

ADMINISTRATIVE RESOLUTION NO. 4
(AS AMENDED _____, 2021)

**PROCEDURES FOR PROCESSING CASES OF ALLEGED
VIOLATIONS OF THE GOVERNING DOCUMENTS OF THE ASSEMBLY**

WHEREAS, Section 2-102(a)(4) of the Community Charter states that the principal purpose and function of the Board of Trustees is to “provide oversight of the administration of the affairs of the Assembly”; and

WHEREAS, Section 2-102(a)(8) of the Community Charter authorizes the Board of Trustees to establish rules of procedure for the way cases of alleged violations of the Governing Documents of the Assembly are processed, which rules of procedure shall be consistent with traditional customs of due process; and

WHEREAS, Section 2-102(c) of the Community Charter sets forth the principal purposes and functions of the Board of Code Compliance, which include the investigation of and rendering of judgments on alleged violations of the Community Codes provided for in the Governing Documents of the Assembly; and

WHEREAS, Section 3-101(a) of the Bylaws states that the Board of Trustees is the “primary decision-making body of the Assembly....” and

WHEREAS, Section 5-102 of the By-laws provides that the Board of Code Compliance shall have such duties as provided in the Community Charter and as further determined from time to time by the Board of Trustees; and

WHEREAS, the Board of Trustees desires to expand and clarify the duties of the Board of Code Compliance and the procedures for processing alleged violations of the Governing Documents of the Assembly.

NOW THEREFORE be it resolved that the Board of Trustees adopts the following rules of procedure hereby repealing and reenacting as amended all prior versions of Administrative Resolution No. 4 to be effective as of _____ as follows:

Article 1. Notice of Alleged Violations

1.1 As a result of inspections, complaints or general observations, when there is probable cause to believe that a Titleholder or Citizen is in violation of the Governing Documents of the Assembly, a letter shall be sent to the Titleholder (and Citizen if applicable) at the last known address of the Titleholder and Citizen by ordinary first-class mail or via electronic transmission if the Titleholder and Citizen has previously requested or consented to receiving Assembly notices by electronic transmission (the “Notice of Alleged Violation”) informing the Titleholder and Citizen of the nature of the alleged violation and a time period within which to cure the violation or to notify the Community Manager that he/she/they dispute the existence of

such violation. The Community Manager may use a service and/or a third-party contractor to send the notice on his or her behalf.

1.2 If the violation is corrected, the Titleholder/Citizen shall inform the Community Manager and upon confirmation the Community Manager shall notify the Titleholder and/or Citizen in writing (electronically or otherwise) that the violation is corrected.

1.3 If the alleged violation is not corrected, the correction is not commenced within the time period provided or if the Community Manager does not believe that acceptable progress towards resolution is being made, the Community Manager shall have the discretion to determine whether additional action should be taken, including scheduling the matter for a hearing before the Board of Code Compliance (BOCC) or such other appropriate action. The Community Manager shall make available to the Board of Trustees a status report showing all active violations and the status of each violation (that is, whether the violation continues, whether it has been corrected, whether a complaint has been filed, etc.).

1.4 If a violator repeats a violation within 12 months of the date of the results of a BOCC hearing on the same violation, the Community Manager is not required to send this initial violation and may immediately send a notice of hearing.

Article 2. Notice of Hearing with the Board of Code Compliance

2.1 The Notice of Intent to Hold a Hearing shall contain at least the following information:

- a. The identity, by street address, of the property involved;
- b. The nature of the violation, including citations to the provisions of the Governing Documents involved;
- c. The action necessary to correct the violation;
- d. A time period in which to correct the violation or to commence correction, (as appropriate). The time in which to correct or commence correction, as appropriate, of a violation shall generally not exceed 30 days from the date of the Notice of Intent to Hold a Hearing;
- e. A contact where the Respondent may obtain further information about the violation and the action necessary to correct the violation;
- f. The date when a hearing shall be held along with the time and location of the hearing if the violation(s) is/are not corrected by the deadline;

h. That the Respondent may be present at the hearing, may be represented by counsel, may present any relevant evidence, and will be given a reasonable opportunity to examine and cross examine all witnesses; and

i. If a party wishes to make an official record of hearing, they must notify the Community Manager at least five days in advance of the hearing and the Community Manager shall arrange for a recorder and the party requesting the same shall be responsible for the cost of the same as well as any transcription costs.

