

COUNCIL OF CO-OWNERS OF FAIRLINGTON ARBOR CONDOMINIUM
Administrative Policy Resolution No. 22-01

(Policy Relating to Application and Standards/ Requirements for Egress Window Emergency Exits and Egress Window Wells)

WHEREAS, Article IV, Section 3(f) of the Bylaws for Fairlington Arbor Condominium (“Association”) provides that the Board may make and amend rules and regulations to assist the Board in administering its powers and duties; and

WHEREAS, Article VI, Sections 3 and 4 provide that an Owner shall not make structural improvements, additions, modifications or alterations within or to the exterior of a Family Unit, patio, porch, window or exterior door without notifying the Council in writing and obtaining the Council’s written approval, and

WHEREAS, Article VI, Section 4 provides that the Board of Directors shall have authority to determine if a proposed change conforms to the architectural standards of the community and shall have the right and responsibility to establish policies regarding such changes; and

WHEREAS, the Board has become aware that certain owners may wish to seek approval for Egress window installations to mitigate potential safety issues related to the below grade living use of Arbor homes and the Board wishes to outline and adopt standards and requirements for application which minimize the use and visual impact of the Arbor’s common elements and landscaping, or are disruptive to the common elements or landscaping, particularly within the inner courts and other areas that are in plain sight of fellow residents and passer byers;

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board duly adopts the following rules and procedures:

I. Procedures

- A. Any Unit Owner who seeks to install an egress window (not a replacement) within a Unit to serve their Unit must apply to the Board of Directors for such an alteration and receive prior approval of the Board in writing, before commencement of work. No alternation will be approved unless it is in conformance with the Architectural guidelines and all applicable local and state codes.
- B. A Unit Owner must submit to the Board a detailed and complete application related to the window to receive consideration of the alteration, pursuant to any rules and regulations of the Council related to alterations that may be in effect at the time of application
- C. To be deemed complete, the application must include at a minimum:
 - i. Detailed drawings of the location, design and dimensions of the proposed window. The application must include both the excavation and installation plans, a detailed engineering drawing and projected final exterior appearance to include landscape plantings (including restoration of any disturbed land/landscaping and any proposed additional improvements for aesthetic appeal/screening). The preference is to receive a digital version of the plans.
 - ii. The name, contact information, licensing and insurance (certificate of insurance)

of the contractor proposed for the work. If there are landscaping alterations as part of the proposal, the contact and any licensing information of the professional landscaping company also needs to be provided.

- iii. The detailed scope of work which must be performed related to waterproofing of the building membrane. Exhibit A attached hereto is a suggestion of the proposed and approvable water proofing measures. Details related to any disruptions to landscaping and the proposed landscaping details must be included. Exhibit A attached hereto is a suggestion of the detailed information that is required for landscaping proposals.
 - iv. Description of the materials to be used.
 - v. Desired date of commencement of work.
 - vi. Executed License agreement (Exhibit B).
- D. Upon receipt of a completed application, the Board shall review the same and provide the Unit Owner with a decision, in writing, within forty-five (45) , days of confirmed receipt of the application by management.
- E. The Board will only review complete applications, as outlined in this policy. In the event an application is submitted but not complete, the Board will not review the application. The forty-five (45) day review period will only commence upon receipt and confirmation of the complete application by management.
- F. Any work performed without approval or any deviations from an approved application constitute violations of the Condominium Instruments. In this case, the Board may require the removal of any installation and restoration of all property to original condition, at the Unit Owners' sole cost.

