

EVANS MILL OWNERS ASSOCIATION, INC.

ADJUDICATORY PROCEDURES

I. Adjudicatory Matters

The Board of Directors of the Evans Mill Owners Association, Inc. (hereinafter referred to as the "Board"), being unable to appoint a sufficient number of property owners to an adjudicatory panel, shall hear all matters under North Carolina General Statute Section 47F-3-102 (11) and (12), other than assessment of late payment penalties for dues, which action does not require a hearing.

II. Notice and Conduct of Hearings

A. For alleged violations of the Evans Mill Protective Covenants and Amendments thereto, and Rules and Regulations of the By-laws of Evans Mill Owners Association ("EMOA"), a NOTICE of the alleged violation shall be sent by the Board or its representative to the property owner(s) by certified mail, return receipt requested, and by regular mail. The mail sent according to this provision shall be addressed to the property owner(s) and posted to the address on file with, and maintained by, the EMOA. Mail deposited pursuant to this section with the United States Postal Service shall constitute and be deemed to be NOTICE under the provisions of N.C.G.S., Section 47F-3-102(11) and (12).

B. Hand delivery of such NOTICE to the property owner or any of them if there be more than one of them, by any person over the age of eighteen (18) years shall also constitute and be deemed to be NOTICE under said provision and eliminates the requirements in the aforementioned subparagraph A.

C. A copy of the NOTICE, addressed to the property owner(s), shall be given to the Board and maintained by it at the EMOA office.

D. The Board shall schedule a hearing on the matter pursuant to subparagraph E below, to be held within thirty (30) days after NOTICE is mailed by the Board.

E. Hearings shall be held at the office of the EMOA at any reasonable date and hour as set by the Board. The Board shall nominate and appoint a representative to present the Board's position as to alleged violations referenced in Section II A; said appointee may, but does not have to be, a member of the Board. A notice of the time and date and appointed Board Representative for the hearing shall be delivered to the subject property owner(s) as set forth in Sections II A or B above. The property owner(s) may request by written application to the Board a postponement, at the discretion of the Board, not to exceed an additional fifteen (15) days. An alternate date for the hearing, as selected by the Board, shall be acknowledged by the property owner(s) in writing.

III. Hearings (Contested)

A. At the time and date set for the hearing, the Board shall appoint a Chairperson, who shall call the session to order. The Board shall appoint a Secretary for the hearing, who shall be responsible for taking the minutes of the meeting.

B. The appointed representative of the Board shall first present the Board's position on the matter. The presentation may consist of oral testimony, photographs, charts, graphs or any combination thereof, or any other evidence deemed material and competent by the Board.

1. The property owner(s) shall have the right to address reasonable questions to any EMOA witnesses.
2. The property owner(s) shall have the right to object to the entry of particular evidence in the proceeding or its consideration by the Board.
3. All evidentiary rulings will be made by the appointed Chairperson, or in the absence of the Chairperson by the appointed Vice Chairperson, of the Board.
4. Evidence of a kind commonly relied upon by reasonably prudent persons in the conduct of serious affairs shall be the evidentiary standard applied in the making of evidentiary rulings.

C. At the conclusion of the presentation by the representative of the Board, the property owner(s) shall have the right to be heard by the Board, if the property owner(s) so choose(s). The property owner(s) shall have an equal opportunity to present information to such Panel through oral testimony, photographs, charts, graphs or any combination thereof, or any other evidence deemed material and competent by the Board.

1. The representative of the Board shall have the right to address reasonable questions to the property owner(s) and their witnesses, if any.
2. The representative of the Board shall have the right to object to the entry of particular evidence in the proceeding or its consideration by the Adjudicatory Panel.
3. All evidentiary rulings will be made by the appointed Chairperson, or in the absence of the Chairperson by the appointed Vice Chairperson, of the Board.
4. Evidence of a kind commonly relied upon by reasonably prudent persons in the conduct of serious affairs shall be the evidentiary standard applied in the making of evidentiary rulings.

D. At the conclusion of the property owner(s) presentation, the representative of the said Board and the property owner(s) shall each have an opportunity to present a brief, oral summation to the Adjudicatory Panel.

E. At the conclusion of the summations, the appointed Chairperson, or in the absence of the Chairperson, by the appointed Vice Chairperson, of the Board shall declare the hearing closed.

F. The members of the Board shall confer among themselves and shall then deliver a written decision as determined by a majority vote of the Board members, including findings of fact, and the imposition of any fines, suspensions, or penalties as provided by law in N.C.G.S. Section 47F-3-102 (11) or (12), within ten (10) working days after the conclusion of the hearing.

1. A copy of the decision shall be delivered to the representative of the Board.
2. A copy of the decision shall be sent to the property owner(s) in the manner set forth in Section II A or B above.
3. A copy of the decision shall be maintained by the Board in its records for a period of at least five (5) years.

G. With respect to any fines assessed under Section III Subsection F above, the subject Adjudicatory Panel may assess a fine of up to one hundred dollars (\$100.00) per violation and an additional fine of up to one hundred dollars (\$100.00) per day for each day that the violation remains uncorrected following delivery of such Board decision per Section II A or B above.

IV. Hearings (Uncontested)

A. If the property owner(s), after receiving NOTICE of the alleged violation of the Evans Mill Protective Covenants and Amendments thereto, and Rules and Regulations of the By-laws of the EMOA, does not wish to contest the violation, the property owner(s) may so notify the Board in writing within ten (10) days following such notification.

B. Upon receipt of such notice from the property owner(s), the Board shall duly set a hearing date and time to determine the fines and/or other penalties, if any, to be imposed for the violation.

C. Such hearing shall be conducted by the Adjudicatory Panel in accordance with Section III above, with the Board determining, in its discretion, the extent of evidence necessary to reach a decision.

D. The property owner(s) may decline to attend the hearing on the penalty, in which case the Board shall comply with all of the procedures made and adopted above and give notice of its decision in the manner set forth above in Section III.

Approved by the EMOA Board of Directors on this 6th day of December, 2010.

Keneth A. Rose
Secretary