

SEQUOIA FARMS OWNERS' ASSOCIATION

POLICY RESOLUTION NO. 17-03

RECORDING OF MEETINGS

WHEREAS, Sequoia Farms Owners' Association ("the Association") is a property owners' association organized and operating pursuant to the Virginia Property Owners' Association Act ("Act") and the Declaration of Covenants and Restrictions for Sequoia Farms ("Declaration");

WHEREAS, Section 3.7 of the Association's Bylaws authorizes the Association's Board of Directors ("Board") to exercise on behalf of the Association all rights, powers and authority of the Association except where specifically reserved to the membership under the Declaration, Articles of Incorporation or applicable law;

WHEREAS, Article IX, Section 2 of the Declaration provides that each Owner is governed by, and must comply with, the Declaration and the Association's Articles of Incorporation, Bylaws and Rules and Regulations, as amended from time to time;

WHEREAS, Section 55-510.1 of the Act provides that members of a property owners' association may record any portion of board meetings or committee meetings that are required to be open by the Act, subject, however, to rules adopted by the board regarding providing notice of recordation and regarding the placement and use of recording equipment; and

WHEREAS, the Board has determined that it is in the best interests of the Association to adopt rules applicable to the recordation of meetings in order to promote the orderly conduct of meetings.

NOW, THEREFORE, IT IS RESOLVED THAT the Board of Directors hereby adopts the following policies and procedures as part of the Association's Rules and Regulations:

Definitions. Unless otherwise defined in this Policy, the words, terms or phrases used in this Policy shall have the same meanings as defined in the Declaration.

- I. **General Prohibition.** The recording of any Association, Board or committee meeting in any form or format is strictly prohibited except: (i) as specified below in these rules, or (ii) as approved in writing in advance by the Board.
- II. **Recording of Board and Committee Meetings.** Only Members of the Association as defined in the Association's Declaration (*i.e.*, Owners of Lots) may make a recording of any portion of a Board or committee meeting that is required to be open under Section 55-510.1 of the Act. Any such recording is subject, however, to the following requirements:
 - A. **Set Up and Notice.**
 1. Members are prohibited from secretly recording meetings.
 2. A Member is allowed to use only one recording device during a meeting. Use of artificial lighting is prohibited (other than the meeting room's regular lighting).
 3. A Member desiring to record any part of the open portion of a Board or committee meeting shall arrive at the designated meeting place at least 10 minutes prior to the scheduled start

time of the meeting to set up and test their recording device.

4. No Member is allowed to record any portion of a meeting unless, immediately prior to or after the meeting is called to order, that Member identifies him or herself by name and address and states their intent to record the meeting.

B. Placement. All recording devices used by Members must remain in open view and must remain stationary throughout the meeting. Unless otherwise specified by the presiding officer or, with such officer's concurrence, by the Association's management agent ("Managing Agent"), a recording device must:

1. Be placed on a tripod (or other appropriate mounting equipment) and located in a specified, unobtrusive place so as not to disrupt the meeting or proceedings; or
2. Be held stationary by the Member recording the meeting at their seat and in open view. The Member recording the meeting must remain in their seat while operating the device and may not move about the room, or "pan" around the room, during recording.

C. Announcement & Activation of Recording Device.

1. *Immediately prior to or after calling the meeting to order*, any Member intending to record the meeting must ask to be recognized from the floor and then must identify him or herself by name and address and state that their intention to record the meeting.
 - a. If the Member fails or refuses to identify him or herself, that Member shall not be allowed to record the Meeting. That Member shall not activate (turn on) the recording device, but shall keep it in the same location during the meeting per Section B above, unless or until the Member leaves the meeting. The presiding officer, or someone designated by the presiding officer, shall have the right to independently verify that the recording device is not recording and to turn it off if the Member fails to do so.
2. *After a Member has announced their intent to record per the above*, that Member may then activate their recording device at that time (*i.e.*, begin recording).

D. Interference with Meeting Prohibited. A Member's placement or use of a recording device shall not interfere with the conduct of the meeting.

1. All recording devices used by Members must be of such nature, size, and type as to not interfere with the course of a meeting, hinder other authorized recordings of the meeting, or interfere with another attendee's ability to see or hear the proceedings.
2. Once placed in a location per Section B above, the recording device shall *remain stationary* in that location while recording. Although the Member may check their recording device as may be necessary to ensure that it is functioning properly, he or she may not move the equipment about during the recording and may not "pan" the recording device throughout the room.
3. The recording device shall *not emit a noise during recording that disrupts or interferes* with the meeting or the ability of an attendee to hear what is being said.
 - a. For instance, if a person in attendance states that the noise is making it difficult for them to hear something that is being said during the meeting, and the presiding officer concurs in the reasonableness of that statement, it shall be sufficient cause for the presiding officer to require the recording device to be turned off the rest of the meeting if the noise cannot be immediately stopped from re-occurring.

