

**DRANESVILLE ESTATES HOMEOWNERS ASSOCIATION
POLICY RESOLUTION NO. 2021-2**

(Due Process and Enforcement Procedures)

WHEREAS, the Declaration of Covenants, Conditions and Restrictions for Dranesville Estates Homeowners Association is dated June 12, 1985 and was recorded among the land records of Fairfax County, Virginia in Deed Book 6161 at Page 0202, *et seq.* (the "Declaration"); and,

WHEREAS, Article IV, Section 1(c) of the Declaration provides that the Dranesville Estates Homeowners Association (the "Association") shall have the right "to adopt and enforce rules and regulations governing the use of the Common Area, including the imposition of fines for the violation thereof;" and,

WHEREAS, Article VI, Section 15 of the Declaration provides that the Association shall have the authority to adopt rules and regulations regarding the restrictive covenants on the Properties as the Association may consider necessary or appropriate from time to time; and,

WHEREAS, Article VII, Section 5 of the Declaration provides that the Architectural Review Board ("ARB") shall have the authority to regulate the external design, appearance, and location of the Properties and improvements located thereon, may periodically inspect the Properties for compliance with architectural standards, and may adopt procedures for the exercise of its duties. That Section provides further that decisions of the ARB may be appealed to the Board of Directors; and,

WHEREAS, Article IX, Section 1(a) of the Declaration grants the Association the authority to enforce all building restrictions that are imposed by the Declaration; and Article XI, Section 1 provides the Association with the authority to enforce all restrictions, covenants conditions, reservations, liens, and charges under the Declaration by means of an action at law or in equity; and,

WHEREAS, Article IV, Section 1(d) of the Declaration authorizes the Association to suspend the voting rights and rights of a member to use any recreational facilities constructed on the Common Area for any period during which any assessment remains unpaid, and for a period not to exceed sixty (60) days for any infraction of the Association's rules and regulations; and,

WHEREAS, Section 55.1-1819 of the Virginia Property Owners' Association Act, Va. Code § 55.1-1800, *et seq.* (the "Act"), provides, in part, that, "[e]xcept as otherwise provided in this chapter, the board of directors shall have the power to establish, adopt, and enforce rules and regulations with respect to use of the common areas and with respect to such other areas of responsibility assigned to the association by the declaration, except where expressly reserved by the declaration to the members;" and,

WHEREAS, Section 55.1-1828 of the Act requires that all Owners and their tenants,

guests and invitees comply with the Declaration and all provisions of the Act; and

WHEREAS, Section 55.1-1819.B. of the Act authorizes the Board, to the extent the Declaration or rules and regulations duly adopted pursuant to such Declaration expressly so provide, to suspend a delinquent Owner's right to vote and use the facilities or nonessential services offered by the Association during any period in which such Owner's assessments are more than sixty (60) days delinquent, and to impose monetary penalties against an Owner for violations of the Declaration or any rules and regulations adopted pursuant thereto.

NOW THEREFORE BE IT RESOLVED THAT the following due process and enforcement procedures are hereby adopted, which procedures shall supersede and replace any previously adopted policies and procedures relating to the same subject.

I. Complaint.

A. Any Owner, tenant, management agent, Board of Directors member, or ARB member may request that the Board of Directors take action to enforce the Declaration, Bylaws, Articles, or rules and regulations by completing, dating and signing a Complaint in a form similar to and containing the information contained on Exhibit "A" hereto.

B. The Complaint shall be submitted to the Board of Directors to determine whether it appears that a violation has occurred. The Complaint may be submitted to the Board by way of delivery to the managing agent.

C. The Board of Directors reserves the power to hold Owners legally responsible for ensuring that the occupants of their household, their family, employees, guests, tenants, agents and lessees comply with the Declaration, Bylaws, Articles, and all duly adopted rules and regulations.

D. No Complaint is necessary when the issue concerns an Owner's failure to pay assessments which are more than 60 days past due as set forth in Section V below. In addition, the Board of Directors may, in its sole discretion, undertake enforcement proceedings in the absence of a Complaint if it otherwise becomes aware of a violation and determines that action thereon is required. Further, appeals to the Board of Directors from decisions of the ARB, to the extent those decisions involve alleged violations, shall follow the procedures set forth in this Resolution.

