

HIGHPOINTE AT RIPPON LANDING CONDOMINIUM
UNIT OWNERS ASSOCIATION RESOLUTION
REGARDING DUE PROCESS PROCEDURES

POLICY RESOLUTION NO. 2020- 1

WHEREAS, Article 3, Section 3.1 of the Bylaws provides, in part, that the Board of Directors of Highpointe at Rippon Landing Condominium Unit Owners Association (“Association”) shall have all of the powers and duties necessary for the administration of the affairs of the Unit Owners Association and may do all such acts and things as are not by the Condominium Act or the condominium instruments required to be exercised and done by the Association; and,

WHEREAS, Article 3, Section 3.1 (6) of the Bylaws provides, that the Board of Directors of the Association shall adopt and amend any rules and regulations in accordance with Subsection 5.8(b); and,

WHEREAS, Article 9, Section 9.1 of the Bylaws provides that each unit owner shall be governed by, and shall comply with, all of the terms of the Condominium Act, condominium instruments and rules and regulations, as any of the same may be amended from time to time. In addition to remedies provided in the Condominium Act, a default by a unit owner shall entitle the Unit Owners Association, acting through its Board of Directors or through the managing agent the relief provided in Article 9 of the Bylaws.

WHEREAS, Article 9, Section 9.1 of the Bylaws provides that each unit owner shall be governed by, and shall comply with, all of the terms of the Condominium Act, condominium instruments and rules and regulations, as any of the same may be amended from time to time; and

WHEREAS, Article 9, Section 9.1(a) of the Bylaws provides that any costs, including without limitation legal fees, incurred as a result of a failure to comply with the Condominium Act, the condominium instruments and the rules and regulations by any unit owner (or any member of such unit owner’s household or such unit owner’s guests, invitees, tenants, agents or employees) may be assessed against such unit owner’s unit; and

WHEREAS, Article 9, Section 9.1 (b) of the Bylaws provides that in any proceeding arising out of any alleged default by a unit owner, the prevailing party shall be entitled to recover the costs of such proceeding and such reasonable attorney’s fees as may be determined by the court.

WHEREAS, Article 9, Section 9.1 (e) of the Bylaws provides that the violation of any of the rules and regulations adopted by the Board of Directors, the breach of any provision of the condominium instruments or the Condominium Act shall give the Board of Directors

the right to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of such breach; and

WHEREAS, Article 9, Section 9.1 (f) of the Bylaws provides that failure to comply with any of the terms of the condominium instruments and the rules and regulations shall be grounds for relief, including without limitation, an action to recover any sums due for money damages, injunctive relief, and any other relief provided for in the Bylaws; and

WHEREAS, Article 9, Section 9.1 (g) of the Bylaws provides that the Board of Directors or the Covenants Committee may levy reasonable charges against unit owners for violations of the Condominium Act, the condominium instruments or the rules and regulations by the unit owner, the members of such unit owner's household, or such unit owner's guests, invitees, tenants, agents or employees.

WHEREAS, Article 9, Section 9.1 (g) of the Bylaws provides that no charge may be levied for a single violation in an amount more than the lesser of (i) the maximum amount permitted by section 55-79.80:2B of the Condominium Act or (ii) one percent of such unit owner's annual assessment. Each day a violation continues, after notice is given to the unit owner, is a separate violation. If a unit owner requests in writing a hearing before the charge is imposed, the imposition of the charge shall be suspended until the hearing is held. Charges are special assessments and shall be collectible as such.; and

WHEREAS, Virginia Code Section 55.1-1915 A provides that every unit owner, and all those entitled to occupy a unit shall comply with all lawful provisions of this chapter and all provisions of the condominium instruments. Any lack of such compliance shall be grounds for an action to recover sums due, for damages or injunctive relief, or for any other remedy available at law or in equity, maintainable by the unit owners' association or by its executive board or any managing agent on behalf of such association; and

WHEREAS, Section 55.1-1959 A of the Act provides that the unit owners' association shall have the power, to the extent the condominium instruments or the condominium's rules and regulations expressly provide, to assess charges against any unit owner for any violation of the condominium instruments or of the rules or regulations promulgated pursuant thereto for which such unit owner or his family members, tenants, guests, or other invitees are responsible.