4. If a Member must attend to his or her recording device during the meeting (to ensure that it is functioning properly), the Member must do so in a manner that does not interfere with the meeting. For instance, the Member shall not request that the meeting be recessed, delayed or otherwise interrupted so that he or she can change a tape, battery or other equipment or make other adjustments to his or her recording device.
- E. Use of Recordings. The Association is a private entity, and meetings of the Association, Board and committees are held to carry out the business of the Association. These meetings are not public meetings, and Members of the Association have the right to attend them, rather than members of the general public. As such, Members who make recordings of meetings are prohibited from disseminating, distributing or otherwise making them available in any form to the public or to otherwise use these recordings for purposes other than those related directly to Association business or the Member's membership in the Association. The approved minutes of said meetings remain the official Association record of the proceedings. [This restriction on the use of recordings does not prevent recordings authorized under these rules from being disclosed to a court or investigating governmental entity, or when compelled to produce them in accordance with applicable law.]
- F. Executive Session.
1. The Member shall not in any manner attempt to record any portion of an executive session.
 2. The Member using a recording device shall stop the device from recording immediately upon the Board or committee making and approving a motion to convene into executive (*i.e.*, closed) session, and shall remove the recording device from the meeting room prior to the start of an executive session and shall keep it out of the room for the duration of the executive session. If the Member intends to start recording again after the end of the executive session, then the Member may leave any necessary power cord and non-recording accessory equipment in the room in order to facilitate the Member's quick set-up of the recording device after the executive session concludes.
- G. Loss, Damage or Mechanical Errors. Neither the Association, Managing Agent, directors, officers nor committee members have any responsibility for safeguarding a recording device, accessories or the actual recording from any loss, theft or damage. The Member using the recording device shall also be solely responsible for any errors that occur in the recording process. No portion of any meeting shall be repeated nor shall a meeting be stopped, delayed or otherwise interrupted based upon the failure of a Member's recording device, whether the result of human error or mechanical error.
- H. Violations.
1. If the Board or committee determines that an individual is interfering with a meeting based on his or her use of a recording device or is otherwise violating these rules, then the Board or committee (or the presiding officer or chairperson) shall have the authority to prohibit that individual from recording (or continuing to record) that meeting. If the individual refuses to stop recording, or refuses to allow the Board, committee, Managing Agent or other designated representative to confirm that the individual's device is not recording, then that individual

shall immediately leave the meeting room or premises without disruption (taking his/her recording devices and accessory equipment as the individual departs) upon instruction to do so by the Board's presiding officer, the committee chairperson, the Managing Agent or other designated representative. Failure to immediately leave may result in requesting assistance from local law enforcement or an appointed sergeant-at-arms (if any) to compel removal from the premises.

2. If an individual records a meeting in violation of these rules, the contents of the recording shall not be copied or disseminated in any fashion and shall be immediately destroyed by the individual who made the recording or, if that individual fails or refuses to do so, then destroyed by a representative of the Association (e.g., by overwriting the recording or other means). *If there is a known dispute over whether the recording was made in violation of these rules, the recording (e.g., memory chip or recording device) shall be turned over to and held by the Association's Managing Agent (or other person designated by the presiding officer) until directed otherwise by the Board upon resolution of the dispute.*
3. In addition to the above-referenced remedies, the Board reserves the right to take other enforcement action including, but not limited to, legal action and assessing a violation charge against the responsible Member after providing written notice and an opportunity for a hearing in accordance with applicable Board-adopted enforcement procedures.

III. Recording of Association Meetings. Only Members of the Association may record all or part of an Association meeting (such as the annual meeting). Any such recording is subject, however, to the requirements and remedies specified in the above Sections, except that for purposes of Association meetings: (i) a non-compliant Member can be required to leave the meeting room upon proper motion made and approved from the floor, and (ii) a non-compliant non-Member can be required to leave the room upon the presiding officer's instruction to do so.

IV. Applicability. Other than the prohibition against emitting a noise that disrupts or interferes with the meeting or the ability of anyone to hear what is being said, the above-referenced rules do not apply to recordings being made by a Board or committee-authorized individual (such as a recording secretary), if any, for purposes of facilitating the drafting of meeting minutes.

V. Adopted Committee Rules, Guidelines or Charters. In the event of any conflict between the terms of any previously-adopted rules, policies or charters and the terms of these rules related to the recording of meetings, the terms of these rules shall control.

EFFECTIVE DATE OF RESOLUTION

The effective date of this Resolution shall be May 17, 2017.

**SEQUOIA FARMS OWNERS' ASSOCIATION
RESOLUTION ACTION RECORD**

Resolution Type: Policy No. 17-03

Pertaining to: Recording of Meetings

Duly adopted by the Board of Directors of Sequoia Farms Owners' Association on May 17, 2017,
by [check applicable]:

- majority vote at a Board meeting, or
 by unanimous written consent through an action without a meeting.

Motion by: Tom Colonna Seconded by: Ed Nuttall.

	VOTE:			
	YES	NO	ABSTAIN	ABSENT
<u>Rie Miller</u> Director	X			
<u>Dasin Reale</u> Director	^			
<u>Ed Nuttall</u> Director	X			
<u>Tom Colonna</u> Director	X			
_____ Director				

ATTEST:

Rie Miller
President

May 17, 2017
Date

Resolution effective: May 17, 2017.

FOR ASSOCIATION RECORDS

I hereby certify that a copy of the foregoing Policy Resolution was mailed on _____, 2017 by first-class, postage prepaid, US Mail to all Owners as reflected in the Association's books and records.



Managing Agent
Sequoia Farms Owners' Association