

THE UNIT OWNERS ASSOCIATION OF BALDWIN GROVE, A CONDOMINIUM

Regulatory Resolution No. 2020 - 1

Smoking Restrictions

WHEREAS, Baldwin Grove Condominium was created by a Declaration filed in the land records of Fairfax County at Book 8351, Page 0230, and Bylaws of a Unit Owners Association filed and recorded concurrently therewith setting forth the powers, duties, procedures, policies and use restrictions of the Unit Owners Association of Baldwin Grove Condominium; and,

WHEREAS, Article III, Section 2(f) of the Bylaws states that the Board of Directors shall have the power to “[m]ake and amend the Rules and Regulations”; and,

WHEREAS, it is the determination of the Board of Directors that smoking of tobacco and other substances on the common elements of the Condominium is an “offensive” use of the Condominium property and therefore contrary to Article XI, Section 1(c) of the Bylaws (*Use Restrictions on Unit and Common Elements*), inasmuch as it creates objectionable odors and smoke vapor that waft through the buildings; that the smoke created by the combustion of tobacco or other substances is credibly regarded to be carcinogenic and increases the risks of heart disease, cancer, asthma, pneumonia, bronchitis, etc.; and, that the habit or practice of smoking tobacco or other substances therefore interferes with the quiet enjoyment by other condominium residents of their use of the common elements and their dwellings; and,

WHEREAS, to the information and belief of the Board of Directors, there is currently no effective, practical and commercially reasonable device, equipment or system which can prevent smoke created by burning tobacco or other combustible material, or the smell thereof, from infiltrating throughout the common elements and from the common elements into the units; and,

WHEREAS, despite the current lawfulness of the aforementioned activity, both public and private sectors of American society have recognized since the 1980's the “offensive” nature of smoking as to its effects on non-smokers, and there has been a resulting social trend of increasing restrictions on smoking because of its objectionable odors and adverse health consequences to non-smokers (*e.g.*, prohibitions on smoking in commercial aircraft, public buildings, most restaurant establishments, most or all private and commercial office buildings, sports facilities, etc.); and,

WHEREAS, the Board of Directors is aware that as a result of the societal trends referenced above, the percentage of the United States population that regularly smokes tobacco is

significantly declining, currently being approximately 15%, down from 20% a decade ago; and,

WHEREAS, it is the Board of Directors' conviction and belief that governmentally-imposed smoking bans will in the foreseeable future be legislatively enacted to apply to multi-unit residential housing situations, predicated upon the same reasoning that has supported the outright bans or restrictions on smoking in other scenarios of American life (*see, e.g., Schuman v. Greenbelt Homes, Inc.*, 212 Md.App.451 (2013): "*This opinion does not pretend to be the final word on liability for secondhand smoke in multi-unit residential housing*"); and,

WHEREAS, for the foregoing reasons, and in view of the ongoing complaints received by the Board of Directors from non-smoking residents within the Baldwin Grove Condominium regarding the adverse effect of secondhand smoke on their quality of life, the Board of Directors deems it appropriate, justified and within its regulatory authority to restrict smoking of tobacco and other products on the common elements of Baldwin Grove Condominium;

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board of Directors, by the Virginia Condominium Act ("the Act"), the Declaration, the Bylaws and this Resolution, does hereby adopt, approve, and promulgate the following restrictions pertaining to tobacco use on the common elements of Baldwin Grove Condominium;

AND IT IS FURTHER RESOLVED THAT the restrictions set forth below shall be deemed a rule of the Association and enforceable as such pursuant to the remedies and process set forth at Article X, Section 1(g) of the Bylaws and Va. Code § 55.1-1959.

1. Smoking tobacco or any other substance within fifteen feet (15') of any condominium building is prohibited.
2. Accordingly, smoking is prohibited in the stairwells and breezeways of the condominium buildings.
3. Substances covered by this prohibition include, but are not limited to, tobacco, marijuana, incense and every other combustible substance, whether legal or illegal, in any of their various forms, variations or manifestations.
4. This prohibition extends to the use of any type of device or method by which the vaporous product (smoke) of such combustion is ingested, used or enjoyed by the user, including cigarettes, pipes of any type, cigars, *etc.*
5. This prohibition is a rule of the Association duly approved and adopted by the Board of Directors. Upon publication to the membership, it shall be enforceable as such pursuant to the remedies and process set forth at Article X, Section 1(g) of the Bylaws and Va. Code § 55.1-1959.

**THE UNIT OWNERS ASSOCIATION
BALDWIN GROVE, A CONDOMINIUM**

RESOLUTION ACTION RECORD

Resolution Type: Regulatory No. 2020 - 1

Pertaining to: Smoking Restrictions

Duly adopted at a meeting of the Board of Directors held January 28, 2020.

Motion by: Linda Thel Seconded by: Jesse Laswell

VOTE:

	YES	NO	ABSTAIN	ABSENT
<u>[Signature]</u> Director	/			
<u>[Signature]</u> Director	/			
<u>[Signature]</u> Director	/			
<u>[Signature]</u> Director	/			
<u>Ann Durham</u> Director				✓

ATTEST: [Signature] Secretary Date 1/28/2020

FILE:

Book of Minutes - 2020

Book of Resolutions:

Book No. Page No.

Regulatory _____

Resolution effective January 28, 2020.