

SILVER CUP ESTATES HOMEOWNERS' ASSOCIATION, INC.

POLICY RESOLUTION NO. 1

UPDATED to Code of Virginia, Title **55.1**, Chapter **18**, JANUARY 31, 2022

DUE PROCESS PROCEDURE

WHEREAS, Article LX, Section 1 (c) of the By-Laws of the Silver Cup Estates Homeowners' Association, Inc. ("Association") assigns to the Board of Directors the power to exercise for the Association all powers, duties, and authority vested in or delegated to the Association and not reserved to the Membership;

WHEREAS, the Declaration of Covenants, Conditions, and Restrictions, under Article 1 1, "Silver Cup Homeowners' Association," Section C. authorizes the Association to promulgate and enforce regulations;

WHEREAS, Article VI, Section 1. of the By-Laws states that the affairs of the Association shall be managed by a Board of Directors;

WHEREAS, the Declaration of Covenants, Conditions, and Restrictions, under Article 5, "Architectural Control Committee," provides for the appointment of an Architectural Control Committee ("ACC");

WHEREAS, Section 55.1-1819 A of the Virginia Property Owners' Association Act ("Act") grants the Association the power, to the extent provided in the declaration or rules and regulations adopted pursuant thereto, to assess charges against owners for violations of the Association's governing documents for which a member or his family members, tenants, guests, or other invitees are responsible;

WHEREAS, Section 55.1-1819 B of the Act provides the Association with the power to suspend an owner's right to use the recreational facilities for violations of the Association's governing documents and provides that certain procedures must be followed before such charges may be assessed or suspension initiated;

WHEREAS, for the benefit and protection of the Association, and 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 a Member with provisions of the Act or the Association's governing documents (including the Declaration of Covenants, Conditions, and Restrictions, By-Laws, Articles of Incorporation, and Architectural Guidelines), 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 Of Directors 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's governing documents.

NOW, THEREFORE BE IT RESOLVED THAT the following Due Process Procedures are adopted.

ARTICLE 1 VIOLATIONS OF THE ASSOCIATION GOVERNING DOCUMENTS

Section 1.1 Actions Prior to Initiation of Formal Due Process Procedure

(a) Any Member, Officer of the Association, or the Association Manager has the authority to request that a Member cease or correct any act or omission which appears to be in violation of the Act or the governing Documents. Such informal requests should be made before the formal process is initiated.

(b) The Association Manager may suspend the right of a Member to use any facility for a maximum period of seventy-two hours if such Member's use of the facility is in violation of the governing documents and may endanger life, limb, or property or equity of the Association and a verbal request to cease or correct the violation has not been heeded.

(c) In the case of disputes between Members regarding activities within lots, the Association will generally not become involved in the dispute or act on a complaint, unless two or more parties have complained in writing.

Section 1.2 Written Complaint

(a) If the actions described in Section 1.1 prove unsuccessful, the Due Process Procedure shall be initiated upon the filing of a written complaint by any Member, officer, or director of the Association or the Association Manager (hereafter referred to as "Complainant") with the Association Manager.

(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 Tenant (hereafter referred to as "Respondent") is charged, so that the Respondent will be able to prepare the Respondent's defense.

(c) The Complaint shall specify the specific provisions of the Act or the governing documents which the Respondent is alleged to have violated and shall contain supporting facts.

(d) The Complaint must be as specific as possible as to times, dates, places, acts, or omissions and persons involved. If the problem involved a pet, the Complainant should identify the pet, if possible.

Section 1.3 Notice of Violation

(a) Upon receipt of a Complaint, the Association Manager will inspect the Lot or investigate the situation to determine whether the Complaint accurately identifies a violation of the governing documents.

(b) If the Association Manager determines the condition or situation is a violation of the governing documents, the Association Manager shall notify the Owner and the Tenant, if the lot is leased, that a violation has been noted on the Lot. The Notice shall include the time, date,

place, and nature of the violation, and advise that the violation must be corrected. Copies of this Notice of Violation shall be in the form attached as Exhibit I and shall be maintained in the Association files and a copy shall be sent to the chairman of the Architectural Review Board.

(c) If the Association Manager is not able to determine that the condition is a violation, the Association Manager shall refer the Complaint to the Architectural Control Committee, which shall conduct a preliminary investigation to determine the validity of the Complaint. If preliminary investigation indicates the need for further action, the Architectural Control Committee shall serve the Respondent with a Notice of Violation in the form attached as Exhibit I .

(d) If the violation has been corrected or the Complaint is invalid for any reason, the Association Manager shall respond in writing to the Complainant.

