

Lake Manassas Residential Owners Association

Policy Resolution No. 2021-111001

Amends Policy Resolution No. 2018-010102
Creation of Procedures to Ensure Due Process in Enforcement Matters

I. Background and Recitations

WHEREAS, the Virginia Property Owner's Association Act (Virginia Code, Section 55.1-1819, et seq.) empowers property owners associations to suspend services and the use of common area facilities and to assess monetary charges against members responsible for violations of the governing documents and rules and regulations of associations, provided that the Association provides certain notices and an opportunity to be heard to the member against whom enforcement is sought, and;

WHEREAS, the Declaration of Covenants, Conditions and Restrictions and Bylaws for the Lake Manassas Residential Owners Association ("Association") provides certain powers and duties to be carried out for the Association, including:

- a. The Board of Directors "shall be responsible for the affairs of the Association and shall have all powers and duties necessary for the administration of the Association's affairs and, as provided by law, may do all acts and things as are not by the Declaration, Articles, or [the] Bylaws directed to be done and exercised exclusively by the Members," Bylaws, Art. III, Sect. C. 17.
- b. The Board shall have the power to enforce "by legal means the provisions of the Declaration, [the] Bylaws, and the rules and regulations adopted by it and bringing any proceedings which may be instituted on behalf of or against the Owners concerning the Association." Bylaws, Art. III, Sect. C. 17(i).
- c. The Board may "make and enforce reasonable rules and regulations governing the use of the Properties, which rules and regulations shall be consistent with the rights and duties established by this Declaration. Sanctions may include reasonable monetary fines and suspension of the right to vote and the right to use any recreational facilities on the Common Area," Declaration, Article IX, Section 3; Bylaws, Art. II, Sect. 22.
- d. The Board, if it imposes monetary charges or other sanctions, shall follow certain procedures as outlined in the Bylaws prior to said imposition. Bylaws, Art. IT, Sect. 22. In addition, any such charge or sanction must comply with Section 55.1-1819 of the Virginia Property Owners' Association Act.
- e. In the event an owner does not maintain their yard to meet the Association's maintenance requirements, upon written notice to the owner of such failure and a reasonable opportunity to correct, the Board may undertake the maintenance of an owner's yard, in accordance with Declaration, Article IV, Section 4 and Policy Resolution 2020-02.

WHEREAS, the Board of Directors believes it is for the benefit and protection of all members to formally adopt a policy resolution to set forth a process for enforcement of the governing documents and regulations, as set forth herein.

NOW, THEREFORE BE IT RESOLVED THAT the Board adopts the following procedures and rules:

II. Procedures

A. Initial Actions to Secure Compliance. Any owner, resident, officer, or agent of the Association has the right, in accordance with the Association's Due Process procedures, to request that an owner or resident cease or correct any act or omission which appears to be in violation of the governing documents or rules and regulations of the Association.

B. Issuance of Opportunity to Correct Notice. The Board of Directors, or its delegates on behalf of the Association, will issue an Opportunity to Correct notice to any owner whose behavior, use of property or omission does not conform to Association rules or regulations, or who fails to comply with a decision submitted by the Board. The Notice to Correct shall comply with opportunity to cure provisions of §55.1-1819 of the Virginia Property Owners' Association Act, and shall provide the owner with a reasonable amount of time to correct the violation, prior to any action being taken. For any single offense, which may be subject to a violation charge of up to \$50, the Opportunity to Correct notice shall advise the owner that if the offense is not corrected or if there are additional occurrences of the same offense during the time given to correct the violation (correction period), each offense shall be treated as a separate violation and enforcement procedures will proceed without further written notice or warning.

C. Notice of Violation. If an owner fails to correct a violation, or continues to commit the same violation, a Notice of Violation shall be issued in writing to the owner at the address listed in Association records, and also to the property address, if it is different. The Notice of Violation shall generally advise the nature of the violation; cite the provision within the Association's governing documents or rules and regulations which has allegedly been violated or identify the decision submitted to the Board of Directors or Covenants Committee, if any, with which the Member has not complied. The Notice of Violation will also indicate what monetary assessment, or other sanction, may be imposed for non-compliance, for either a single or continuing offense. A single offense may be subject to a violation charge of up to \$50 for each occurrence, and an ongoing violation may be subject to a violation charge of \$10 per day, up to ninety (90) days. The Notice of Violation shall inform the owner of his/her right to request in writing, and within a specified period of not less than ten (10) days, a hearing, pursuant to Article III, Section 22 of the Bylaws, before the Board of Directors or the Covenants Committee, if any, to contest the violation. The Notice of Violation will be delivered by hand or certified, receipt requested, US mail, to the Owner at the address listed in the Association records and also to the property address if it is different.

For yard violations, should an owner fail to bring their yard into compliance within a correction period of ten (10) days, the Association may send a 48 Hour Notice of Intent to Mow the property by an Association contractor, advising the owner of the Association's intention to mow the owner's yard, in accordance with Article IV, Section 4 of the Declaration, with the cost of this service added to the owner's assessment account. In the event that the same yard maintenance violation occurs more than two (2) times within a calendar year, on the third (3rd) such violation, the Association may forego the sending of the initial Opportunity to Correct and proceed with the 48 Hour Notice of Intent to Mow.

