

DEER RUN CROSSING HOMEOWNERS' ASSOCIATION

POLICY RESOLUTION NO. 2010-01

PROCEDURES TO ENSURE DUE PROCESS IN ENFORCEMENT CASES

WHEREAS Article V, Section 1 of the Declaration of Covenants, Conditions, Restrictions ("Declaration") of the Deer Run Crossing Homeowners' Association, Inc. ("Association") provides that every Owner shall have a right and nonexclusive easement of enjoyment in and to the Common Areas; and

WHEREAS Article X, Section 1 of the Bylaws empowers the Association's Board of Directors ("Board") to adopt, promulgate, enforce, and from time to time amend, reasonable rules and regulations pertaining to the use of the Common Areas; and

WHEREAS Section 55-513 B of the Virginia Property Owners Association Act ("Act") provides that the Board may assess rules violation charges and penalties for violations of such rules or regulations adopted by the Board (collectively, "Governing Documents"); and

WHEREAS Section 55-513 B of the Act permits the Board to suspend the right of any Owner of a Lot or Resident of a Lot to use all or any portion of the Commons for a period not to exceed 60 days per rules violation, or for any such period of time the Owner is delinquent in the payment of any assessment in excess of 60 days; and

WHEREAS the Board finds that it is necessary and desirable to establish administrative procedures to assure due process for adjudicating questions of compliance with provisions of the Governing Documents and the Association before monetary charges or suspensions of privileges shall be considered:

NOW, THEREFORE, BE IT RESOLVED that the following procedures are adopted:

1. Owners are responsible for ensuring that the members of their household, their tenants, and their guests or invitees comply with the Association's Governing Documents.
2. If an Owner or Resident wishes to lodge a complaint for a violation of the Association's governing documents or Rules and Regulations, the complainant must submit the complaint in writing, in care of the Association's Board of Directors. The Board will not investigate anonymous or unwritten complaints.
3. Upon receiving a written complaint, the Board shall determine whether the complaint alleges specific and verifiable violation(s) of the Association's Governing Documents.
4. If the Board determines that a complaint does not contain such allegations, the Board shall so notify the complainant in writing.
5. If the Board determines the complaint merits further action, the Board shall notify the responsible Owner in writing of the complaint and the applicable provisions of the Governing Documents deemed to have been violated. The complaint notification shall be sent by Certified U.S. Mail, Return Receipt Requested. It shall request the Owner to cease and desist the violation and/or abate the nuisance caused by the violation within twenty-one (21) days of the date of the notification or such other date as may be set forth in the notification. The notice shall (1) offer the Owner an opportunity to provide the Board with a written refutation or explanation of the allegations, (2) advise the Owner of the Board's authority to impose monetary charges and to suspend privileges as sanctions for offenses of the Association's Governing Documents, and (3) inform the Owner of a right to request a hearing before the Board to contest the citation. The

notice of citation shall request the Owner to confirm in writing within fifteen (15) days of the date of receipt of the notice of complaint the Owner's desire for a hearing.

6. If the Owner ceases the violation, remedies any damages resulting from it, and notifies the Board within the time allotted in the notice, the Board shall cease enforcement action and no hearing will be held.
7. If the Owner fails to request a hearing and fails to remedy the violation within the time allotted according to paragraph 5, the Board shall have the authority to deem the Owner in violation as cited, and the Board shall have the authority to impose monetary charges and/or suspend privileges as sanctions according to the Governing Documents and the Act. Should the Board decide to impose monetary charges to the Owner, it shall so inform the Owner by Certified U.S Mail, Return Receipt Requested, a letter notifying the owner of the monetary charges, which shall be deemed effective from the date of such a letter.
8. If the Owner requests a hearing according to paragraph 5, he or she has the right to have his or her own counsel at the hearing. If the owner intends to exercise this right, the Owner should so inform the Board in the letter requesting the hearing.
9. Upon receiving a request for a hearing, the Board shall notify the Owner of a hearing date, time, and venue. Notice of the hearing shall be sent to the Owner by Certified U.S Mail, Return Receipt Requested, or by hand-delivery at his or her last known address of record at least fourteen (14) days in advance of the hearing date. The notice shall state the charges or other sanctions that may be imposed and advise the Owner of his or her right to representation by counsel at the hearing. If the Owner appears at the hearing without receiving notice thereof, the Owner shall be deemed to have waived the requirement for proper notice.
10. If the Owner fails to notify the Board of his or her intent to exercise the right of counsel but attends the hearing accompanied by counsel, the Board may, at its discretion, postpone the hearing in order to seek counsel for itself.
11. The Board may conduct the hearing in open session except for its deliberations, which the Board may hold in closed session pursuant to the Act. (See Paragraph 12.)
12. After the Owner has presented his or her defense, the Board shall convene in Executive Session to adjudicate the case. The Board shall return to open session to announce its decision. The Board shall deliver notice of its decision by Certified U.S. Mail, Return Receipt Requested or by hand-delivery, to the Owner at the address of record with the Association within seven (7) days of the hearing.
13. Failure by the Owner to attend the hearing shall constitute a waiver of the Owner's right to be heard and be deemed an admission to the violation(s). The Board may, at its discretion, decide to impose monetary charges and/or suspend privileges or services as if the Owner were present.
14. The Board may impose for any violation of the Association's Governing Documents a monetary charge of up to \$50.00 per violation or up to \$10.00 per day for any violation of a continuing nature, as permitted by the Act. The Board may impose daily charges for a violation of a continuing nature for a period of up to ninety (90) consecutive days or for the maximum period of time permitted by law, whichever is greater. If monetary charges are imposed, such charges shall be treated as an assessment against the Owner's lot for the purposes of Section 55-516 of the Act and the Association's Governing Documents.
15. The Board also may suspend an Owner's right (and that of his or her members of their household, family members, tenants, guests, and invitees) to use the Common Area facilities or receive services for violations of the Governing Documents. Such facilities, privileges or services shall include, but not be limited to

- a. The right to vote; and/or
 - b. The right to use Common Areas or facilities
16. The Board reserves the right under extraordinary circumstances to suspend these procedures and act at any time to refer a matter to legal counsel to seek legal remedy if the allegation is deemed to constitute an emergency or pose a reasonable risk of irreparable harm. The Board may act immediately if it perceives a threat to the safety, welfare and well-being of people or property.
17. All Owners are responsible for ensuring that their lot is occupied and used according to the covenants. In the case of complaints against a tenant renting a home in the Association, all notices shall be mailed to the Owner of record with a copy to the tenants in question, if they are known. If tenants are not known to the Board, the tenant copy will be mailed to the address of record, care of "current resident." The copies to tenants need not be delivered by certified mail; they may be delivered by first class U.S. mail. Furthermore, failure by a lessee or Resident to comply with the Association's Governing Documents shall constitute a default under the lease and be grounds for termination, which shall be enforceable by the Association.
18. The procedures outlined in this Resolution may be applied to all violations of the Association's Governing Documents, but do not preclude the Association from exercising other enforcement procedures and remedies authorized by the Association's legal documents, including, but not limited to, the initiation of suit or self-help remedies.

This Resolution supersedes all prior resolutions related to Due Process procedures.

This Resolution was adopted and approved by the Board of Directors of the Deer Run Crossing Homeowners' Association on this 11th day of June, 2010.

For the Board

Bryan T. Ault
President