

Procedures Approved by Board of Directors September 28, 2022

RULES OF PROCEDURE FOR IMPLEMENTATION OF (Fourth) AMENDMENT TO FOREST HILLS COMMUNITY ASSOCIATION (FHCA) DECLARATION OF COVENANTS RELATING TO THE DUTY TO REPAIR, MAINTAIN, AND RESTORE OWNERS' LOTS AND IMPROVEMENTS THEREON

PURPOSE: The amendment to the FHCA Declaration of Covenants adds paragraph 19 to Article VIII and reads as follows:

(19) In the event an Owner of any Lot in the Properties shall fail to repair, maintain, and restore the Lot and any improvements thereon in a manner satisfactory to the Board of Directors, the Association shall, after notice and hearing and approval by two-thirds (2/3) vote of the Board, have the rights to seek an injunction against the Lot Owner to have them perform the needed repair, maintenance and restoration to the Lot and buildings, and any other improvements erected thereon. The Lot Owner shall be responsible for all legal fees and costs incurred in the enforcement of this section.

This Amendment is necessary to ensure that the FHCA meets the obligations for which it exists. As stated in the Articles of Incorporation:

“the specific purposes for which it [FHCA] is formed are to provide for maintenance, preservation, and architectural control of the residence lots and the Common Areas.”

It is the intent of FHCA that the following procedures be used to enforce this Amendment when necessary.

PREFACE: It is the intent of the Board of Directors of the Forest Hills Community Association (FHCA Board) that the following procedures be utilized in the administration of the FHCA Declaration of Covenants Article VIII(19).

TITLE I. IDENTIFICATION OF CONDITIONS AND INFORMAL RESOLUTION

The FHCA Architectural Control Committee (ACC), as part of its normal, on-going inspection activities of Owners' lots and improvements, or upon the written complaint filed with the ACC by any Resident, will identify conditions, which if not corrected, could become potential violations of Article VIII(19) of the FHCA Declaration of Covenants. No alteration to an Owner's lot and improvements thereon previously approved by the ACC shall be the subject of these procedures unless that alteration itself is presently in a condition, which if not corrected, could become potential violation of Article VIII(19) of the FHCA Declaration of Covenants.

In cases involving a complaint from a Resident, the Chair of the ACC shall informally consult with the ACC to ensure that the ACC fully understands the nature of the complaint. If the ACC agrees that there is a potential violation of Article VIII(19) the Chairperson of the ACC in any case initially shall informally advise the Owner of the lot of the condition or conditions of concern. Following the ACC Chair's informal notice to the Owner, the ACC shall engage in informal negotiation with the Owner to reach agreement with that Owner to perform, or have performed, the repairs, maintenance, and/or restoration of the identified conditions in a manner and within a specified period of time. If such repairs, maintenance, or restoration are performed within the specified time as agreed, the matter is closed. The Chairperson of the ACC shall advise the Owner in writing of that determination. If the complaint had been made by another Resident, the Chairperson of the ACC shall also advise the complaining Resident that the matter has been closed.

TITLE II. REFERRAL TO FHCA BOARD OF DIRECTORS

If a matter concerning conditions identified or complained about under Title I is not closed under that Title, the ACC may, by majority vote, refer the matter, including such evidence as the ACC determines to be relevant, to the FHCA Board for possible enforcement action under FHCA Covenant Article VIII(19) or under any other relevant section of the governance documents of the FHCA or under other relevant provisions of equity or law. Upon receipt of such a referral, the FHCA Board may, by majority vote in open session—

- (A) close or table the matter;
- (B) consider the matter for possible violation and action under FHCA Covenant Article VIII(19); or,
- (C) pursue the matter under any other relevant Covenant of the FHCA or under other relevant provisions of equity or law.

If a majority of the FHCA Board votes to consider the matter for possible violation of FHCA Covenant Article VIII(19), as provided under subsection (B) above, the procedures set forth in Titles III and IV shall be followed.

TITLE III. PROCEDURES FOR ENFORCEMENT ACTION UNDER FHCA COVENANT **ARTICLE VIII(19)**

(A)(1) If the FHCA Board votes in open session pursuant to Title II(B) above, to consider a matter for possible violation and action under the FHCA Covenant Article VIII(19), the FHCA Board shall notify the Owner by simultaneous US certified and first-class mail, (and if the matter arose from a complaint of another resident, such resident concerned) of—

- a. the nature of the condition or conditions that the FHCA Board believes may violate the requirements of FHCA Covenant VIII(19) and relevant evidence thereof;
- a. the right of the Owner to participate in a hearing, not sooner than 15 days following the mailing of such notice, before a Hearing Board to be designated by the President of the FHCA Board, to be represented at such hearing by a person or persons of the Owner's choosing, and to present any relevant evidence and testimony at such hearing as the Owner may choose;

(2)(a) The President of the FHCA Board shall designate a Hearing Board of at least three(3) Owners, one of whom shall be a member of the FHCA Board, one of whom shall be member of the ACC who is not a Member of the FHCA Board, and one or more who shall be neither a member of the FHCA Board nor the ACC (if such volunteer can be found). No Owner who owns a lot immediately adjacent to the lot of the Owner concerned under this section shall be appointed to such Hearing Board.

