

Seneca Whetstone Homeowners Association, Inc.
COVENANTS AND VIOLATIONS ENFORCEMENT RESOLUTION

WHEREAS, in pertinent part, the Articles of Incorporation for Seneca Whetstone Homeowners Association, Inc. states that the purpose for which the entity was formed are to: "provide for the acquisition, construction, management, maintenance, and care of Association Property" and, to "...promote the health, safety and welfare of residents owning and occupying Association Property."

WHEREAS, in pertinent part, the Articles of Incorporation for Seneca Whetstone Homeowners Association, Inc. states that:

In furtherance of the foregoing purposes the Association shall have the power to:

- (a) exercise all of the powers and privileges and to perform all of the duties and obligations of the Association as set forth in that certain Declaration of Covenants, Conditions and Restrictions, hereinafter called the "Declaration", applicable to the property and recorded or to be recorded in the Office of Land Records for Montgomery County, Maryland, and as the same may be amended from time to time as therein provided, said Declaration being incorporated herein as if set forth at length;

- (g) have and to exercise any and all powers, rights, and privileges which a corporation organized under the Corporations and Associations Article of the Annotated Code of Maryland by law may now or hereafter have or exercise.

WHEREAS, Articles V, VI, and VII of the Declaration of Covenants, Conditions and Restrictions, provide for and set forth the Association's and Owners' requirements for exterior maintenance of their property, general use restrictions in the Association, and Architectural Control all for the requirements for the general scheme and harmony of the Community and for the purpose of providing the value and desirability of all such property, and all of the other pertinent provisions and authorities therein and implied;

WHEREAS, Article VII of the Bylaws for Seneca Whetstone Homeowners Association, Inc. states in pertinent part that "The Board of Directors shall have power to: (a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof;" and "(c) exercise of the Association all powers, duties and authority vested in or delegated to the Association and not reserved to the membership by other provisions of these By-Laws, the Articles of Incorporation, or the Declaration;"

WHEREAS, there is a need to establish uniform rules and procedures related to violations in the community and to establish procedures for assessing and collecting fines related thereto as outlined in the governing documents.

NOW, THEREFORE, BE IT RESOLVED, with the above incorporated as if fully stated herein, that the Board of Directors does hereby adopt the following rules and regulations, hereinafter referred to as the “Rules,” which shall be binding upon all Members/Owners and their family members, tenants, occupants, successors, heirs, and assigns:

A. ENFORCEMENT PROCEDURE [hereinafter “Section A: Enforcement Procedure”]

1. **FIRST NOTICE** [hereinafter “First Notice”] – When management, board members, or their designated agents observe any violation of the Association’s rules and regulations including, but not limited to, lack of exterior maintenance, unauthorized exterior modifications, vehicular violations, behavioral violations, or nuisances:
 - i. A letter is sent to the Owner describing the violation(s), the actions needed to abate the violation(s), and the required timeframe of no less than ten (10) days for abatement; and
 - ii. The letter notifies the Owner of right to request an extension of the timeframe for abatement; and
 - iii. The letter notifies the Owner of the right to request, within ten (10) days of the notice, a hearing of the Board in Executive Session; and
 - iv. The timeframe required to abate (calendar days):
 - a. Based on Class of Violation – See Appendix A:
 - a. Class A – ten (10) days from the date of the notice; or
 - b. Class B – thirty (30) days from the date of the notice; or
 - c. Class C – If a Class A Repetitive Violation, then the normal ten (10) day timeframe will apply and if a Class B Repetitive Violation, then the normal thirty (30) day timeframe will apply
 - v. Extension: If more than the required time to abate is needed, Owners must contact the Board of Directors and/or its management agent, **in writing**, within seven (7) days of the date of the notice, to request an extension of time for abatement.
 - a. Written request must include an estimated time needed to abate the violation(s) and the reasons for the request.
 - b. An extension is valid only if granted by the Board and/or management agent in writing to the Owner.
 - vi. If Owner believes the notice of violation is in error:
 - a. Owner must notify the Board and/or management, in writing, within seven (7) days from the date of the notice; or
 - b. Owner may request a hearing in Executive Session, in writing within ten (10) days from the date of the notice, to address the possible error.
 - vii. Any repeated violations of same first offense that occur within twelve (12) months of first offense or which are continuing and ongoing in nature may proceed to the Second Notice without any requirement for additional first notices. Similarly, at any hearing the Board of Directors may hear and issue sanctions, including fines, for any continuing, repeated, or recurring violations that are similar to the initial first offense.