2.2 Continuance

If the Respondent or any other party who has been invited to attend the hearing, can promptly show good cause as to why they cannot attend the hearing on the scheduled date and they provide times and dates on which they would be available, the BOCC may reschedule the hearing and shall send notice to the parties of the new hearing date. The BOCC panel may continue a hearing either at the hearing or prior to the hearing at its discretion, which may be done to give the Respondent additional time to take corrective action(s).

2.3 The BOCC shall endeavor to hold a hearing within 60 days of the date of the Notice of Intent to Hold a Hearing or the original hearing date if the hearing is continued.

Article 3. Board of Code Compliance Hearing

3.1 The procedures for hearings before the BOCC shall generally be as follows:

a. At the beginning of the hearing, the Chairperson of the BOCC shall explain the rules and procedures pursuant to which the hearing is to be conducted. The BOCC may determine the manner in which the hearing shall be conducted, so long as the rights set forth in this Resolution are protected. Generally, any relevant evidence shall be admitted if it is the sort of evidence on which reasonable persons are accustomed to relying in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make the admission of such evidence improper. Hearsay evidence is admissible. The Chairperson is granted authority to limit or restrict evidence that is redundant, vexatious or does not appear to be relevant to the violations at issue and to establish reasonable time constraints.

b. Each party shall have the right to do the following, but may waive any or all of these rights:

1. Make an opening statement;
2. Introduce evidence;
3. Call witnesses;
4. Cross-examine opposing witnesses;

5. Rebut evidence and testimony;
6. Make a closing statement.

c. Should a member of the BOCC withdraw for any reason from a hearing after it has been called to order, the hearing shall continue as before and be decided by the remaining members of the BOCC. If the Chairperson of the BOCC withdraws, a new Chairperson shall be selected by a majority of the remaining members of the BOCC.

3.2 The majority vote of the BOCC members hearing the case (provided the members hearing the case constitute a majority of the sitting BOCC) shall constitute the decision of the BOCC. If a violation is found, the BOCC may take such action, including but not limited to the levy of a charge or fines, as is authorized by the Governing Documents of the Assembly. The BOCC shall prepare a written decision explaining its ruling on the matters raised in the complaint. The vote of the BOCC shall be recorded in the minutes of the hearing. The BOCC shall make best efforts to reach a decision within fifteen days of the hearing and will make best efforts to issue a written opinion within forty-five days of the date that the decision is reached. The decision of the BOCC shall be sent to the complainant and Respondent in the manner noted in Section 2.4 above. **If other parties attend the hearing or submit anything for the BOCC's consideration of the complaint, and request a copy of the BOCC decision, it shall be sent to those parties as well.**

3.3 The BOCC may take any one or a combination of any of the following actions on a complaint:

- a. Make a finding that there is no violation in whole or part;
- b. Find the existence of a violation and suspend the Respondent's right to use any community property and/or other privileges of membership until the violation is corrected;
- c. For non-continuing violations, impose a fine upon the Respondent in an amount not to exceed Five Hundred and 00/100 Dollars (\$500.00) for a first violation, increased by not more than One Hundred and 00/100 Dollars (\$100.00) per violation for each additional violation of the same kind the Respondent shall be found to have committed within 12 months following the date of the written notice of the BOCC decision;
- d. For continuing violations, impose a fine of no more than Fifty and 00/100 Dollars \$50.00 per day with the option to set or not to set a maximum until the violation ceases, in addition to any other fine that may be imposed.;
- e. All fines imposed under this procedure shall be considered as an assessment against the lot owned or resided in by the Titleholder or Citizen found to be in violation. For non-continuing violations, suspension of the right to use any or all of the community property