II. Notice.

A. If determined appropriate, a written notice of violation should be sent by first class mail or should be hand-delivered to the offending Owner at the address the Owner has provided the Association or at the Lot address if no other address has been provided. A notice will typically be sent in response to a Complaint as described in Section I above, but the Board of Directors may, in its sole discretion, direct the issuance of a notice even in the absence of such a Complaint. In addition to other reasons, notice may also be sent as a result of any Lot

inspections by the ARB in the course of its efforts to monitor compliance with the covenants, conditions, and restrictions.

B. The notice shall specify the alleged violation, the action required to correct the violation, and a date, usually not less than ten (10) days after the date of the notice, by which the alleged violation must be remedied. Provided, however, when the violation may constitute a health, safety or fire hazard, demand may be made to remedy the violation within twenty-four (24) hours or such shorter time as the Board of Directors deems appropriate in its discretion.

C. The notice should state that if the violation is not remedied within the specified time, the Owner will be given an opportunity for a hearing before the Board of Directors to address the alleged violation(s).

III. Notice of Hearing.

A. If the alleged violation is not remedied by the date or within the time specified in the notice referenced in Section II, a notice of hearing should be sent. Notice of a hearing shall be hand delivered or mailed by registered or certified United States mail, return receipt requested, at least fourteen (14) days in advance of the hearing date, or within such other time as may be required by the Act, to the Owner at the address the Owner is required to provide to the Association, or to the Lot address if no other address has been provided. Service by mailing shall be deemed effective upon depositing the notice into a regular depository of the United States Postal Service.

B. The notice of hearing shall specify:

- 1) The time, date and place of the hearing.
- 2) That the Owner shall be given an opportunity to be heard and to be represented by counsel before the Board of Directors.
- 3) The alleged violation(s).
- 4) That, if the violation relates to restrictions governing the use of the Common Area, charges for violations may include assessment of up to Fifty Dollars (\$50.00) for a single offense or Ten Dollars (\$10.00) per day for up to ninety (90) days, for any offense of a continuing nature, or such greater amounts as may be authorized by the Act.
- 5) That other appropriate remedies may be taken, such as suspension of voting rights and rights of a member to use any recreational facilities constructed on the Common Area for a period not to exceed sixty (60) days; and that the Association may elect to file suit against the Owner to enforce compliance.

IV. Hearing.

A. The hearing shall be scheduled at a reasonable and convenient time and place within the Board of Directors' discretion.

B. The Board of Directors, within its discretion, may grant a continuance for good cause shown, but no such continuance shall be required in any particular situation. If the Owner for which the hearing is scheduled requests a different time or date, no further notice shall be required.

C. The hearing need not be conducted according to technical rules of evidence applied in a court of law. The hearing shall provide the Owner with an opportunity to be heard and to be represented by counsel. The hearing shall be conducted according to reasonable procedures, including time limits, established by the person presiding over the hearing.

D. The hearing may be conducted in executive session unless the Owner requests that the hearing be open and further provided that the chairman of the hearing body may impose a reasonable limit on the number of such persons who can be accommodated in the hearing room. The Board of Directors may determine to hold the hearing in open session in its discretion, and, conversely, may determine to hold the hearing in executive session even if the Owner requests that it be open. During the course of any hearing held, the Board of Directors, within its discretion, may afford those residents involved with or affected by the dispute or violation an opportunity to be heard within reasonable time limits.

E. After proper notice has been given, if the Owner fails to appear at the hearing, the hearing may continue as scheduled and the Board of Directors may, in the Owner's absence, take such enforcement actions as may be authorized by the Declaration, Bylaws, Articles or by law.

F. If the Owner acknowledges responsibility for the violation charged and does not wish to contest the alleged charge or suspension, the Board of Directors may, in its discretion, dispense with a hearing after having afforded the Owner with an opportunity for a hearing, said opportunity having been waived by the Owner.

G. Within seven (7) days of the hearing, or such other time period as may be required by the Act, the Board of Directors shall notify the Owner in writing of its decision, the suspension of voting rights and/or any use of facilities or services, the assessment of any charges and the date from which those assessments shall accrue and be due.

V. Non-Payment of Assessments.

The Declaration and the Act give the Association the power to suspend an Owner's right to use Common Areas and facilities or services, including utility services, provided directly through the Association for nonpayment of assessments which are more than 60 days past due, to the extent that access to the Lot through the Common Areas is not precluded and provided that such suspension shall not endanger the health, safety, or property of any Owner, tenant, or

occupant.

