

BIRCH BAY VILLAGE COMMUNITY CLUB, INC.

POLICY RESOLUTION NO #06-02-21-13

PURPOSE: To Establish a Procedure to Suspend a Member *and*
To Levy Fines against a Member Declared by the Board to be a
“Member Not In Good Standing”.

WHEREAS, it may become necessary to suspend a member when that member has violated those rights as described in the Club Bylaws section 4.5.2 (Rights And Privileges-Conditioned On Compliance With Governing Documents) or other section(s) of the governing documents; and to levy fines against a member previously declared to be a member not in good standing and

NOW, THEREFORE, BE IT RESOLVED:

When it becomes necessary;

- To suspend the privileges of a member as described in the governing documents or,
- To impose fines on a member who has previously been declared a “member not in good standing”.

The following procedure and steps will be employed to declare a “member not in good standing” or to levy fines against a member previously declared *not* in good standing.

I. Process for Declaration

1. A clear violation of the governing documents must be evident including all documentation, evidence of the alleged violation and correspondence with that member leading up to the proposed suspension.
2. When the Board proposes suspension of membership rights (declaring a member “not in good standing”), a fine, or Special Assessment for misconduct under sections 4.5.2, 7.5, 7.6 or any other section of the Bylaws, the alleged offending Owner shall be afforded the opportunity for a hearing by the Board to determine the appropriateness of the action proposed to be taken. A hearing will be governed by the procedure set forth in part 3 of this resolution. (Reference bylaw section 7.9 Pre-Sanction Hearing).
3. At least fourteen (14) days in advance of the hearing, written notice of such hearing shall be hand-delivered or mailed by registered or certified mail, return receipt requested, to the Owner at the Owner’s last known mailing address. The notice shall include

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- (a) The place, day and hour of the hearing;
 - (b) A statement, in reasonable detail, of the factual nature of any alleged violations, along with the section number of any portion of the Act or Governing Documents allegedly violated; and
 - (c) The nature of the action proposed to be taken against such Owner. (Reference bylaw section 7.9.1 Notice of Hearing).
4. The President, or designee, shall preside at the hearing, which shall be conducted generally in accordance with the requirements for Meetings of the Board as provided in Section 5.2 and/or 5.2.6 of these Bylaws. Any Director who feels that it would be impossible to be fair, objective and unbiased in the proceedings shall disqualify him/herself prior to the commencement of the hearing. Both the subject Owner and the Club may be represented by counsel. Minutes shall be taken and, if requested by either the Club or the Owner, the hearing may be recorded either stenographically and/or by audio or videotape or equivalent means. After receiving proof of the notice required by Section 7.9.1 of these Bylaws, factual evidence in support of the allegation that a violation has occurred will be received. Live testimony from witnesses with personal knowledge shall be received where practicable. Affidavits or declarations in the form required by RCW 9A.72.085 may, however, be received in lieu of live testimony as the interests of justice may require, and formal adherence to legal rules of evidence shall not be required. Thereafter, evidence from the Owner, in defense or toward mitigation, shall be received. Any rebutting evidence may then be received. Legible copies of all documentary evidence received shall be attached to the minutes of the hearing. At the close of the evidence, both sides shall have the opportunity for legal argument. (Reference bylaw section 7.9.2 Hearing Procedures)
 5. If the Owner fails to appear at the hearing, (s)he may be found in default if there is proof that the Owner received proper notice of the hearing. In such case, the Board may render an immediate decision based upon receipt of evidence supporting the existence of a violation. (Reference bylaw section 7.9.3 Default).
 6. In the interests of justice, the Board may continue the hearing at the request of either the Owner or the Club, for such reasonable period not to exceed thirty (30) days. (Reference bylaw section 7.9.4 Continuances).
 7. The Board may issue its decision at the close of the hearing or at a later date, not to exceed thirty (30) days following the date of the hearing or any continuation. The decision shall be in writing, but need not contain detailed findings of fact or conclusions of law, and shall be delivered or mailed to the Owner and owner's attorney on the date of issuance. The original copy of the decision shall be dated and signed by the presiding Officer and filed among the minutes of the Board of Directors. (Reference bylaw section 7.9.5 Decision)

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8. The Board may, with or without holding a hearing and at any time prior to rendering its Decision, accept from the Owner an Assurance of Voluntary Compliance in lieu of further proceedings, subject to reasonable terms and conditions. (Reference bylaw section 7.9.6 Assurance of Voluntary Compliance in Lieu of Hearing).
9. In addition to the rights, remedies and procedures described above, the Club may, with the consent of an affected Owner and/or any other interested party, agree to resolve any dispute through mediation, binding or non-binding arbitration, or such other alternative dispute resolution mechanism as may be deemed appropriate, at the discretion of the Board. (Reference bylaw section 7.10 Alternative Forms of Dispute Resolution Authorized).
10. The following sections, but not limited to the following sections, of Revised and Restated Bylaws of Birch Bay Village Community Club, Inc. may also apply.
 - (a) Section 4.5.2 Rights and Privileges—Conditioned on Compliance with Governing Documents.
 - (b) Section 7.6 Liability for Conduct Causing Common Expense.
11. A notice similar to “attachment 1” contained herein shall be delivered in the manner decied in section 3 of this document pursuant to bylaw section 7.9.1 Notice of Hearing.
12. All documents, correspondence and records having to do with the alleged offence shall be held in the Clubs records for no less than 5 years including copies of the correspondence required in section 7 of this document.

II. Process for Levying Fines Related to “Member Not in Good Standing”

1. Failure to comply with declaration of the Board described in Section I of this document will constitute an automatic fine without further review of the Board if;
 - a. Not correction within 30 days of the Declaration or if,
 - b. Not correction within the time limit set by the Declaration (not be less than 30 days of the Declaration).

Then;

2. A fine of \$500.00 will be levied with,
3. An interest rate of 8% per annum for unpaid fines and,
4. For violations not corrected within 90 days, unless provided for in the Declaration, the Board will seek legal action.

DATE OF ADOPTION

_____, 2013

ATTEST:

SECRETARY

BIRCH BAY VILLAGE COMMUNITY CLUB, INC.

Attachment #1

TO: Owner(s) name(s)
Address

FROM: , General Manager

DATE

NOTICE OF HEARING

Name, Owner Div. XX, Lot YY, BBVCC

Is requested to appear before the Birch Bay Village Board of Directors, month day, 20__ @ 7:00 p.m. at the Birch Bay Village Clubhouse; Failure to Comply with Governing Documents, (specify/describe alleged violation)

The action proposed to be taken is a suspension of membership rights (declaring a member “not in good standing”) under sections 4.5.2, 7.5, 7.6 and/or other section(s) of the Bylaws that may apply.

Reference the following sections of Revised and Restated Bylaws of Birch Bay Village Community Club, Inc.

- 4.5.2 Rights and Privileges – Conditioned on Compliance with Governing Documents.
- 7.2 Legal Proceedings
- 7.3 Costs and Attorney’s fees
- 7.5 Fines
- 7.6 Liability for Conduct Causing Common Expense
- 7.9.2 Hearing Procedures.
- 7.9.3 Default
- 7.9.4 Continuances
- 7.9.5 Decision
- 7.9.6 Assurance of Voluntary Compliance in Lieu of Hearing
- 7.10 Alternative Forms of Dispute Resolution Authorized