

NEWINGTON FOREST COMMUNITY ASSOCIATION, INC.

POLICY RESOLUTION NO. 13

(Policies and Procedures Relative to Inspection of Association Records)  
(11/19/19)

WHEREAS, the Virginia Code (Sections 55.1-1815 and 55.1-1945 obligates the Association to provide all members of the Association who are in good standing with the right to inspect certain records of the Association and receive copies thereof;

WHEREAS, the Virginia Code provides the Association with the right to impose and collect a charge for its services in connection with its responses to the requests of members who wish to inspect the records of the Association and receive copies thereof;

WHEREAS, the Board deems it to be necessary to establish policies and procedures necessary to balance the rights of the membership to inspect the Association's books and records with the Association's right to protect the membership as a whole from unnecessary costs incurred to satisfy numerous and voluminous individual requests for information; and

WHEREAS, the Bylaws of the Association (Section 7.01) indicate that the books, records, and papers of the Association shall at all times, during reasonable business hours, be subject to inspection by any member, and copies may be purchased at a reasonable cost.

NOW, THEREFORE, BE IT RESOLVED THAT:

A. ACCESS TO RECORDS

1. For the purpose of this resolution, the term "Member" shall mean and refer to a member of the Newington Forest Community Association, Inc.
2. The Virginia Code provides the Association with the power to refuse acceptance of any verbal request for an inspection of the records of the Association or copies thereof. The Association reserves this power.
3. The Virginia Code requires the Member who wishes to inspect or copy records of the Association to provide the Association with at least **ten (10)** days written advance notification of the records he/she wishes to inspect or copy. In order to expedite the prompt processing of such written requests, the Association shall require Members to file the attached application form or to provide the information required therein in writing. See Exhibit A.

4. The Virginia Code allows the Association to withhold certain records from inspection and copying. These “exempt records” are those which concern:
  - a. Personnel matters related to specific, identified persons or a person’s medical records.
  - b. Contracts, leases, and other commercial transactions to purchase or provide goods or services, currently in or under negotiation.
  - c. Pending or probable litigation. Probable litigation means those instances where there has been a specific threat of litigation from a party or the legal counsel of a party.
  - d. Matters involving state or local administrative or other formal proceedings before a government tribunal for enforcement of the Association documents or rules and regulations promulgated pursuant to Section 55.1-1819 of the Virginia Code.
  - e. Communications with legal counsel that relate to items A.4 a. through d. (above) or that are protected by the attorney-client privilege or the attorney work product doctrine.
  - f. Disclosure of information in violation of law.
  - g. Meeting minutes or other confidential records of an executive session of the Board of Directors held in accordance with subsection C of Section 55.1-1816. Specifically, Section 55.1-1816 C. indicates that the Board of Directors or any subcommittee or other committee may convene in executive session to consider personnel matters; consult with legal counsel; discuss and consider contracts, pending or probable litigation and matters involving violations of the Declaration or rules and regulations adopted pursuant to such declaration for which a member or his family members, tenants, guests or other invitees are responsible; or discuss and consider the personal liability of the members to the Association.
  - h. Documentation, correspondence or management or board reports compiled for or on behalf of the Association or the Board by its agents or committees for consideration by the Board in executive session.
  - i. Individual unit Owner or member files, other than those of the requesting lot Owner, including any individual lot Owner’s or member’s files kept by or on behalf of the Association.

The Association’s staff shall immediately refer any requests for exempt records to the Board of Directors for review. Such requests shall usually not be favored unless advice from the Association’s legal counsel indicates it would be prudent

to avoid litigation on a specific written request for information or some part of a written request. In the event that the law firm recommends that the Board provide exempt records or a court orders the Association to provide any records to any interested party or to a Member that has outstanding assessments, the staff shall not waive any of the costs incurred by the Association to produce the records in accordance with the requirements of Section 55.1-1815.

#### B. PROCEDURES FOR INSPECTION OR COPIES OF RECORDS

1. The Board of Directors directs the Association's staff to exercise its best efforts to accommodate Members who request a small number (one (1) or two (2) items) of copies of readily-available records even when the Member does not provide prior written notice to the Association's management office. For example, if the requested records are already available on the Association's website, staff shall advise the Member of this situation, and the Member may access the information using the Association's computer that is available in the Community Center or the information may be emailed to the Member if an electronic file exists on the server that is available only to staff. Staff is not required to immediately search for or provide immediate access to items that are on restricted-access areas of the Association's server to fulfill verbal requests. The Association reserves the power to refuse to accommodate any Member who makes repetitive or duplicate verbal requests or behaves in a manner which disrupts the ability of the staff to return to the performance of their routine functions. The Community Manager shall have the authority to deny all verbal requests, and he/she does not need to provide a Member with an explanation for the denial.
2. Per Section 13.1-934, the Association may impose a reasonable charge, covering the costs of labor and material, for copies of any documents provided to a Member. The charge may not exceed the estimated cost of production, reproduction, and transmission of the records. Per Section 55.1-1815, prior to providing the copies of any books and records, the Association may impose and collect a charge reflecting the reasonable costs of materials and labor. See Exhibit B for a cost schedule.