D. Hearing Notice. If the owner has not requested a hearing in writing by or before the hearing request deadline stated in the Notice of Violation, the owner shall be deemed to have waived the right to a hearing and the Board of Directors or Covenants Committee, if any, shall have the power to impose the proposed sanctions, including monetary charges, as described in the Notice of Violation. If a hearing is requested, the Board of Directors, or Covenants Committee, if any, shall set the time, date, and place of the hearing, at its discretion. Written notice of the time, date, and place of the hearing shall be delivered to the owner by hand or certified mail, return receipt requested, at least fourteen (14) days in advance of the hearing date and shall include a general description of the nature of the violation, including the citation to the specific rule or covenant, and what monetary assessment or other sanction may be imposed.

E. Conduct of Hearing. If a hearing is held, the Board of Directors or the Covenants Committee, if any, shall provide the owner with a reasonable amount of time to present defenses and information regarding the allegations in the citation. The owner may present evidence and witnesses and may have counsel present at the hearing, and the Board may further examine or cross-examine witnesses and accept documents and other evidence into its record of the hearing. The hearing and its related deliberations shall be held in executive session.

F. Decision of the Board or its Delegate. Following the hearing, the Board of Directors, or the Covenants Committee, if any, shall meet in executive session to determine whether satisfactory proof of alleged violation was presented, and if so, whether the monetary charges or other proposed sanctions should be imposed. Decisions by the Covenants Committee may be appealed to the Board of Directors pursuant to Article II, Section 22(c) of the Bylaws. Any vote on whether to impose violation charges or sanctions will be held in open session, but reasonable efforts shall be taken to ensure the privacy of the member in question. Decisions must be in writing and delivered to the member in question within seven (7) days of the date of the hearing and sent via certified mail, return receipt requested. In accordance with Article IV, Section 22(c) of the Lake Manassas Residential Owners Association By-Laws, if homeowners do not request and/or attend a hearing before the Covenants Committee, they are deemed to have waived their right to appeal the decision of the Covenants Committee or the Board of Directors. In this regard, once imposed charges have accrued to an owner's account for a violation that has not been corrected, and for which a hearing was not requested, the accrued charges cannot be appealed and will not be waived by the Association, except as may be determined by the Board of Directors.

III. Applicability

A. Affect of Ruling Adversely to Owner. All assessed charges shall be considered and collected as assessments. When the Board's or Covenants Committee's, if any, decision is to assess charges against the owner, the Board shall undertake the actions required to collect the monetary charges as an assessment against the owner's lot. Monetary charges may not exceed \$50 for a single offense or \$10 per day for any offense of a continuing nature, up to ninety (90) days.

B. Applicability of Decisions to Actions of Tenants, Guests, etc. The Board of Directors reserves the power to hold owners legally responsible for ensuring that their tenants, guests or invitees comply with Association rules and regulations or with decisions of the Board in response to submissions.

C. Applicability of these Procedures. These procedures may be applied to all violations of Association governing documents, rules and regulations or decisions following submission to the Board. Nothing in this Resolution shall be deemed to preclude the Association from

exercising other enforcement procedures consistent with applicable law. Nothing herein precludes the Board's utilization of other remedies authorized by Association legal documents, including but not limited to, the initiation of a lawsuit or self-help remedies.

D. Interpretation. This Resolution is intended to serve as a protection to owners and residents to ensure that their rights are protected and to serve as a guideline for the Board or Covenants Committee as it carries out its duties to enforce the Declaration, Bylaws and Rules and Regulations. The Committee may determine the specific manner in which the provisions of this Resolution are to be implemented, provided that notice and opportunity to be heard are afforded. Any inadvertent omission or failure to conduct any proceedings in exact conformity with this Resolution shall not invalidate the results of such proceeding, so long as a prudent and reasonable attempt has been made to ensure due process according to the general steps set forth in this resolution.

LAKE MANASSAS RESIDENTIAL OWNERS ASSOCIATION
RESOLUTION ACTION RECORD

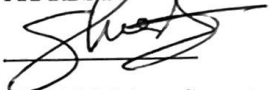
Resolution Type: Policy No. 2021-111001

Pertaining to: Due Process Procedures, duly adopted by the Board of Directors on November 8, 2021.

Motion by: Gary Border Seconded by: Don Minogue

	YES	NO	ABSTAIN	ABSENT
<u>Don Minogue</u> President	<u>X</u>	—	—	—
<u>Gary Border</u> Vice-President	<u>X</u>	—	—	—
<u>Robert Hale</u> Treasurer	<u>X</u>	—	—	—
<u>Joe Greenlee</u> Director	<u>X</u>	—	—	—
<u>Shashi Mehta</u> Secretary	<u>X</u>	—	—	—

ATTEST:


Shashi Mehta, Secretary

11/10/2021
Date

Resolution effective: December 1, 2021