II. Design and Other Requirements Specific to Egress Windows

The following specifications and requirements are applicable to obtain approval for any egress window:

- A. The proposed installation must be as unobtrusive as possible - essentially indistinguishable from an existing window well.
- B. Proposed installations may be located in the following areas of the Unit. Please carefully read additional information on preference and additional requirements depending on the location of the proposed installation:
 - i. In the rear of the Unit.
 1. Proposed installations in the rear of the Unit are preferred over other locations.
 - ii. On the side of the Unit (for end Units) with a landscaping plan to minimize the visibility of the window. The egress window shall be installed directly below an existing upper window to maintain the consistency of the outward appearance with other Fairlington units.
 - iii. In the front of the Unit.
 1. Front Unit installations will only be approved in the event the homeowner can prove there is an impediment that eliminated the rear of the Unit as an Option, see Section iv below for detail. An impediment explanation must be included in the application, as well as a landscaping plan to maintain the existing common element. The landscape plan should take into account

- existing vegetation in the court, maintain safe exit from the window, and if the vegetation dies, it shall be replaced at home owner expense.
- iv. Irreversible/Incontrovertible Impediment Requirement: In order for an installation location in the front of the unit to be approved the homeowner must prove an impediment that eliminated the rear location as an option. The Board has ultimate discretion on whether an impediment meets these criteria.
 1. Examples of an Incontrovertible Impediment:
 - a. Outside undergrade common utility that cannot be moved
 - b. No existing or qualified below grade window in the home.
 2. Examples which are not considered Incontrovertible Impediment cases:
 - a. A need to modify the patio area such as hardscaping or storage sheds.
 - b. A need to modify existing internal utilities (electric/plumbing).
 - c. A need to modify external HVAC system configurations.
- C. Only the semi-circle type of egress access well is allowed. The window well may not exceed the height of the neighboring existing window wells. No oversized window wells or window wells with dimensions larger than the minimum/standard size related to Arlington County code requirements will be approved.
- D. Unit Owners are required to have the exterior of the exposed wall water-proofed at the same time as installation of the egress window. Waterproofing will consist of, at a minimum, applying a concrete layer to the entire exposed wall and layer of tar sealant to the section where soil is going to be filled in next to the foundation. See Exhibit A for proposed scope of work related to water-proofing.
- E. The Unit Owner must use certified, licensed and appropriately insured and qualified contractors with reasonable experience installing egress windows. The Board reserves the right to deny an application if the proposed contractor does not meet these criteria, but the Board makes no guarantees or assurances related to the contractor's qualifications to perform the work. All risks related to selection of the contractor are those of the Unit Owner.
- F. There may be no more than one egress window and window well per unit.
- H. The window and well must satisfy all applicable legal requirements, including meeting other Architectural Guidelines and all Virginia and Arlington County Codes.
- I. Installation in the bottom of the window well must include a drain to a footer drain if it exists and place gravel in the bottom of the well to at least 3 inches in depth.
- J. Construction will only occur Monday - Friday, no weekend installations, during normal work hours (8 AM through 6 PM), or such other times as may be permitted in accordance with any other duly adopted rules and regulations of the Council related to construction work hours. This is to allow Fairlington Arbor staff to monitor any major construction activity.
- K. The Unit Owner is required to acquire appropriate Arlington County permits and to conduct inspections to ensure compliance. The Unit Owner is required to produce to the Board all inspection reports and permits from the County to demonstrate Code compliance.

- L. The Unit Owner will notify the Board in writing, at least 30 days prior any construction initiation.
- M. The Unit Owner must initiate construction within 180 days from approval the Board. Failure to do so shall constitute revocation of the Board's prior approval and a new application must be submitted for the installation, if the Unit Owner wishes to proceed with the work.
- N. Unit Owners are fully and solely responsible for the cost of design construction, landscape repair and restoration, and any building damage related to or caused by the installation, ongoing existence and maintenance of the egress window and window well. The Unit Owner is fully and solely responsible for any water intrusion related to installation and ground disturbance due to installation of the egress window and well, both during the construction phase and post construction.
- O. Unit Owners are solely responsible for on-going maintenance and repair needs of the window (including its well).

III. Enforcement

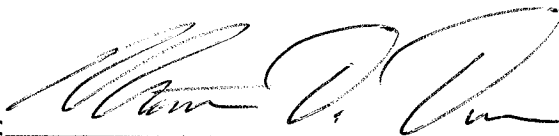
- A. Failure to comply with the terms of this Resolution may result in enforcement measures, as permitted by applicable law and the Condominium Instruments, including but not limited to, the initiation of Lawsuits or self-help remedies.

