

MCNAIR FARMS COMMUNITY ASSOCIATION, INC.

POLICY RESOLUTION NO. 12-_____

(Procedures Related to the Submission and Resolution of Complaints)

WHEREAS, Article IV, Section 4.01 of the Bylaws of McNair Farms Community Association, Inc. (“Bylaws”) provides that the Board of Directors (“Board”) may exercise all of the powers of the Association, except such as are, by the laws of Virginia, the Articles of Incorporation, the Declaration or the Bylaws, conferred upon or reserved to the Members; and

WHEREAS, Section 55-530(E) of the Virginia Code requires the Association to establish reasonable procedures to resolve written complaints from the members of the Association or other citizens; and

WHEREAS, Section 18VAC48-70-10, *et seq.*, of the Virginia Administrative Code requires the Association to enact procedures governing the receipt and adjudication of written complaints required by September 28, 2012 and outlines the requirements for the content of such complaint procedures; and

WHEREAS, the Board has adopted a policy resolution requiring all complaints to be submitted to the Association’s Board of Directors in writing and establishing reasonable procedures governing the resolution of these written complaints so as to comply with the requirements of the governing documents and Virginia law.

NOW, THEREFORE, BE IT RESOLVED THAT the Board adopts the following policy:

1. **Complaint Must Be in Writing.** The Association shall act only on written complaints submitted to the Board in accordance with the procedures set forth in this Resolution. The Board has the discretion to act on verbal complaints if it believes the matter can be quickly resolved. However, the Board reserves the right to withhold action and require the complainant to submit a written complaint as provided for in this resolution.
2. **Complaint Form.** If an owner, resident or other person wishes to submit a formal complaint to the Association, such persons must complete the written complaint form attached hereto as Exhibit A and submit the complaint form to the Association’s management.
3. **Where Complaints Should be Sent.** All written complaints must be sent by United States Postal Service mail, hand-delivery, or facsimile to the Association at the following location unless otherwise advised by the Association’s Board:

McNair Farms Community Association, Inc.
c/o Management Office
2491 McNair Farms Drive

Herndon, VA 20171
Facsimile: (703) 713-6164

4. **Required Information.** The complaint must allege that either the Association or a member of the Association (including its Board of Directors or Management) has acted in a manner that is inconsistent with applicable laws and regulations. All complaints shall include the following information or shall be deemed invalid:
 - 1) The name and address of the complainant;
 - 2) The nature of the alleged complaint, including the relevant times, dates and places involved;
 - 3) The applicable laws or provisions of the Association's governing documents the complaint concerns;
 - 4) The name and address of any other persons involved, if known;
 - 5) Any other information the complainant deems relevant for the Board's review;
 - 6) The signature of the complainant.
5. **Acknowledgment of Receipt.** Upon receipt of a valid written complaint, the Association shall provide written notice acknowledging receipt of the complaint within seven (7) days of receipt of a completed Complaint Form.
6. **Association's Form of Correspondence.** The Association shall deliver written notice to the complainant by certified mail or hand-delivery, unless the complainant either has: (1) notified the Association that they consent to receiving written communications electronically; or (2) such method of communication is consistent with procedures that have been adopted by the Association's Board of Directors.
7. **Incomplete Complaint.** If the Association deems the complaint to be incomplete, the Association shall notify the complainant within seven (7) days of receipt of the submission. The notification shall state the additional information the complainant needs to provide to the Association to complete the Complaint Form. The complainant shall have an additional thirty (30) days to submit a completed Complaint Form. If a completed Complaint Form is not received within the 30-day time frame, the Association shall notify the complainant that a valid written complaint was not received and the matter is deemed closed. If the additional information is received within the 30-day time frame, the Association shall send acknowledgement of receipt as identified in Section 5 above and commence with investigation described in Section 8 below.
8. **Investigation Period.** Upon receipt of a valid written complaint, the Association shall investigate and resolve the complaint. The Board may contact the complainant in order to conduct its investigation. The complainant is obligated to cooperate with the Association's investigation. If the complainant does not cooperate, the Association may close the matter for failure to cooperate.

9. **Conclusion of Investigation.** The Association will conclude its investigation within 30 days of its receipt of the valid written complaint, unless the Association deems that more time is necessary to conclude the investigation.

10. **Matters Not Involving Allegations of Violations by Other Residents.**
 - A. **Notice.** If the complaint involves a matter that does not involve an allegation that an owner or resident is in violation of the Association's governing documents, or duly-adopted policies, rules or regulations, once the investigation is complete, the Board of Directors shall notify the complainant of the time, place and location that the matter will be considered by the Board.

 - B. **Hearing.** The Board shall conduct a hearing on the alleged complaint. The complainant may present any evidence the complainant deems relevant to the subject of his complaint. The Board of Directors may question the complainant or any other persons it believes may have information relevant to the complaint. After all parties have presented evidence, the Board shall meet in executive session to consider the evidence.

 - C. **Notice of Final Determination.** Following the conclusion of the hearing, the Board shall send the complainant a Notice of Final Determination within seven days after the hearing date. The Notice of Final Determination shall notify the complainant of the Board's decision, the provisions in the governing documents, the Act or rules and regulations upon which the Board relied in reaching its decision, the registration number of the Association, and shall notify the complainant of his or her right to file a Notice of Final Adverse Decision as set forth in paragraph 12 below. If applicable, the Association shall provide the name and license number of the common interest community manager involved.

