Memo

To: Lesley Nalley, CEO
From: Linda Mayhood, COO
Date: June 21, 2017
Re: Motion – Approve revisions to Chapter One, Article 23, entitled Enforcement of the Declaration/Protective Covenants/Policies

Motion

I move to approve revisions to Chapter One, Article 23, Enforcement of the Declaration/Protective Covenants/Policies as follows:

Section 1. Purpose revised to include violations of rules and regulations, as defined in Article VIII, Section 3(j) of the Declaration.

Section 2. Enforcement revised to include:
- The Association’s right to impose reasonable monetary penalty for any single infraction, as authorized under Article VIII, Section 3(j).
- The administrative fees are applicable to members and/or contractors who fail to obtain the proper permits before beginning work or fail to adhere to the requirements of any approved permit. Enforcement may also include denial of future permits to the member and/or contractor.

Section 3. Implementation Authority is removed.

Adds new Section 3. Appeals Committee to include:
“The Appeals Committee provides a process by which members may appeal administrative fines assessed by the Property Owners’ Association for infractions as provided in Article VIII, Section 3(j) of the Hot Springs Village Covenants and Restrictions, Declaration, and published rules and regulations. The Appeals Committee is the authorized delegated representative of the Board of Directors and the decision of the Appeals Committee shall be final.”

Section 4. Administrative Fee is revised to read “The administrative fees are established by the Board of Directors in each year’s annual fee schedule and will be billed to the responsible party for all non-compliance infractions.”

Section 5. Conflict Resolution Through Mediation revised to “The POA may use an experienced mediator for conflicts”, and removed reference to the POA using a voluntary mediator for conflict resolution.

Section 6. Policy Compliance is deleted in its entirety.

Background
Staff has reviewed Chapter One, Article 23, Enforcement of the Declaration/Protective covenants/Policies, and recommends the above noted revisions to ensure the policy reflects current practice.

The proposed policy revisions were discussed at the May 17, 2017 regular board meeting.
ARTICLE 23
ENFORCEMENT OF THE DECLARATION/PROTECTIVE COVENANTS/POLICIES

Section 1. PURPOSE

The intent of this policy is to help ensure that conditions violating the Declaration, Protective Covenants, and Policies, and Rules and Regulations of the Hot Springs Village Property Owners’ Association are dealt with in a timely manner and that corrective actions are taken. It is also the intent of this policy that violators of the Declaration, Protective Covenants, and Policies, and Rules and Regulations are provided an adequate due process that includes the specifics of the violation, reasonable deadlines and information on the consequences for not complying.

Section 2. ENFORCEMENT PROVISIONS

It is the intent of the POA to use all available legal remedies at its disposal to seek correction of violations. Such remedies include, but are not limited, to the following:

A. Suspension of enjoyment rights as authorized under Article 8VIII, Section 3(c) of the Declaration. Suspension of enjoyment rights shall include the prohibited use of all amenities controlled through the Hot Springs Village Property Owners’ Association membership card including access at electronic gates.

B. Right to impose reasonable monetary penalty as authorized under Article VIII, Section 3(j) of the Declaration. The right of the Association by and through its authorized and delegated representatives to impose a reasonable monetary penalty for any single incident infraction as defined in its Protective Covenants and published rules and regulations, such monetary penalty not to exceed the amount of the annual assessment in effect at the time of such infraction.

C. The right of the Association to impose a reasonable monetary penalty on a daily basis for ongoing infractions as defined in the Association’s Protective Covenants and published rules and regulations which are not corrected within thirty (30) days of written notice of the infraction to the property owner. Accumulated monetary penalties for ongoing infractions shall not exceed five times the total of the annual assessment.

D. The correction of violations at the initial expense of the Property Owners’ Association, with the cost billed to the responsible party and, if unpaid, a lien filed against the property as authorized under Article XII, Section 1 and 2 of the Declaration.

E. Any legal recourse, including litigation, as authorized under Section 30 of the Protective Covenants.

Section 3. IMPLEMENTATION AUTHORITY

The performance of work to correct a violation by or through the POA estimated to cost less than $1,000 requires the approval of the General Manager. Suspension of enjoyment rights, litigation and the performance of work by or through the POA to correct a violation in excess of $1,000 requires Board approval.

Section 3. APPEALS COMMITTEE

The Appeals Committee provides a process by which members may appeal administrative fines assessed by the Property Owners’ Association for infractions as provided in Article VIII, Section 3(j) of the Hot Springs Village Covenants and Restrictions, Declaration, and published rules and regulations. The Appeals Committee is the authorized delegated representative of the Board of Directors and the decision of the Appeals Committee shall be final.
Section 4. **ADMINISTRATIVE FEE**

The actual costs incurred plus an appropriate administrative fees are established by the Board of Directors in each year's annual fee schedule and will be billed to the responsible party for all non-compliance violations. Actions requiring the POA to initially expend funds to satisfy the correction of a violation.

Section 5. **CONFLICT RESOLUTION THROUGH MEDIATION**

The POA suggests the use of an experienced mediator for conflicts between HSV property owners that are not the responsibility of the Architectural Control Committee, POA or standing POA advisory committee. This suggestion is made in an attempt to resolve conflicts fairly and timely and promote harmony among HSV citizens.

Section 6. **POLICY COMPLIANCE**

Procedures will be developed and maintained in order to comply with and guide enforcement staff in the execution of the above policies.

Adopted 2-18-04, 3-15-06