

# **Nisqually Pines Community Club**

## **Resolution No. 2019 – 2**

### **Civility Resolution**

#### **I. Authority for This Resolution.**

The Nisqually Pines Community Club, acting by and through its Board of Directors, enacts this Resolution pursuant to its authority as set forth in its Bylaws at Article III(3), Rules and Regulations: “[t]he Board shall, when necessary and appropriate, develop rules and regulations to support the purposes of the association, and to provide procedures for operation.”

The purposes of the Association are found at Bylaws, Article I(3): “The purpose of this association is to promote the community welfare of the members and their families to make Nisqually Pines a better place in which to live and enjoy life, for the benefit of members and their families.”

In addition, the Nisqually Pines restrictive covenants provide, “[n]o noxious or offensive activity shall be carried on upon any of such lots... nor shall anything be done thereon which may be or may become an annoyance or nuisance to the owners of other lots in the area.” They further provide that if any owner, or any owner's assigns, including renters, violates any of the restrictive covenants, then the owner may be prosecuted at law or in equity for damages and injunctive relief.

The jurisdiction of the Association is all land within the Nisqually Pines development, as set forth in the Nisqually Pines Bylaws at Article I(2).

On January 14, 2015, the Board of Directors enacted its first resolution regarding civility, "Complaints Regarding the Conduct of Association Representatives and Others," Resolution No. 2015-1. The purpose of this Civility Resolution No. 2019-1 is to amend and replace in its entirety Resolution No. 2015-1.

## II. Civility at Nisqually Pines Community Club.

The Board of Directors finds that Nisqually Pines Community Club is a friendly, rural community with generally mutually supportive members who appreciate living and owning property in the Association's quiet residential neighborhoods. Friendships among members and generally civil relationships tend to make Nisqually Pines neighborhoods desirable as places to live.

The Board of Directors is responsible for the work of the association. It uses volunteers (including Board Directors), agents, contractors, employees and others to accomplish this work ("Association representatives"). General members ("members") have rights and responsibilities according to the governing documents that have to do with Association matters. And non-members may also have dealings within the jurisdiction of Nisqually Pines about Association matters.

Unfortunately, on occasion, one of these - an Association representative, a general member ("member"), or a non-member - fails to use civility in speech or contacts with others regarding Nisqually Pines affairs. This can come directly, in person; in written communications; or indirectly, in other ways. The Board of Directors believes it has a responsibility to help protect its representatives, its members, and non-members as well, from such speech and contacts, when it has the authority to do so, when they violate the Association covenants.

"Civility," for the purposes of this Resolution, is defined as "asserting and caring for one's own needs and beliefs without degrading the needs and beliefs of others in the process."

"Abusive," for the purposes of this Resolution, is defined as "angry, hostile, threatening, and/or insulting, to the point where a reasonable person would consider that a contact has gone beyond a legitimate discussion of issues and has become a personal attack."

A useful guideline to help determine whether a contact meets the civility test of this Resolution or not is to think about whether it is constructive, helping to build towards a better understanding or solution or position; or destructive. Even constructive contacts can be made in a destructive manner, to the point

where they are not civil, but are abusive.

Another useful guideline is to think about whether the contact is noxious or offensive.

Everyone at Nisqually Pines is entitled to freedom of speech, and contacts with others in general, but these freedoms can be limited. At Nisqually Pines, speech or other contacts cannot be so noxious or offensive that they become abusive. Nisqually Pines wants to encourage its representatives, its members, and non-members, when any of these is within its jurisdiction, to be civil to each other, and Association representatives, while exercising this freedom of speech in matters that relate to the governance of the Association, any Association business, or simply, generally.

**III. Association Representatives, Members and Non-Members Shall Use Civility in their Interactions With Each Other In Matters Having to Do With Association Governance or Business.**

Based on its restrictive covenants prohibiting noxious and offensive speech and conduct, Nisqually Pines can, and should, control aspects of speech and other contacts to protect its representatives, members, and non-members from abusive communications, when they involve matters that relate to the governance of the Association or any Association business ("Association matters").

From the date of enactment of this Resolution forward, Nisqually Pines Community Club representatives, members and non-members shall interact with each other with civility in Association matters. They shall not act or speak abusively to each other, directly or indirectly through third parties.

This Resolution does not apply to statements made on social media platforms that are otherwise lawful, although persons related in any way to Nisqually Pines are implored to please avoid inflammatory statements that are destructive and not constructive.