EFFECTIVE DATE OF RESOLUTION

The effective date of this Resolution shall be 4/18/2022.

I hereby certify that this Administrative Resolution was duly adopted by the Board of Directors at a regular meeting on 4/18/2022.

Council of Co-Owners of Fairlington Arbor
Condominium, Inc.

By: 
Board President

EXHIBITS TO FOLLOW

EXHIBIT A

(Scope of Work for Waterproofing and/or Landscaping)

Waterproofing Requirements

- 1. Purge the exposed wall from top to bottom.**
- 2. Use hydraulic cement and inject into any crack or cavity.**
- 3. Tar and use membrane on wall from top to bottom.**
- 4. Back fill and tamp soil.**

Landscaping Proposal Requirements

- 1. Excavation requirements (dimensions of excavated area).**
- 2. List trees/scrubs or other plants that need to be removed.**
- 3. Final grading elevation needs.**
- 4. Type, size and location of replacement trees/scrubs, plants and ground cover.**
- 5. Plan to maintain newly planted trees/scrubs or other plants.**

EXHIBIT B

LICENSE AGREEMENT

This License Agreement is this _____ day of _____, 20____ entered into by The Fairlington Arbor Council of Co-Owners, ("Council") and _____, ("Unit Owner").

WITNESSETH

WHEREAS, the Owner has submitted an application to the Council for the installation of an egress window to serve their Unit; and

WHEREAS, the Unit Owner is the fee simple owner of the Family Unit Located at _____ within the Association;

WHEREAS, upon any approval of the application by the Council, the parties wish to clarify and acknowledge the allocation of maintenance and repair obligations related to the egress window in the event of any future needs for repair and maintenance related to the egress window or related to the installation, repair or maintenance of the egress window.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing recitals, which are incorporated herein, and other good and valuable consideration, the parties, intending to be legally bound, hereby agree as follows:

- 1) The parties agree that the window shall be installed in conformance with the attached application, if approved by the Board, and shall be maintained, repaired, replaced or altered, pursuant to the terms stated herein and reasonable generally accepted property maintenance standards, so that the parties can ensure efficiency-appropriate maintenance and repair.
- 2) Indemnification/Hold Harmless. The Unit Owner(s), for himself/herself and his/her successors, assigns, purchasers and future Unit Owners of record, shall release, waive, indemnify, defend and hold the Council harmless against any and all suits, claims, demands, orders, damages or losses, including attorney's fees, in any way, related to the design, installation, or maintenance of the egress window installation (and the window well), and any waterproofing and/or landscaping required, and/or its resulting impact upon the Unit or any other portions of the Common Elements. The Unit Owner(s), for himself/herself and his/her successors, assigns, purchasers and future Unit Owners of record, shall further indemnify, defend and hold harmless the Condominium, its directors, members, the Board of Directors, agents, contractors, employees and attorneys from and against any suits, claims, proceedings, costs, and damages including but not limited to, all costs, expenses, losses, damages, and attorneys' fees arising from the Unit Owners' failure to comply with this Agreement

