

**AUTUMN CHASE HUNT
HOMEOWNERS ASSOCIATION**

RESOLUTION NO. 08-2015.1

Procedures to Ensure Due Process in Rule Compliance.

WHEREAS, Section 4.1 of the Bylaws for Autumn Chase Hunt Homeowners Association (“Bylaws”) provide that the Autumn Chase Hunt Homeowners Association (“Association”) Board of Directors (“Board”) shall have all of the powers and duties necessary for the administration of the affairs of the Association and may do all such acts and things as are not required by the Virginia Property Owners’ Association Act (“Act”) or the Association governing documents (“Association Documents”) to be exercised and done by the Owners;

WHEREAS, Section 4.1(4) of the Bylaws gives the Board the authority to adopt and amend any reasonable Rules and Regulations not inconsistent with the Association Documents;

WHEREAS, Section 4.1(6) of the Bylaws gives the Board the authority to enforce the provisions of the Association Documents;

WHEREAS, Section 55-513 of the Act authorizes the Board to establish, adopt and enforce rules and regulations with respect to the use of the common areas and such other areas of responsibility to the Association by the Declaration;

WHEREAS, Section 12.1(g) of the Declaration for Autumn Chase Hunt (“Declaration”) provides that failure to comply with the terms of the Association Documents or the Rules and Regulations shall be grounds for relief, including without limitation an action to recover any sums due, injunctive relief, any other relief provided for in the Association Documents and any other relief afforded by a court of competent jurisdiction;

WHEREAS, Section 9.1(a) of the Declaration provides that the Board of Directors shall establish a Covenants Committee, consisting of at least three persons appointed by the Board, each to serve a term of from one to three years as may be determined by the Board of Directors;

WHEREAS, Section 9.1(a) of the Declaration provides that the Covenants Committee shall assure that the Property shall always be maintained in a manner: (a) providing for visual harmony and soundness of repair; (b) avoiding activities deleterious to the aesthetic or property values of the Property; and (c) promoting the general welfare and safety of the owners, such owners, tenants and such Owners’ (or tenants’) household, guests, employees, agents and invitees;

WHEREAS, Section 9.1(b)(1) of the Declaration provides that the Covenants Committee shall regulate the external design, signage, appearance, use and upkeep of the Property;

WHEREAS, Section 9.1(b)(5) of the Declaration provides that the Covenants Committee shall propose Design Guidelines for approval by the Board of Directors;

WHEREAS, Section 9.1(c) of the Declaration provides that the Covenants Committee shall have such additional duties, powers and authority as the Board may from time to time provide by resolution;

WHEREAS, Section 9.1(c) of the Declaration provides that the Board may relieve the Covenants Committee of any of its duties, powers and authority either generally or on a case-by-case basis;

WHEREAS, Section 8.3 of the Declaration provides that Board shall have the power to adopt, amend and repeal Rule and Regulations restricting and regulating the use and enjoyment of the Property or of any portion thereof and the actions of the Owners and occupants which affect the Property, which may supplement, but may not be inconsistent with the provisions of the Association Documents;

WHEREAS, Section 12.1(h) of the Declaration provides that the Board or Covenants Committee, as appropriate, shall have the power to impose charges and to suspend the right to vote in the Association and the right to use the Recreational Facilities, other Common Area or other rights in the case of an Owner found to be responsible for a violation of the Association Documents or the Rules and Regulations;

WHEREAS, Section 55-513 of the Act authorizes the Board to suspend a member's right to use facilities and services and assess charges against any member who is found to be in violation of the association's governing documents in an amount not to exceed \$50 for a single offense or \$10 per day for any offense of a continuing nature for a period not to exceed ninety days;

WHEREAS, Section 12.1(i) of the Declaration requires the Board to afford Owners certain basic due process rights prior to the imposition of charges or the suspension of voting or membership rights;

WHEREAS, for the benefit and protection of the Association and its members, the Board deems it necessary and desirable to establish a procedure to assure due process in cases where there is a question of compliance by an Owner or occupant of a Lot with provisions of the Act or Association Documents, thereby attempting to minimize the necessity of seeking action in or through a court of law; and

WHEREAS, it is the intent of the Board to establish procedures where action must be taken relative to questions of compliance by an individual with the provisions of the Act or the Association Documents.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the following Due Process Procedures.

ARTICLE 1
VIOLATIONS OF ASSOCIATION DOCUMENTS

Section 1.1 Actions Prior to Initiation of Formal Due Process Procedures

A. Any owner, Officer or Director of the Association or the Association managing agent has authority to request that an Owner cease or correct any act or omission which appears to be in violation of the Act or the Association Documents. Such informal requests should be made before formal Due Process Procedures are initiated.