#### **IV. Matters of Immediate Concern.**

The Washington State Nonprofit Corporation Act and the Washington State Homeowners' Association Act apply to Nisqually Pines. They provide that the Board of Directors has the authority to act for the Association; Nisqually Pines governing documents do so as well. This means that the Board of Directors is responsible for creating reasonable and fair rules for the conduct of Association meetings, including general membership meetings, Board meetings, and committee meetings; and in all other Association governance and business contexts.

If at any meeting, or during any Association business or governance context, an Association representative, a member or a non-member violates the requirement of this Resolution to act with civility in Association matters, and the Board determines that correction is necessary, the Board should consider the following options, with a preference for the least restrictive alternative that will restore civility to the proceedings or circumstances:

- call a recess or take a temporary pause and discuss the matter with the person in question;
- direct the person to discontinue the behavior and/or speech;
- require the person to remove himself or herself from the meeting or other place;
- adjourn the proceedings or discontinue other process.

These can be used sequentially; if for example a person is told to behave civilly, but continues, then that person can be excluded, and if that person refuses to leave, the meeting or proceedings can be adjourned.

In such circumstances, the Board's presiding officer, usually the President of the Board, will administer the application of this Resolution to achieve immediate control, and the entire Board will support that effort when the circumstances reasonably allow.

If a meeting or other proceeding is adjourned or discontinued because a person refuses to comply with the directives of the Board, the matter will be referred to the Association attorney for consideration of litigation to

enforce covenants prohibiting noxious or offensive behaviors; and any and all other remedies available. If such a referral is made, the member who has caused such referral by his or her violation of this Resolution shall be responsible for payment of all attorney fees and costs and other expenses, with or without litigation, and any such amount shall be considered to be an assessment for the purposes of the Bylaws provisions for the same.

#### **IV. Complaints to the Board About Abusive Speech and Contacts**

If an Association representative, member or a non-member experiences an interaction with any other of these, and he or she believes the other was abusive in that interaction, they may file a written complaint about the interaction with the Board, on complaint forms that are available for general complaints about violations of Nisqually Pines rules.

Once a complaint is received by the Board, the Board will consider the same in Executive Session, as provided for by RCW 64.38.035(2), or its successor, and respond according to its discretion.

Responses may include, but are not limited to, the following, as determined by the Board:

- informal attempts to resolve the matter;
- investigation that is reasonable under the circumstances;
- letters of instruction to the parties;
- referral to formal mediation with the Thurston County Dispute Resolution Center;
- a hearing; and
- consequences that are reasonable and fair under all the circumstances, in the discretion of the Board.

The Board may use these responses, or any others it deems appropriate, sequentially, or in any order. Throughout, the Board shall attempt to reach a resolution that is satisfactory to the parties and sufficient to prevent further violations, while being as minimally intrusive as reasonably possible.

## **V. Consequences for Violations of this Resolution.**

Consequences for violations of this Resolution may include, (1) as specified in agreements among the parties and the Board; (2) requirements reasonably related to the circumstances; and (3) a fine of up to \$100 for the first violation, and up to \$500 for each successive violation within a five-year period. Requirements may include rules about who can contact whom under what circumstances in the future, and who can attend what meetings under what restrictions in the future. When determining consequences, the Board shall consider the provisions of the governing documents and other applicable law; circumstances of the contact; the seriousness of the violation(s); the effect on the victim(s) of the violation(s); the amount the violation(s) interfered with business or personal actions; the violator's responses, including acknowledgments and efforts to respond constructively; future opportunities for contacts; and any other matter the Board deems reasonably relevant. The Board's decision is final in such matters. Fines for violations shall be considered to be assessments for the purposes of the Bylaws provisions for the same.

If the complaint is about the actions of a non-member, then the following provision of the Nisqually Pines Bylaws, Article II(1), shall apply, in addition to the provisions of the restrictive covenants:

Each member in good standing has the right to use The Pines' property and facilities, and to permit guests, family members and tenants to do so as well, pursuant to The Pines' reasonable rules and regulations. Each member is personally responsible for the actions of himself or herself, and all such others, as they relate to the facilities and operations of the association, governing documents, and other association rules and regulations, and other requirements.

## **VIII. Other Options**

In addition to the process developed in this Resolution, Nisqually Pines, and in addition each Nisqually Pines member, has the option to enforce the terms of the Restrictive Covenants himself or herself; and take any other action that is allowable by law. If the Board determines that it is reasonably necessary

to take immediate action to litigate related issues, because the violator will not likely comply with any other process, or for any other sufficient reason, it may commence litigation immediately. Also, anyone should very seriously consider calling police authorities if a crime has been committed, either along with using the processes in this Resolution, or without.

This Resolution was enacted by the Board of Directors of Nisqually Pines Community Club on August 8, 2019.

Dayna Brown  
President, Board of Directors  
Nisqually Pines Community Club