11. **Matters Involving Allegations of Violations by Other Residents.**
 - A. **Notice.** If the complaint involves an alleged violation of the Association's governing documents, or duly-adopted policies, rules or regulations and the Association determines that there is sufficient evidence to establish probable cause that such a violation may exist, the Association will initiate an enforcement action against the appropriate party in accordance with its policy resolution that creates policies and procedures to ensure due process in enforcement cases. In such cases, the complainant shall receive a copy of the notice of violation. The notice will be dated as of the date of issuance and shall include specific citations to applicable association governing documents, laws, or regulation that led to the final determination, as well as the registration number of the Association.

 - B. **Hearing.** A hearing will be called in accordance with the Association's policy resolution that creates policies and procedures to ensure due process in enforcement cases.

C. **Notice of Final Determination.** Following the conclusion of the hearing, the Board shall send the complainant a Notice of Final Determination within seven days after the hearing date. The Notice of Final Determination shall notify the complainant of the Board's decision, the provisions in the governing documents, the Act or rules and regulations upon which the Board relied in reaching its decision, the registration number of the Association, and shall notify the complainant of his or her right to file a Notice of Final Adverse Decision as set forth in paragraph 12 below. If applicable, the Association shall provide the name and license number of the common interest community manager involved.

12. **Referral to Ombudsman.** The Notice of Final Determination shall advise the complainant of his or her right to file a Notice of Final Adverse Decision to the Office of the Common Interest Community Ombudsman at the below address:

Virginia Common Interest Community Ombudsman
9960 Mayland Drive, Suite 400
Richmond, Virginia 23233-1463
Phone: 804-367-2941
Email: CICOmbudsman@dpor.virginia.gov

13. **Record Keeping.** The Association shall maintain a record of the complaint for no less than one year from the date that the Association takes action on said complaint.

14. **Availability.** A copy of these procedures shall be made available to all owners and citizens upon request and on the Association's website.

15. **Resale Disclosure Packet.** A copy of these procedures shall be included in any resale disclosure packet issued after the effective date below.

16. **Annual report.** The Association shall certify with each annual report filing that the Association complaint procedure has been adopted and is in effect.

This policy resolution shall become effective on July 18, 2012.

**MCNAIR FARMS COMMUNITY
ASSOCIATION, INC.**

By _____


Board President

Exhibit A
MCNAIR FARMS COMMUNITY ASSOCIATION, INC.

COMPLAINT FORM

(To comply with Section 55-530 of the Virginia Code and 18 VAC 48-70-10, *et seq.*)

You may use this form to file a complaint concerning McNair Farms Community Association, Inc. (the "Association"). Should you choose to file a complaint using this form, please complete, sign and date this form and mail or fax it to the Association's common interest community manager at the address below:

McNair Farms Community Association, Inc.
Attn: Management Staff
2491 McNair Farms Drive
Herndon, VA 20171
Facsimile: (703) 713-6164

Name of Complainant(s): _____

Address: _____

Phone: (Home) _____ (Work) _____
(Mobile) _____ (Email) _____

Preferred method of communication: _____ Writing _____ E-mail _____

Please describe the nature of your complaint and cite any provisions of the Association Documents or applicable statute or regulations that is the basis for your complaint (please attach all documents and communications supporting your complaint – you may use additional pages):

Name and address of persons that are the subject of complaint: _____

Description of Relief Being Sought by Complainant or Requested Action: _____

Be advised, the Association may elect not to take action on any complaint which does not conform to the above-referenced delivery requirements or include the requested information on this form.

The Association will provide written acknowledgement of receipt of the form within 7 days via certified mail, hand delivery, or electronic means, if applicable. If additional information is required, you will be notified in accordance with Section 7 of the Association's procedures.

The Association will investigate your complaint when it has received a valid written complaint.

The Association will conclude its investigation within 30 days of its receipt of your valid written complaint. Once investigation is concluded, you will be notified of when and where your matter will be reviewed by the Board (or other body, if applicable).

After the Board has made its final determination, the Board will send you a written Notice of Final Determination within 7 days of the decision by either via certified mail, hand delivery, or electronic means, if applicable.

Once you have received a Notice of Final Determination, you have the right to contact the Office of the Common Interest Community Ombudsman. In accordance with the Common Interest Community Board's ("CIC Board") rules and procedures and Va Code § 55-530, you may give notice to the CIC Board of any final adverse decision which your Association may make regarding your complaint. You must file the notice within 30 days of the final adverse decision. Your notice must be in writing on forms prescribed by the Commonwealth Board, shall include copies of all records pertinent to the decision, and shall be accompanied by a \$25 filing fee. The Commonwealth Board may, for good cause shown, waive or refund the filing fee upon a finding that payment of the filing fee will cause you undue financial hardship. For more information or to submit a complaint to the Common Interest Community Ombudsman, please contact the Office of the Common Interest Community Ombudsman at:

Virginia Common Interest Community Ombudsman
9960 Mayland Drive, Suite 400
Richmond, Virginia 23233-1463
Phone: 804-367-2941
Email: CICOmbudsman@dpor.virginia.gov

You must date and sign this form. Anonymous complaints will not be accepted.

Signature: _____

Date: _____

The Association will maintain a record of your complaint for one year from the date upon which it takes action to resolve your complaint.

To be completed by Association representative only

Received by: _____

Date: _____