Any Owner who is more than 60 days past due on the payment of any assessments or portions thereof shall be provided with notice of such delinquency and the opportunity for a hearing as set forth above. Any Owner who fails to appear for a noticed hearing will be deemed to have waived his/her right to a hearing and the Board of Directors may take further action thereafter in said Owner's absence.

Any Owner who is found to be more than 60 days past due on the payment of any assessments or portions thereof may be subject to the suspension of access by him, his tenants, or guests to Common Area facilities and services, and such other penalties as allowed by the Declaration and/or the Act, until all amounts due have been paid in full.

The remedies and procedures set forth herein are in addition to the Association's other remedies for non-payment, including the right to record liens and file suit, and nothing contained herein shall limit the Association's right to pursue such other remedies.

VI. Assessment of Charges.

Pursuant to the Act, any charges assessed for violations relating to restrictions governing the use of the Common Area after notice and hearing shall be in amounts authorized by the Act and shall be treated as an assessment against such Owner's Lot for all purposes, including liens. Such charges also shall be the personal obligation of the Owner.

VII. Miscellaneous.

The procedures outlined in this Resolution may be applied to all violations of the Declaration, Bylaws, Articles and/or the rules and regulations relating to the use and enjoyment of the Properties, payment and collection of assessments, and the personal conduct of the members and their guests, but do not preclude the Association from exercising other enforcement procedures and remedies authorized by the Declaration and/or by law, including, but not limited to, the initiation of suit, and shall not constitute an election of remedies.

VIII. Effective Date.

The effective date of this Resolution shall be February 15, 2021. This Resolution shall supersede and replace any previously adopted policies and procedures relating to the same subject.

[Execution Page Follows]

**DRANESVILLE ESTATES
HOMEOWNERS ASSOCIATION**

By: 
President

By: 
Secretary

Certificate of Posting of Rules and Regulations

I, Anne O'Flaherty, President for Dranesville Estates Homeowners Association, hereby certify that copies of this Policy Resolution No. 2021-2, were reasonably published or distributed throughout the development in accordance with Section 55.1-1819.A. of the Act, prior to the effective date of the Resolution.


President, Dranesville Estates Homeowners Association

**Exhibit "A" to the
RESOLUTION ON DUE PROCESS AND ENFORCEMENT PROCEDURES**

Violation Complaint

Date: _____

1. Name of person(s) violating rules/covenants: _____
2. Address of person(s) violating rules/covenants: _____
3. Are the person(s) named in question 1 tenants or owners? _____
4. Describe in detail how and where the rules/covenants were violated:

5. When did the violation(s) occur? _____

6. Have you personally requested the lot owner or tenant to cease the violation?
___ Yes, ___ No, ___ Verbally, ___ By written request. When? _____
7. Name and address of person(s) making complaint: _____

8. Signature(s) _____

FOR ASSOCIATION USE ONLY

9. Registered name(s) of Owner(s): _____

10. Lot Address: _____
11. Provision(s) of Governing Documents or Rule(s) violated:

12. Owner's address if non-resident: _____

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13. Registered name(s) of tenant(s): _____

14. Comment(s): _____

15. Date notice sent to Owner: _____

16. Referred to Board on _____.

17. Date notice of hearing sent:

18. Date of hearing:

19. Date hearing result notice sent:

cc: Owner File

**DRANESVILLE ESTATES HOMEOWNERS ASSOCIATION
RESOLUTION ACTION RECORD**

Resolution Type: Regulatory No. 2021-2

Pertaining to: Due Process and Enforcement Procedures

Duly adopted at a meeting of the Board of Directors held July 28, 2020.

Motion by: Rikki Gardonia Seconded by: Julie A. Gibbons

	VOTE:			
	YES	NO	ABSTAIN	ABSENT
<u>Aaron Banikotes</u> Director	—	—	—	<u>X</u>
<u>Rikki Gardonia</u> Director	<u>X</u>	—	—	—
<u>Rae Kligys</u> Director	—	—	—	<u>X</u>
<u>Anne O'Flaherty</u> Director	<u>X</u>	—	—	—
<u>Mimi Kramer-Roberts</u> Director	<u>X</u>	—	—	—
<u>Julie A. Gibbons</u> Director	<u>X</u>	—	—	—

ATTEST:

Mimi Kramer-Roberts
Secretary

July 28, 2020
Date

Resolution effective: February 15, 2021