(e) If the violation is not remedied to the satisfaction of the Association Manager and the Board of Directors, the Association Manager will schedule the matter for a hearing at the next meeting of the Board of Directors scheduled in fourteen days or more.

Section 1.4 Notice of Hearing

(a) Upon referral of a Complaint to the Board of Directors, the Board of Directors shall serve a Notice of Hearing on all parties at least fourteen days prior to the hearing by either of the following means: (1) personal service; or (2) registered or certified mail, return receipt requested, and addressed to the parties at the address appearing on the books of the Association. Service by mailing shall be deemed effective five days after such mailing in a regular depository of the United States mail. The Notice of Hearing sent to the parties shall be substantially in the form attached as Exhibit 2, but may include other information.

(b) If no response is received from the Member by the hearing confirmation date, or the Member confirms attendance but fails to attend the hearing without providing reasonable and satisfactory explanation, the Member shall be deemed to have waived the right to such hearing, and the monetary charges or facilities suspension may be assessed as if the hearing has been completed with a judgement to the Member.

Section 1.5 Service of Complaint

The Board of Directors shall serve a copy of the written Complaint, if any, on the Respondent, along with the Notice of Hearing.

Section 1.6 Cease and Desist Request

The Board of Directors may, at its own discretion, issue a Cease-and-Desist Request along with the Complaint and Notice of Hearing. Such Cease-and-Desist Request shall be substantially in the form attached as Exhibit 3 to this Resolution.

Section 1.7 Amended and Supplemental Complaints

At any time prior to the hearing date, the Board of Directors may file or permit the filing of an amended and supplemental Complaint. All parties shall be notified thereof in the manner provided herein. If the amended and supplemental Complaint presents new charges, the Board of Directors shall afford the Respondent a reasonable opportunity to prepare a proper defense.

Section 1.8 Statements

(a) Written statements may be introduced by a party if a copy of the statement is mailed or delivered to the opposing party.

(b) The statement, if introduced in evidence, shall be given the same effect as if the author had testified orally.

Section 1.9 Hearing

(a) The President shall serve as hearing officer and preside over the hearing, unless otherwise determined by the Board of Directors.

(b) At the beginning of the hearing, the hearing officer shall explain the rules and procedures by which the hearing is to be conducted. The Board of Directors may determine the manner in which the hearing is to 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. Generally, any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make the admission of such evidence improper. Hearsay evidence may be used for the purpose of supplementing or explaining other evidence but shall not be sufficient in itself to support a finding.

(c) Neither the Complainant nor the Respondent need be in attendance at the hearing. At the request of either the Complainant or the Respondent, the Board of Directors may agree to conduct the hearing in private session if the Act so permits.

(d) Each party shall have the right to do the following, but may waive any or all of these rights:

- (1) Make an opening statement;
- (2) Introduce evidence, testimony, and witnesses;
- (3) Cross-examine Opposing witnesses;
- (4) Rebut evidence and testimony, and
- (5) Make a closing statement.

The Complainant and the Respondent may be called and questioned regardless of whether they testify in their own behalf.

Section 1.10 Decisions

To be effective, a decision of the Board of Directors shall be by a majority vote. The hearing determination shall be issued within seven days of the conclusion of the hearing. The decision shall be written and may be accompanied by both the majority and minority opinions, if any. Copies of the determination shall be distributed to the parties.

Section 1.11 Suspension of Privileges

Disciplinary action imposed by the Board of Directors may include suspending or conditioning the Respondent's right to use the recreational facilities, if any, in accordance with

Section 55.1-1819 B of the Act. For any non-continuing infraction, such suspension shall be for a period of not more than sixty days. For a continuing infraction (including non-payment of any assessment after the same becomes delinquent), suspension may be imposed for so long as the violation continues.

ARTICLE 2 TENANTS

Section 2.1 Notice to Owner

If the person charged with a violation of the Act or the Association's Governing documents is a tenant, the Owner of the 101 in which the tenant resides shall be considered a Respondent and as party to the action shall receive certified copies of all correspondence or other documents sent to the tenants pursuant to this Resolution.

Section 2.2 Owners' Rights

The owner shall have all rights provided in Section 1.

ARTICLE 3 SANCTIONS

Section 3.1 Disciplinary Options

Disciplinary action imposed by the Board of Directors may include, but is not limited to, the following:

- (a) Assessing monetary charges against the Respondent in accordance with Section 55.1-1819 of the Act;
- (b) Assessing expenses against the Respondent;
- (c) Issuing a Cease-and-Desist Request in accordance with Section 1.6 of this Resolution;
- (d) Suspending the Respondent's use of the recreational facilities, if any, as pursuant to Section 1.1 1 of this Resolution.