2. SECOND NOTICE [hereinafter “Second Notice”] – Within twelve (12) months of First Notice and upon expiration of deadline to abate violation or omission by Owner to request in writing an extension or a hearing:
 - i. A letter is sent to the Owner notifying them of a Hearing scheduled in Executive Session due to failure of abating violation and said letter will include: (i) the nature of the alleged violation, (ii) the time and place of the hearing, (which time may be not less than 10 days from the giving of the notice), (iii) an invitation to attend the hearing and produce any statement, evidence, and witness on his or her behalf, and (iv) the proposed sanction to be imposed.
 - ii. Owners may have counsel present at any such hearing, with the stipulation that notice of Owner’s intent to be accompanied by counsel **must** be communicated to the Board in writing not less than 10 days prior to the scheduled hearing..
 - iii. In accordance with Section (A)(1)(vii) of this Resolution, any subsequent offenses that are identical to first offense or which are continuing and ongoing without satisfactory abatement may be considered and addressed with sanctions or fines at any hearing scheduled for any offense.
 - iv. Any Hearings will be held, in Executive Session.
3. THIRD NOTICE [hereinafter “Third Notice”] – After the Hearing, Owner will be notified, in writing of the Board’s decision and, if applicable, any sanctions.
 - i. Sanctions may include the assessment of fines, filing a lawsuit against the Owner personally, filing an injunction, entering and abating violation(s), towing, or any other appropriate legal or administrative actions. All costs and expenses associated therewith, including legal fees, will be the Owner’s responsibility.
 - ii. If, after the Hearing, the Board finds that the Owner is responsible for the violation(s), a fine may be added to the Owner’s account based on the Classification of the Violation per Appendix A.
 - a. Class A – minimum \$50
 - b. Class B – minimum \$50
 - c. Class C- recurring fine of any amount determined by the Board of Directors up to \$750 per month or \$500 per occurrence, whichever is greater. Fines may be assessed per diem if determined appropriate by the Board of Directors.
 - iii. In accordance with Section (A)(1)(vii) of this Resolution any subsequent offenses that are identical to first offense or which are continuing and ongoing without satisfactory abatement may be addressed by recurring or continuing fines as may be determined by the Board of Directors.

B. HEARINGS IN EXECUTIVE SESSION

1. Hearings on violations will be held after the Second Notice or earlier upon written request by an Owner.

2. Hearing notices will be provided in accordance with Maryland law and the Association's documents.
3. All hearings will be held in Executive Session and in accordance with Maryland law and the Association's documents.
4. Minutes will be kept but shall not be made public.
5. Owners will be made aware of the outcome of the hearing either at the hearing or by written correspondence thereafter.

C. COLLECTIONS

Any fines collected pursuant to this Resolution are collectable as assessments and shall include costs, late fees, and attorneys' fees, and may be modified by the Board of Directors in their sole discretion. The fines shall act as a continuing lien on the property until they are resolved in full to the Board of Directors' satisfaction. The Owner's obligation to pay attorneys' fees and costs shall not merge with any final judgment but shall instead continue and include specifically post judgment collection expenses and attorneys' fees. Additional remedies outlined in the governing documents and Maryland law may be used as well, including injunctions and other remedies.

D. TIMING AND SCOPE

Nothing in this Resolution shall limit or restrict the Board's authority under the governing documents and Maryland law. Specifically, the Board shall not be limited from making alterations or amendments to this resolution as the Board decides might be necessary or appropriate. No owner may consider or use this Resolution as a defense or grounds for any lawsuit even if the action or issue in question is specifically outlined in this Resolution. Moreover, if any provision or part of this Resolution is found to be invalid the remaining provisions shall survive. Any use of the singular may be construed as the plural and vice versa. Failure to enforce parts of this resolution against one Member shall not be considered a waiver of the right to enforce a violation against that same Member or any other Owner at another time.

AND, BE IT FURTHER RESOLVED THAT this Resolution for Fines and Enforcement shall be effective thirty (30) days after the date of its passage.

PASSED this 5th day of July, 2016.

Authorized Representative, Board of Directors

James A. Polcaro II
Signature

Name Printed: JAMES A. POLCARO II
Board President

Date 7/5/16

Edward M. Hollister
Signature

Name Printed: EDWARD M. HOLLISTER
Board Secretary

Date 7/5/16

Seneca Whetstone Homeowners Association, Inc.

Policy Resolution Rules and Regulations
ASSOCIATION FINE AND REGULATION VIOLATIONS – APPENDIX A
Classifications of Violations*

<u>Class A</u> Exterior Maintenance	<u>Class B</u> Vehicle and Nuisance Issues and Other Miscellaneous Offences	<u>Class C</u> Repetitive Offenses
Failure to obtain required ACC approval prior to making exterior modification(s) to Owner's property.	Inoperable, unregistered, nuisance, or commercial vehicles improperly parked within the community.	Offenses including but not limited to Class A and Class B offenses that the unit Owner commits within one (1) month of first offense.
Use of unapproved paint colors on doors, trim, etc.	Storage of trash cans in such manner that they are visible from the street.	E.g. Repetitive failure to remove pet waste from Member's properties or from common areas.
Unapproved decorations.	Excessive noise.	
Failure to adequately maintain property exterior including but not limited to painting and cleaning of siding and trim, grass cutting, and general maintenance of trees and shrubs.	Failure to remove pet waste from Members' properties or from common areas.	
Broken window panes, screens, shutters, and other exterior elements on Owner's property.	Destruction of Property, including but not limited to damage to any and all common property, etc.* (Damages related thereto shall be recoverable in addition to fines assessed.)	
Window A/C units installed in such manner that they are visible from the street.	Failure to provide required rental information updates in a timely fashion.	
	Leaving personal items on Members' properties or in common areas.	
	Illegal use of controlled substances impacting others.	

*This list is subject to modification by the Board of Directors pursuant to Maryland law and the Association's documents. This Classification of Violations in no way limits or restricts the Board's authority under the governing documents and Maryland law, and the Board shall not be limited from making alterations or amendments to this Classification of Violations as the Board decides might be necessary or appropriate without further notice.

In the Circuit Court for Montgomery County, Maryland

Seneca Whetstone HOA

Case No. 388-X

VS.

RECEIVED

JUL 11 2016

Clerk of the Circuit Court
Montgomery County, Md.

LINE

Submitting Complaints and Violations
Enforcement Resolution



SIGNATURE

PLEASE PRINT NAME,
ADDRESS, AND
PHONE NUMBER

Robert D. Morse

10824 Eberhardt Dr.

Gaithersburg, MD

20879

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