B. In the case of disputes between owners and occupants regarding activities within Lots, the Association will generally not become involved in the dispute or act on a complaint, unless two or more owners have complained in writing. The Covenants Committee may determine, however, on a case by case basis, whether the matter is appropriate for intervention by the Association.

Section 1.2 Written Complaint

A. If the actions described in Section 1.1 of the Resolution prove unsuccessful, the Due Process Procedure shall be initiated upon the filing of a written complaint (“Complaint”) with the managing agent signed by any owner, occupant, management agent, employee, or Covenants Committee member. This Due Process Procedure also may be initiated by a vote of a majority of the Board.

B. The Complaint shall constitute a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the owner or occupant (hereafter referred to as “Respondent”) is charged, so that the Respondent will be able to prepare the Respondent’s defense.

C. The Complaint shall identify the specific provisions of the Act or Association Documents which the Respondent is alleged to have violated and shall contain basic supporting facts. Where possible and appropriate, supporting documentation showing the date and a description of the violation shall be provided.

D. The Complaint must be as specific as possible as to times, dates, places, acts or omissions and persons involved. If the violation involves a pet, the Complaint should reasonably identify the pet, if possible.

Section 1.3 Notice of Violation

A. Upon receipt of a Complaint, the Association managing agent or other Association representative will inspect the Lot, or otherwise further investigate the Complaint, to determine whether the Complaint accurately identifies a violation of the Association Documents.

B. If the Complaint alleges a violation of a non-continuing nature that cannot be readily confirmed by the Association managing agent or other Association representative, the Board will take no action unless the violation is independently reported at least twice.

C. If the Association managing agent determines the Complaint identifies a violation of the Association Documents, the managing agent will notify the Respondent that a violation has been noted ("Notice of Violation"). The Notice of Violation will include the time, date, place and nature of the violation, a reasonable opportunity to cure the alleged violation, and the proposed sanction to be imposed if the violation is not cured. The Notice of Violation should be substantially in the form attached hereto as Exhibit A, offering the owner the opportunity to take corrective action and specifying the time period for corrective action to be taken.

D. The Notice of Violation shall be sent by first class mail or shall be hand-delivered to the owner at the address which the owner has provided to the Association or at the lot address, if no other address has been provided. Copies of the Notice of Violation will be maintained in the Association files and placed in the minutes of the Board meeting.

E. If the Association managing agent cannot determine that the Complaint identifies a violation, the Association managing agent will refer the Complaint to the Covenants Committee, which shall conduct a preliminary investigation to determine the validity of the Complaint. If the preliminary investigation by the Covenants Committee indicates a need for further action, the Association managing agent will serve the Respondent with a Notice of Violation.

F. If the violation has been corrected or the Complaint is invalid for any reason, the Association managing agent will respond in writing to the Complainant.

G. If the violation is not remedied to the satisfaction of the Association managing agent within the designated correction period specified in of the Notice of Violation or if the Respondent requests, in writing, a hearing on the violation, the Association managing agent will schedule the matter for a hearing at a meeting of the Covenants Committee scheduled at least fourteen days or more from the end of the designated correction period.

Section 1.4 Notice of Hearing

Upon referral of a Complaint, the Covenants Committee may serve a Notice of Hearing on all parties at least fourteen days prior to the hearing by hand-delivery or registered or certified mail, return receipt requested. The Notice of Hearing shall be sent to the parties at the address appearing on the books of the Association. The Notice of Hearing may be substantially in the form attached hereto as Exhibit B and shall include a description of sanctions that may be imposed.

Section 1.5 Service of Complaint

The Covenants Committee should provide a copy of the written Complaint, if any, to the Respondent along with the Notice of Hearing.

Section 1.6 Hearing

A. A hearing shall be held before the Covenants Committee prior to imposition of charges, initiation of self-help or legal action. The Chairman of the Covenants Committee shall serve as hearing chair and preside over the hearing, unless otherwise determined by the Covenants Committee. Association legal counsel may attend the hearing at the request of the Board. The Respondent may, but is not required to be represented by counsel at the hearing.

B. The Covenants Committee may determine the manner in which the hearing will be conducted, so long as the rights set forth in this Resolution are protected. The hearing need not be conducted according to technical rules relating to evidence and witnesses.

C. Neither the Complainant nor the Respondent need be in attendance to conduct the hearing. At the request of either the Complainant or the Respondent, the Covenants Committee may agree to conduct the hearing in executive session.