WHEREAS, Section 55.1-1959 B of the Act provides that before any action authorized in this section is taken, the unit owner shall be given a reasonable opportunity to correct the alleged violation after written notice of the alleged violation to the unit owner at the address of their respective units, unless the unit owner has provided an address other than the address of the unit and if the violation remains uncorrected, the unit owner shall be given an opportunity to be heard and to be represented by counsel before the executive board or such other tribunal as the condominium instruments or its adopted rules and regulations specify.

WHEREAS, Section 55.1-1959 B of the Act provides that notice of such hearing, including the actions that may be taken by the unit owners' association in accordance with

this section, shall, at least 14 days in advance, be hand delivered or mailed by registered or certified United States mail, return receipt requested, to such unit owner at the address of their respective units, unless the unit owner has provided an address other than the address of the unit. Within seven (7) days of the hearing, the hearing result shall be hand delivered or mailed by registered or certified mail, return receipt requested, to such unit owner at the address of their respective units, unless the unit owner has provided an address other than the address of the unit

WHEREAS Section 55.1-1959 C of the Act provides that the amount of any charges assessed shall not exceed \$50 for a single offense, or \$10 per diem for any offense of a continuing nature, and shall be treated as an assessment against such unit owner's condominium unit. However, the total charges for any offense of a continuing nature shall not be assessed for a period exceeding 90 days.

WHEREAS Section 55.1-1959 D of the Act provides that the unit owners' association may file or defend legal action in general district or circuit court that seeks relief, including injunctive relief, arising from any violation of the condominium instruments or the condominium's adopted rules and regulations.

WHEREAS, the Board of Directors deems it to be in the best interest of Association to adopt and implement a uniform and systematic rules and regulations to assess charges for violations, to ensure due process and consistency of enforcement and to comply with Virginia Code Section 55.1-1959 and the governing documents.

NOW THEREFORE, BE IT RESOLVED THAT the Board of Directors unanimously voted to adopt and implement the following rules and regulations to establish a procedure for the Board of Directors or its designated committee to follow prior to assessing charges for violations of the governing documents and to ensure due process and consistency of enforcement:

I. NOTICE OF VIOLATION

A. The Owner shall be sent, by certified mail or hand delivery, a written notice of violation at the address the Owner has provided to the Association or at the Unit address if no other address has been provided by the Owner to the Association.

B. The notice of violation shall specify the alleged violation; the action to be taken by the Owner to correct the alleged violation; and shall also provide a reasonable opportunity to correct the alleged violation, which shall not be less than fourteen (14) days after the date of the notice of violation.

II. NOTICE OF HEARING

If the alleged violation is not corrected by the date specified in the notice of violation, the Owner shall be given an opportunity to be heard and to be represented by counsel before the Board of Directors, its designated committee or such other tribunal as the governing

documents or rules duly adopted pursuant thereto specify. Notice of such hearing, including the actions that may be taken by the Association in accordance with this section, shall, at least 14 days in advance thereof, be hand delivered or mailed by registered or certified United States mail, return receipt requested, to such Owner at the address the Owner has provided to the Association or at the Unit address if no other address has been provided by the Owner to the Association.

