondence, and notices shall be mailed to the address that appears in the books of the Association or to such other address as is designated in writing by the alleged violator/Unit Owner. Non-resident Unit Owners shall furnish the Board with an address where the Unit Owner shall promptly receive mail.

### **III. HEARINGS**

- A. If the alleged violator/Unit Owner requests a hearing within 30 days of the date of the Right to Hearing Notice, the Board shall send the alleged violator/Unit Owner a notice that specifies the time, location, and format (in-person, remote via videoconferencing) of the hearing; the invitation to present any statement, evidence, and witnesses on their behalf to right to have an attorney; examine and cross-examine witnesses; and the proposed sanctions to be imposed.
- B. The alleged violator/Unit Owner will be notified in writing that the hearing will take place at the location and in the format (in-person, remote via videoconferencing) on the scheduled date and time (which time may not be less than ten (10) days after the date the request for a hearing was provided) and shall be presided over in Executive Session by at least a quorum of the Board pursuant to Article VII, Section 14 of the Declaration.
- C. At the hearing, the alleged violator/Unit Owner shall be afforded a reasonable amount of time (at the discretion of the Board but no less than five (5) minutes) to present any statement, evidence, and witnesses on their behalf and cross-examine witnesses. If the alleged violator/Unit Owner intends to bring witnesses, the alleged violator/Unit Owner shall inform the Board through the Management Agent at least five (5) days before the hearing.
- D. Proof of notice of the hearing shall be entered at the hearing in the meeting minutes. The proof of notice shall be deemed adequate if a copy of the notice and a statement of the date and manner of providing the notice are entered in the minutes by the officer or director who provided the notice. The notice requirement shall otherwise be deemed satisfied if the alleged violator/Unit Owner appears at the meeting.
- E. A decision shall be made at the hearing or within a reasonable time thereafter, and a written statement of the hearing results and sanctions, if any, imposed will be read and incorporated in the meeting minutes. Notification of the hearing results shall be mailed to the alleged violator/Unit Owner within fifteen (15) days from the hearing date. A decision made in accordance with these procedures shall be appealable to the courts of Maryland.

- F. If any Unit Owner fails to comply with the Maryland Homeowners Association Act, Section 11B-111.10, the Declaration, or By-Laws, or a decision rendered in accordance with this policy, the Unit Owner may be sued for damages caused by the failure or for injunctive relief, or both, by the Association or by any other Unit Owner. The prevailing party in any proceeding under this policy is entitled to an award for counsel fees as determined by the court.
- G. Hearings shall be conducted in a reasonable and business-like manner. Notwithstanding any other provision in this policy, the presiding Board member may deem the hearing not being conducted in such a manner and may adjourn the hearing at any time.

**IV. SANCTIONS**

- A. Fines may be imposed upon any Unit Owner who, after being given the opportunity for a hearing, has been found in violation of any of the Declaration, Articles of Incorporation, By-Laws, or any rule or regulation promulgated by the Association. The fines shall become a binding personal obligation of the Unit Owner, shall be a lien upon the Lot/the property, and may be collected as stipulated in Articles VI and VII in the Declaration and the Association’s duly adopted collections policy. Fines will be imposed as follows:

**Continuing & Recurring Violations:**

<p>If No Hearing is Requested/Continuing Violation or Further Violation of the Same Rule Within 12 Months of the “First Notice” cease-and-desist letter</p>	<p>\$25.00 per day (<i>total fine accumulation not to exceed \$1,000 per violation</i>) will be charged against the Unit Owner’s account/Lot beginning on the 31st day after the “Right to Hearing Notice”/letter date and will continue until the violation is corrected or the fine accumulation totals \$1,000 <i>per violation</i>.</p>
<p>Hearing is Requested/Following the Conclusion of Hearing Where the Decision to Impose Sanctions was the Result</p>	<p>\$25.00 per day (<i>total fine accumulation not to exceed \$1,000 per violation</i>) will be charged against the Unit Owner’s account/Lot beginning on the 10th day after notice of the decision to impose sanctions was sent to the Unit Owner. The fines will continue until the violation is corrected or the fine accumulation totals \$1,000 <i>per violation</i>.</p>

- B. The Association or its agent may enter any Lot to remedy any violation. The costs of such action shall become a binding personal obligation of the Unit Owner, shall be a lien upon the Lot/property, and may be collected as stipulated in Article VII, Section 13 of the Declaration.

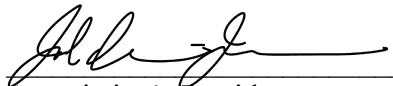
- C. If any Unit Owner fails to comply with the Maryland Homeowners Association Act, Section 11B-111.10, the Declaration, or By-Laws, or a decision rendered in accordance with this policy, the Unit Owner may be sued for damages caused by the failure or for injunctive relief, or both, by the Association or by any other Unit Owner. The prevailing party in any proceeding under this policy is entitled to an award for counsel fees as determined by the court.
  
- D. The Association may seek relief through the court system (including the Montgomery County Commission on Common Ownership Communities). If the Association successfully brings an action against a Unit Owner, the costs of such action, including all legal fees, pursuant to Article XII, Section 4 of the Declaration, and Section 11B-111.10 of the Maryland Homeowners Association Act, shall become a binding personal obligation of the Unit Owner(s), shall be a lien upon the Lot/the property, and may be collected as stipulated in Article V of the Declaration.

**V. EFFECTIVE DATE OF RESOLUTION**


**This policy resolution was adopted on November 20, 2023, at an open Board of Directors meeting where a quorum was present. Accordingly, the policy will become effective on January 1, 2024.**

**Notice of the Board’s adoption shall be given to the membership within 15 days of today’s date.**

**WATERFORD PLACE HOMEOWNERS ASSOCIATION, INC., BOARD OF DIRECTORS**

By:   
 Association’s President

Date: November 20, 2023

Attest: **Jacquelyn Y. Roberts**   
 Association’s Secretary

Digitally signed by Jacquelyn Y. Roberts  
 DN: cn=Jacquelyn Y. Roberts, o=Waterford Place Homeowners Association, Inc.,  
 ou=Treasurer/Secretary, Board of Directors,  
 email=WPHOA.Jacque@gmail.com, c=US  
 Date: 2023.11.20 22:28:50 -05'00'

Date: November 20, 2023

**WATERFORD PLACE HOMEOWNERS ASSOCIATION, INC.  
RESOLUTION ACTION RECORD**

**Resolution Type:** ADMINISTRATIVE No. 2023-4

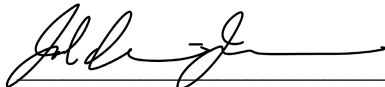
**Pertaining to:** Administrative Policy Resolution for Violation Notices, Due Process, and Fines

**Duly adopted at a meeting of the Board of Directors held:** NOVEMBER 20, 2023

**Motion by:** JAD IBRAHIM, JR. **Seconded by:** ARIENNE BROWN **VOTE:** 4-0-0

	YES	NO	ABSTAIN	ABSENT
<u>JAD IBRAHIM, JR.</u> President	<u>X</u>	_____	_____	_____
<u>ARIENNE BROWN</u> Vice President	<u>X</u>	_____	_____	_____
<u>JACQUELYN ROBERTS</u> Treasurer/Secretary	<u>X</u>	_____	_____	_____
<u>KENNETH BUCH</u> Member At Large	<u>X</u>	_____	_____	_____

**ATTEST:**

  
\_\_\_\_\_  
Association's President

NOVEMBER 20, 2023  
\_\_\_\_\_  
Date

FILE:Book of Resolutions: Resolution effective date: JANUARY 1, 2024