D. The Covenants Committee may reschedule any hearing within its discretion upon good cause shown by the member. Notice of the rescheduled hearing date will be provided to the member at his or her address of record by certified mail.

E. The Respondent shall have the right to make a statement to the Covenants Committee in response to the Complaint.

Section 1.7 Decisions

Following the hearing, the Covenants Committee may deliberate in private and shall determine whether it has received satisfactory proof of the alleged violation, and if satisfactory proof has been presented, determine the appropriate action to be taken against the member to prompt correction of the violation and compliance with the Association Documents. All decisions shall be made by a majority vote.

A Notice of Hearing Result shall be mailed or hand-delivered to the Respondent summarizing any decision made by the Covenants Committee.

Section 1.8 Records

The Covenants Committee and the managing agent shall keep copies of all correspondence related to rule violations in the Owner file maintained by the managing agent.

**ARTICLE 2
TENANTS**

Section 2.1 Notice to Owner

If the person charged with a violation of the Act or Association Documents is a tenant or occupant, the owner of the Lot in which the person resides shall be considered the Respondent

and as a party to the action shall receive certified copies of all correspondence or other documents sent to the tenant or occupant pursuant to this Resolution.

Section 2.2 Owner Rights

The Owner shall have all rights provided in Article 1.

**ARTICLE 3
IMPOSITION OF SANCTIONS**

Section 3.1 Remedies

The Board may impose, but is not limited to the following:

- (1) Initiating self-help remedies when appropriate and authorized by the Association Documents;
- (2) Assessing expenses incurred during self-help remedies to the Respondent;
- (3) Imposing monetary charges for violations of Association rules and regulations governing the use of the Common Area and facilities;
- (4) Suspending voting rights and rights of an Owner to use the recreational Common Area for any period during which any assessment against such Owner's Lot remains unpaid or for a period not to exceed 60 days for any infraction of its published rules and regulations;
- (5) Authorizing Association legal counsel to file legal action for damages or injunctive relief in General District Court or Circuit Court; or
- (6) Referring the matter to appropriate County or government authorities.

**ARTICLE 4
PROCEDURES SPECIFIC TO SELF-HELP**

Section 4.1 Initiating Self-Help

In those circumstances in which the Board determines it to be in the best interest of the Association for the Board to initiate self-help remedies the following procedures shall be applied by the Board or the Committee after the hearing contemplated above:

A. If the Respondent fails to correct the violation within seven days of the date of the Notice of Hearing Result, the Board, the Committee, or its designee, shall give at least fourteen days' notice of its intent to enter the Lot to correct the violation, and to charge all costs of self-help and correcting the violation to the member.

B. The Notice of Intent to Engage in Self-Help shall be hand delivered, posted at the front door of the residence on the Lot and sent by first-class mail, postage prepaid, to the Lot address or such other member's address on file with the Association.

**ARTICLE 5
CONSTRUCTION**

Section 5.1 Proceedings

This Resolution is intended to assure that due process is provided to members and occupants in proceedings before the Covenants Committee and the Board to enforce the Act and the Association Documents and to serve as guidelines for such proceedings.

Section 5.2 Implementation

The Board may determine the specific manner in which the provisions of this Resolution are to be implemented, provided that due process is protected.

Section 5.3 Severability

Any inadvertent omission or failure to conduct proceedings in exact conformity with this Resolution shall not invalidate the results of such proceedings, so long as a prudent and reasonable attempt has been made to assure due process according to the general steps set forth in the Resolution.

Section 5.4 Emergency Circumstances

The procedures set forth herein do not preclude the Association from taking accelerated measures if a violation creates an emergency circumstance, including, but not limited to, manifest danger to life or property, or immediately necessary for the preservation and safety of the Association or residents, provided that the member in violation has been provided such adequate notice as circumstances permit, and the Association's actions are consistent with the Association Documents.

Section 5.5 Due Process Defined

"Due Process" as used in this Resolution refers to the following basic rights:

- (a) Notice;
- (b) Opportunity to be heard; and
- (c) Fairness.

AUTUMN CHASE HUNT HOMEOWNERS ASSOCIATION

RESOLUTIONS ACTION RECORDED

Resolution Number: 08-2015, 1

Resolution Type: Policy

Pertaining to: Due Process

Duly adopted at a meeting of the Board of Directors held 8/20/2015.