A. The notice shall specify:

1. The date, time and place of the hearing which hearing notice shall be hand delivered or mailed by registered or certified U. S. mail, return receipt requested to Owner at least 14 days in advance of the hearing date.
2. The alleged violation including a citation to the provisions of the governing documents, rule or regulation allegedly violated.
3. That the Owner will be given an opportunity to be heard and that the Owner has the right to be represented by counsel before the tribunal.
4. That the charges for the violation may include an assessment of up to \$23.64 per Article 9, Section 9.1(g) of the Bylaws for a single offense or \$10 per diem for any offense of a continuing nature or such other remedies and amounts as may be authorized by the Act, including but not limited to § 55.1-1959 D the right to enjoin, abate or remedy, either at law or in equity, the continuance of such breach; and the governing documents. The notice shall also state that the total charges for any offense of a continuing nature shall not be assessed for a period exceeding 90 days and that the assessment shall be treated as an assessment against such Owner's Unit for the purpose of § 55.1-1966.

III. HEARING PROCEDURE

A. The hearing shall be scheduled at least 14 days in advance of the hearing date and notice shall be given to the Owner at least 14 days in advance of the hearing date.

B. If the Owner requests, in writing, a continuance because of a conflict of the Owner or the Owner's counsel, the Board, in its sole and absolute discretion, may continue the hearing to another date and time. Only one continuance may be granted, and no further notice will be required or given except for the written confirmation of the rescheduled date and time of the hearing.

C. At the hearing, the Owner shall have the opportunity to be heard, present evidence, and have the right to be represented by counsel. The rules of evidence shall be relaxed, and the hearing need not be conducted in accordance with the technical rules of evidence used in a court of law.

D. The Owner, management agent, and members of the hearing committee or the Board of Directors, shall have the right to: (a) call, examine and cross-examine witnesses; (b) introduce documents, pictures of the violation, notice of violations, correspondence including but not limited to written letters and e-mails and other evidence without formal

foundation or in compliance to the rules of evidence used in a court of law, and (c) rebut testimony and other evidence.

E. The hearing shall be conducted in executive session.

F. If the Owner fails to appear at the hearing, the Board of Directors or the designated committee, after proof that proper notice was given, may assess the charges or take such other action as may be authorized by the governing documents or the Virginia Condominium Act, including but not limited to § 55.1-1959 D.

G. In accordance with Virginia Code Section 55.1-1959 B, within seven (7) days of the hearing, the hearing result shall be hand delivered or mailed by registered or certified mail, return receipt requested, to such Owner at the address the Owner has provided to the Association or at the Unit address if no other address has been provided by the Owner to the Association.

IV. RECORDS OF HEARING AND VIOLATIONS

The Board or the managing agent shall keep copies of all documents regarding the violations by the Owner including the minutes of any hearing, hearing results, documentary evidence presented at the hearing in the Owner's file or a separate violation file set up for that Owner.

V. ASSESSMENT OF CHARGES

The amount of any charges assessed shall be treated as an assessment against such Owner's Unit for the purpose of § 55.1-1966 and shall also be the personal obligation of the Owner.

VI. OTHER REMEDIES AVAILABLE TO THE ASSOCIATION

By adopting this Resolution, the Association will not be deemed to have waived any other rights or remedies it has under the governing documents including, but not limited to administrative fees, or its rights and remedies under the Virginia Condominium Act, § 55.1-1900 *et seq.*

V. EFFECTIVE DATE

The Effective Date of this Resolution shall be the 1 day of July, 2020 and shall supersede and replace any previously adopted Policy or Administrative Resolution regarding the collection of assessments.

**HIGHPOINTE AT RIPPON LANDING
CONDOMINIUM UNIT OWNERS
ASSOCIATION**

By: Edward M. Kay
President

By: [Signature]
Secretary

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UNIT OWNERS ASSOCIATION
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RESOLUTION ACTION RECORD

Duly adopted at a meeting of the Board of Directors held on

May 27, 2020


Motion by: Edward Kavjian

Seconded by: Fola Parrish

VOTE:	YES	NO	ABSTAIN	ABSENT
Director, President	<u>X</u>	_____	_____	_____
Director, Treasurer	<u>X</u>	_____	_____	_____
Director, Secretary	<u>X</u>	_____	_____	_____
Director	<u>X</u>	_____	_____	_____

ATTEST:


Secretary


Date

Resolution Effective: July 1, 2020