shall be for a period of not more than 60 days or until all fines are paid, whichever is longer. For a continuing violation (including non-payment of any fine levied pursuant to the provisions of this resolution or other assessment or charge), suspension shall be for so long as the violation continues, and any fines remain unpaid; and/or

f. Recommend that the Board of Trustees take such other or additional action (e.g., complaint for injunctive relief) to compel compliance.

g. If the Respondent comes into compliance after receipt of the decision of the BOCC, Respondent may petition the BOCC for a reduction or elimination in the fines imposed.

Article 4. Appeals to the Board of Trustees

4.1 Any party, the Community Manager and/or President of the Assembly, may appeal a final decision of the BOCC to the Board of Trustees.

5.2 An appeal by the Respondent must be in writing and must be filed with the Board of Trustees within 30 days of the receipt of a decision of the BOCC. The date of receipt shall be presumed to be three business days after the decision is mailed.

5.3 An appeal by someone other than the respondent must be filed with the Board of Trustees within 30 days of the Respondent's receipt of the decision of the BOCC. The date of receipt shall be presumed to be three business days after the decision is mailed.

5.4 The Board of Trustees may decide the appeal with or without oral argument. If the Board of Trustees decides to have oral argument, it may limit the time and establish other procedures.

5.5 The Board of Trustees may vacate, reverse, or affirm the decision of the BOCC in whole or in part.

5.6 A Titleholder and/or Citizen must exhaust all available remedies of the Assembly prescribed by this Resolution before resorting to a court of law or any administrative body for relief with respect to any alleged violation of any provision of the Governing Documents of the Assembly. The foregoing limitation pertaining to exhaustion of administrative remedies shall not apply to the Board of Trustees.

Article 6. Interpretation

6.1 This Resolution is intended to ensure that due process is provided to parties in proceedings before the BOCC and Board of Trustees.

6.2 Any inadvertent omission or failure to conduct proceedings in exact conformity with this Resolution shall not invalidate the results of such proceedings, so long as a prudent and reasonable attempt has been made to ensure due process according to the general steps set forth

in this resolution.

Article 7. Expedited Proceedings

7.1 In cases that warrant expedited action, such as, for example, cases involving a repeat of a violation within 12 months of a BOCC decision for the same violation, health, safety or welfare of the community or its members or in instances such as suspension of pool privileges for violation of pool regulations, suspension of rights to use community facilities, or similar matters, the BOCC may hear complaints on an expedited basis. The BOCC may, with proper consideration of the due process rights of the parties, do the following:

- a. Eliminate and/or shorten the notice time for scheduling and conducting hearings;
- b. Shorten the time for responding to submissions by the parties;
- c. Limit the length of any submissions by the parties or time for testimony at hearings of the BOCC;
- d. Conduct ex parte hearings provided that those parties are not present shall have an opportunity to reopen any decision and present evidence if they requested;
- e. Expedite and abbreviate the process in such other ways as may be appropriate with consideration for providing due process to all parties and for hearing fully and fairly any complaint.
- f. Refer matters to the Board of Trustees for immediate action.

7.2 The BOCC shall determine in its sole discretion whether a matter warrants an expedited hearing or action under this process.

Article 8. Miscellaneous

8.1 The use of the masculine gender includes the feminine and neutral genders, and the use of the singular includes the plural and vice versa, whenever the context so requires.

8.2 The terms used in this Resolution, unless otherwise defined herein, have the meaning specified for such terms in Appendix One to the King Farm Community Charter.

Duly adopted at a meeting of the Board of Trustees of the King Farm Citizens Assembly, Inc. held on _____, 2021.