Motion by: Mark Camporini Seconded by: Holly Smith

VOTE:

	YES	NO	ABSTAIN	ABSENT
<u>Jordan Wilcox</u> Director	X	_____	_____	_____
<u>Holly Smith</u> Director	✓	_____	_____	_____
<u>Mark Camporini</u> Director	2	_____	_____	_____
<u>Jeff Gantorek</u> Director	_____	_____	_____	✓
<u>Robert Williams</u> Director	_____	_____	_____	✓

ATTEST:

Jordan Wilcox (signed above)
Secretary

8/20/2015
Date

FILE:

sent to community 8/28/15 - [initials]

Resolution effective: 8/28/15, 2015.

AUTUMN CHASE HUNT HOMEOWNERS ASSOCIATION

Rules Violation Complaint

Date: _____

1. Name of person(s) charged with violation: _____
2. Address of person(s) charged with violation: _____
3. Is the person(s) charged with violation a tenant or Lot Owner? _____
4. Describe in detail how and where the violation occurred: _____

5. Describe in detail which provision of the Association Documents or rules has been violated:

6. When did the violation(s) occur? _____
7. Have you personally requested the Lot Owner or tenant to cease the violation?
 Yes No Verbally Written Request.
When? _____
8. Name and address of person(s) filing the Complaint: _____
9. Signature(s) _____

Use additional sheets of paper if necessary and include additional documentation, if appropriate.

FOR ASSOCIATION USE ONLY

10. Lot Owner: _____ Tenant: _____
 11. Provision(s) of Association Documents violated: _____

 12. Registered name(s) of Lot Owner(s): _____
 13. Unit owner's address if non-resident: _____
 14. Registered name(s) of tenant(s): _____
 15. Comment: _____
 16. Date Notice of Violation sent to Lot Owner: _____
 17. Referred to Board on _____, 20____
 18. Date Notice of Hearing sent: _____
- cc: Lot Owner File

AUTUMN CHASE HUNT HOMEOWNERS ASSOCIATION

Date

**VIA CERTIFIED MAIL,
RETURN RECEIPT REQUESTED &
FIRST CLASS MAIL**

(Lot Owner) _____

Re: Autumn Chase Hunt Homeowners Association --
Notice of Violation

Dear (Lot Owner/ Resident):

Pursuant to the Due Process Resolution of Autumn Chase Hunt Homeowners Association, this is to serve as notification that according to information provided to the Association, a condition or behavior on your Lot or on the common area of the Association has been noted as a violation of:

The specific action/condition has been described as follows:

Before proceeding forward under the Due Process Procedure, we encourage you to address this condition. Please take action within _____ from the date of this letter to correct all above noted violations. If you need more time, you may request additional time by notifying the Board of Directors in writing as to when the condition will be corrected. Please advise our office of the action you have taken to address this matter. If you fail to take corrective action, the matter will be scheduled for a hearing before the Board of Directors.

Thank you for your prompt attention to this matter and your cooperation. If you have questions please contact _____ at _____.

Sincerely,

Managing Agent

cc: Lot Owner file

AUTUMN CHASE HUNT HOMEOWNERS ASSOCIATION

Date

VIA CERTIFIED MAIL,
RETURN RECEIPT REQUESTED &
FIRST CLASS MAIL

(Lot Owner) _____

Re: Autumn Chase Hunt Homeowners Association --
Notice of Hearing

Dear (Lot Owner/ Resident):

Pursuant to the Due Process Resolution of Autumn Chase Hunt Homeowners Association, this is to serve as notification that according to information provided to the Association, you are in violation of

Notice of this Violation was previously provided to you by letter dated _____, 20__ . A copy of the letter is enclosed for your reference. The specific allegations are also set forth in the enclosed Complaint.

You are hereby notified that a hearing will be held before the Covenants Committee at _____ on the ___ day of _____, 20__, at __.m., upon the charges set forth in the Complaint. You may be present at the hearing but need not be represented by counsel, and you may present any relevant information including witnesses concerning the Complaint. You will be given a full opportunity to examine any witnesses you wish to present and cross-examine all witnesses presented by the Association.

Please confirm your attendance by calling _____ at _____ or if you have a reason why you cannot attend the hearing on the scheduled date, so that an alternative date may be scheduled.

If no response is received from you, or if you confirm attendance but fail to attend without providing a satisfactory explanation, you will be deemed to have waived the right to the hearing.

If you are found in violation of the allegations set forth in the Complaint, the Board of Directors has the authority to assess monetary charges against your Lot. The Board of Directors may also assess expenses incurred in resolving the violation and pursue legal action as the Board of Directors determines appropriate.

If you have any questions or wish to communicate with the Board regarding this matter, please call _____ at _____.

Sincerely,

Board of Directors

cc: Lot Owner File

#111478