- 3) Costs and Damages. The Unit Owner(s) shall be responsible for all costs of damages and remediation to the Condominium related to the window and/or its installation, including, but not limited to, any insurance deductibles or uncovered losses. All on-going maintenance of the egress window as approved shall be the exclusive and sole obligation of the Unit Owner and responsibility shall pass to all subsequent Unit Owners of record of the Unit.
- 4) Recording. Unit Owner agrees that this Agreement is intended to bind the Family Unit, run with the land and bind the Co-Owner and Co-Owner's successors and purchasers. The Association reserves the right to record this License Agreement in the Land Records of Arlington County, and the costs associated with the recording will be the responsibility of the Unit Owner.
- 5) Architectural Guidelines. All terms of the Association's Policy Resolution and Architectural Guidelines related to egress windows, in effect as of the date of this Agreement, are hereby acknowledged, accepted and incorporated herein.
- 6) Default. In the event of a default upon the terms of this Agreement, the non-defaulting part(y)(ies) shall provide written notice and a 30 day opportunity to cure to the defaulting party. If said default is not cured in a timely manner, the non-defaulting parties may file suit to recover any sums owed by or to compel performance and enforcement of the terms of this Agreement. The prevailing party in any legal action related to enforcement of this Agreement shall be entitled to recover its reasonable attorney's fees and costs.
- 7) Term of Agreement. The term of the Agreement shall run for the useful life of the window egress installation and shall automatically renew upon the replacement of the fence or any of its sections by the Unit Owner or a subsequent owner of record. The Association shall include this Agreement shall in the individual file for the Lot maintained by the Association. The Association shall also include a copy in any disclosure packet requested of the Association.
- 8) Notices. Notices about anything herein shall be in writing and be mailed first class, return receipt requested to the other party's counsel or Registered Agent.
- 9) Assignment. This Agreement shall not be assignable or otherwise transferable by Unit Owner(s) except as provided in this Agreement.
- 10) Amendment. This Agreement may be amended after its execution, but any such amendment must be in writing and signed by both parties in order to be binding.
- 11) Severability. If any portion of this Agreement shall to any extent be invalid or unenforceable, the remaining provisions of this License Agreement shall be valid and enforceable to the fullest extent permitted by law.

- 12) Entire Agreement. This Agreement constitutes the entire agreement between the parties and supersedes all prior written and oral agreements between the parties hereto. Unit Owner(s) has had an opportunity to review and seek legal counsel and understands that this Agreement will, upon execution of the parties, be recorded and bind all successors and assigns.

- 13) Governing Law. This Agreement shall be governed by and construed according to the laws of the Commonwealth of Virginia and the jurisdiction of Arlington County.

- 14) Execution and Counterparts. This Agreement may be executed in two or more identical counterparts and shall inure to the benefit of and be binding upon the parties hereto, their respective heirs, representatives, successors, and assigns.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be duly executed as of the date first above written.

SIGNATURE PAGE TO FOLLOW

Signature

Date

PRINT NAME/CO-OWNER

STATE OF _____ :
COUNTY OF _____ :

I, the undersigned Notary Public in and for the county and state aforesaid, do hereby certify that _____, whose name is signed to the foregoing _____ bearing the date of the _____ day of _____, 201_, has acknowledged the same before me in my county aforesaid.

Given under my hand this _____ day of _____, 201_.

Notary Public

Printed Name

Registration Number

My Commission Expires:

**FAIRLINGTON ARBOR CONDOMINIUM
COUNCIL OF CO-OWNERS**

By:

Date

PRINT NAME

STATE OF _____ :
COUNTY OF _____ :

I, the undersigned Notary Public in and for the county and state aforesaid, do hereby certify that _____, whose name is signed to the foregoing _____ bearing the date of the _____ day of _____, 201_, has acknowledged the same before me in my county aforesaid.

Given under my hand this _____ day of _____, 201_.

Notary Public


Printed Name

Registration Number

My Commission Expires:

FOR COUNCIL RECORDS

I hereby certify that a copy of the foregoing Policy Resolution was provided to the owners/members of the Fairlington Arbor Council of Co-Owners on this 2nd day of May, 2022.



Michael Hivnor, General Manager

COUNCIL OF CO-OWNERS OF FAIRLINGTON ARBOR CONDOMINIUM

ADMINISTRATIVE RESOLUTION 22-01

RESOLUTIONS ACTION RECORD

Duly adopted at a meeting of the Board of Directors held April 18, 2022.

Motion by: Matthew Duncan Seconded by: Mike Gutshall

VOTE:	YES	NO	ABSTAIN	ABSENT
<u>Matthew Duncan</u> President	<u>X</u>	_____	_____	_____
<u>Mike Gutshall</u> Vice President	<u>X</u>	_____	_____	_____
<u>Ben Firehock</u> Treasurer	<u>X</u>	_____	_____	_____
<u>Caroline Knox Burns</u> Secretary	<u>X</u>	_____	_____	_____
<u>Doug Tipsward</u> Director	<u>X</u>	_____	_____	_____

ATTEST:

CJB
Secretary

4/18/22
Date

Resolution effective: 4/18/2022