#### C. APPLICATION FOR INSPECTION/COPIES OF RECORDS

1. Members who seek to inspect and/or receive copies of any Records of the Association must submit an application to the Association's Community Manager. **MEMBERS MUST MAKE ALL APPLICATIONS IN WRITING** and either mail or hand-deliver the application to the Association's management office.

Members must specify in their application whether they desire to inspect the desired records in the Association's management office or whether they desire the Association's staff to make copies of the specified records for them. Members may use their camera to make copies during an inspection in lieu of hard copies

produced by the staff. Members may also request that they be emailed electronic copies of records if they already exist. However, the Association will not provide electronic devices with the information on them, e.g., thumb drives, or accept devices from the Member and load information on them. The staff shall only email files to the Member.

2. Members must state with specificity in their application which records of the Association they seek to inspect or copy. The Community Manager shall **within ten (10) business days** return to the requesting Member any application which fails to adequately specify which records are sought.
3. Members who opt to inspect Association records at the management office must state the amount of time they desire for inspection in their application. In order to ensure efficiency of the staff operations, the Association will **strictly limit Members to their stated time for inspection, regardless of whether they have completed their inspection**. Members who desire more time for inspection than they initially requested on their application must complete a new application for inspection, and the Association shall arrange for an alternate date.
4. The Community Manager shall have the authority to determine if an application is complete or incomplete. Upon receipt of an incomplete application, the Community Manager shall return to the Member the incomplete application with accompanying correspondence which states why the application is incomplete. If an application is complete for some requested items, the correspondence shall identify which items are available, and the Member may schedule a time to examine or pick up these copies.<sup>1</sup> A copy of this correspondence shall be given to each Board member.

#### D. INSPECTION OF RECORDS AND RECEIVING COPIES OF RECORDS

1. A Member shall assume the application is complete if it has not been returned by mail within **ten (10)** calendar days. Members **must** contact the Community Manager after submitting a complete application to arrange a mutually-convenient time, **during normal business hours**, and date when the requested records will be made available for inspection by the Member and/or copies of records will be available for the Member to pick up at the Association office. **Members may request to have copies of the Records mailed to them at their expense.**
2. Members shall be responsible for all administrative costs which the Association incurs when it makes the copies of the requested records or makes them available for inspection. Changes in these rates shall be noticed in the Association's newsletter.

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<sup>1</sup> E.g., the Member requests electronic copies, if available, but does not provide an email address. Items requested in hard copy or for inspection in the same written application shall be made available to the Member.

3. Members will receive an estimate of costs and shall pay all relevant charges associated with inspection of Association records and/or copying of Association records in cash before the Association undertakes any services. If a Member uses less time to conduct an inspection of the records than requested in their application, the Association shall refund a proportional amount of the cost associated with the inspection phase of the records at the Association's office. The member will be charged the full administrative cost of preparing, obtaining, and searching for the records for the inspection regardless of how much time the Member uses examining the records.

Changes in the rates identified in Exhibit B shall be noticed in the Association's newsletter.

4. The Association shall not have any obligations to create documents in response to any Member's request for records. The Association staff shall not have any obligation to make photographs or create electronic versions of any requested records.
5. This policy resolution does not apply to Board members or committee chairs involved in the completion of their responsibilities/duties.

EFFECTIVE DATE OF RESOLUTION

I hereby certify that this Policy Resolution was duly amended and adopted by the Board of Directors at a regular meeting on November 19, 2019.

NEWINGTON FOREST COMMUNITY  
ASSOCIATION, INC.

By: \_\_\_\_\_  
Clayton A. Vieg, President

EXHIBIT A

NEWINGTON FOREST COMMUNITY ASSOCIATION, INC.

**Application for Inspection/Copies of Association Records**

1. Name: \_\_\_\_\_

2. Lot Address: \_\_\_\_\_

3. Mailing Address: \_\_\_\_\_

4. Email: \_\_\_\_\_

5. Phone No: \_\_\_\_\_

(Items 4 and 5 above are optional information.)

6. Association Records Requested (Must specifically state which records are requested; nonspecific requests will be denied.):

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7. I request that copies of these records be made for me subject to administrative and copy charges:

Yes / No (Please circle answer)

8. I request that these records be made available to me for inspection at the Association's management office (subject to administrative charges):

Yes / No (Please circle answer)

I will require \_\_\_\_\_ minutes to inspect the records.

7. I request electronic copies of these records if they already exist (subject to administrative charges).

Yes / No (Please circle answer)

8. I understand that the cost of providing these records will require payment prior to receipt of the records. See Appendix B for the cost schedule.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