(b)(i) The Hearing Board member who is also a member of the FHCA Board shall be Chair of the Hearing Board. The Hearing Board Chair shall determine the date (but not sooner than 15 days following the mailing of the US certified and first-class mail notice to the Owner required by subsection (A)(1)(b) of this Title), the time, and place of the hearing and whether such hearing shall be conducted in person or by electronic means. Such hearing shall be conducted not later than 45 days following the mailing of the US certified and first-class mail notice to the Owner required by subsection (A)(1)(b) of this Title. However, the Hearing Board Chair shall have discretion to grant delays or continuance of such hearing for good and reasonable reasons, as determined by the Hearing Board Chair. Furthermore, by majority vote of the Hearing Board or upon request of the Owner concerned, the Hearing Board may meet in closed session for the purposes of considering the concerned Owner's private personal or financial evidence.

(ii) Following the receipt of all evidence submitted by the Owner and the ACC, the Hearing Board shall consider all evidence submitted by the ACC, all evidence submitted by the Owner, and such other relevant evidence developed during such Hearing Board proceedings. Following consideration of such evidence, the Hearing Board in open session shall vote to determine whether the preponderance of the evidence establishes that a condition or conditions does or does not exist that violates the FHCA Declaration of Covenants Article VIII(19). Any determination that such a condition or conditions does exist shall be announced by the Hearing Board Chair in open session, shall describe the nature of such condition or conditions, and may only be made by—

- A. a unanimous vote if the Hearing Board consists of three Owners; or
- A. a majority vote if the Hearing Board consists of more than three Owners.

(iii) Within seven (7) days following the announcement of the determination of the Hearing Board, the Chair shall submit in writing to the FHCA Board and the the Owner concerned a report of its determination, including the vote of the Hearing Board with regard to such determination. If that determination is that a condition or conditions exists that violate FHCA Declaration of Covenants Article VIII(19), the report shall include a description of the nature of the condition or conditions found to exist, the vote justifying such determination, and include or incorporate by reference all evidence considered by the Hearing Board.

TITLE IV. PROCEDURES OF FHCA BOARD FOLLOWING HEARING BOARD

(A) Following the receipt of a report of determination by a Hearing Board, the FHCA Board shall provide the FHCA with notice of its intent at its next regular or special meeting to consider such determination and relevant evidence in an open session, the time and date of such session, and whether such session shall be conducted in person or by electronic means.

(B)(1) If the relevant determination of the Hearing Board was that no condition exists that violates Declaration of Covenants VII(19), the FHCA Board shall be deemed to have tabled any further action under such Covenant VII(19) with respect to the underlying condition or conditions of the subject Owner's lot and improvements considered by the Hearing Board for a period of at least one year from that FHCA Board meeting, except with respect to new or emergency conditions; or

(2) If the relevant determination of the Hearing Board was that a condition or conditions exists that justify pursuing action under Covenant VIII(19), the FHCA Board shall notify the Owner concerned by first class mail that the Owner may present such evidence as the Owner deems appropriate at the meeting of the FHCA Board for which notice is given to the FHCA as required by subsection (A) of this Title. Following any presentation of evidence by the Owner concerned at such FHCA Board meeting, if any, the FHCA Board may, in executive session if such session is approved by a majority vote, debate all information contained in the report of determination of the Hearing Board and any other evidence presented to the FHCA Board it deems relevant, and thereafter in open session—

- (i) by a vote of 2/3 of that FHCA Board, pursue action under such Covenant VIII(19); or
- (ii) by a majority vote of that FHCA Board, pursue such other action as may be permitted by other Covenants or provisions of law or equity; or
- (iii) if the FHCA Board does not approve action under either Subsection (B)(2)(i) or (ii) of this Title, the FHCA Board should consider whether, by a majority vote, to table any further action with respect to the underlying condition or conditions of the subject Owner's

lot and improvements thereon for a period of at least one year following such vote, except with respect to new or emergency conditions.

Any FHCA Board decision made under this Title shall be announced by the FHCA Board President in open session and a record of votes taken with respect to such decision shall be reflected in the minutes of such meeting.

END OF DOCUMENT (4pages)

Explanatory Comment:

The above Rules, Regulations or Procedures were approved by the FHCA Board of Directors on September 28, 2022. These procedures, along with the FHCA Architectural Control Committee's (ACC) previously existing rules and procedures (called the ACC informal resolution process), were also provided to the membership of the Association for review prior to final approval by the Board of Directors. The Board of Directors has authority and responsibility to promulgate and publish rules and regulations to perform and execute its powers and duties and manage the association. These procedures were promulgated by the Board of Directors to specifically implement the Fourth Amendment to the FHCA Declaration of Covenants, Conditions and Restrictions (CCRs), which added Article VIII, Subparagraph 19 to the Declaration. The amendment to the CCRs was properly approved by the required number of members of the Association on September 28, 2022. The Fourth Amendment to the Declaration was recorded with Arlington County Land Records Clerk on September 30, 2022, by and is also available on the FHCA website.

Final Version

Approved for Posting to FHCA Website:

Bruce Klappa

Bruce Klappa, President, FHCA

Date:

4/15/2024