ARTICLE 4 CONSTRUCTION

Section 4.1 Proceedings

This Resolution is intended to assure that due process is provided to Members and tenants in proceedings before the Board of Directors to enforce the Aet and the Association's governing documents, and to serve as a guideline for such proceedings.

Section 4.2 Implementation

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

Section 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 this Resolution.

Section 4.4 Due Process Defined

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

- (a) The charges shall be provided to the owner and also to the tenant, if applicable;
- (b) A hearing shall be held at which witnesses may appear and be cross-examined and at which evidence may be introduced;
- (c) An opportunity to appeal shall be available; and
- (d) Basic principles of fairness shall be applied.

SILVER CUP ESTATES HOMEOWNERS' ASSOCIATION, INC.
RESOLUTIONS ACTION RECORDED


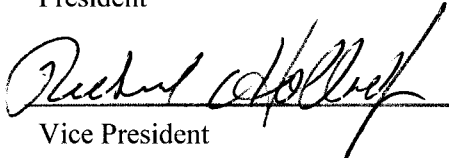

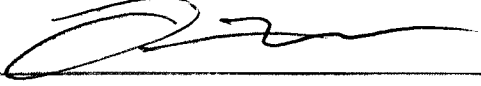
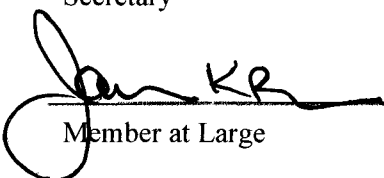
Resolution Type: Policy Number: 1

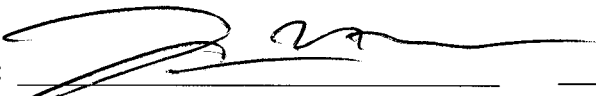
Pertaining to: Due Process Procedure

Duly adopted at a meeting of the Board of Directors held: January 31, 2022

Motion by: Richard Holland Seconded by: Kim Aeres

VOTE:

	YES	NO	ABSTAIN	ABSENT
 President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Vice President	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Treasurer	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Secretary	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
 Member at Large	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Attest: 
Secretary

January 31, 2022
Date

A copy of the foregoing Resolution will be published on the Association's WEB page.

Resolution effective: January 31, 2022
Date

Exhibit 1 to the
Resolution

Via certified mail
return receipt requested
and regular mail with
proof of mailing

Silver Cup Estates Homeowners' Association, Inc.
Notice of Violation

Name
Number and Street
Warrenton, VA 20186

Re: Silver Cup Estates Homeowners' Association, Inc. - Notice of Violation

Dear Owner/Resident,

Pursuant to Policy Resolution # _ of the Silver Cup Estates Homeowners' Association, Inc., this is to serve as notification that according to information provided to the Association, a condition on your Lot has been noted as a violation of_____

The specific condition has been described as follows: _____

Before proceeding forward under the Association Due Process Procedure, we encourage you to address this condition on your Lot and take corrective action. 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 me.

Sincerely,

BoD Officer

Exhibit 2 to the
Resolution

Via certified mail return
receipt requested and
regular mail with proof of
mailing

Silver Cup Estates Homeowners' Association, Inc.
Notice of Hearing

Name
Number and Street
Warrenton, VA 20186

Re: Silver Cup Estates Homeowners' Association, Inc. -
Notice of Hearing Before the Board of Directors

Dear Owner/ Resident.

Pursuant to Policy Resolution # ____ of the Silver Cup Estates Homeowners' Association, Inc., 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 on ____, 20___. A copy of this 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 Board of Directors on _____ 20____, at _____ P.M. upon the charges set forth in the Complaint. You may be present at the hearing, may, but need not be, represented by Counsel, and may present any relevant information including witnesses concerning the Complaint. You will be given a full opportunity to question any witnesses that you wish to present, or which are 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. You will be entitled to only one rescheduling. Keep in mind that 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 have questions, contact _____, Association Board Member at _____.

Sincerely,
Silver Cup Estates Homeowners' Association, Inc.
Board of Directors

By: _____

Name, President

Exhibit 3 to the
Resolution

Via certified mail return
receipt requested and
regular mail with proof of
mailing

Silver Cup Estates Homeowners' Association, Inc.
Cease and Desist Request

Name
Number and Street
Warrenton, VA 20186

Re: Silver Cup Estates Homeowners' Association, Inc. Notice
Of Hearing Before the Board Of Directors

Dear Owner/Resident,

Pursuant to Policy Resolution # of the Silver Cup Estates Homeowners' Association, Inc., the Board of Directors hereby orders you to CEASE AND DESIST the following acts or actions in violation of the Associations Governing Documents:

This order will remain in effect until it is lifted by the Architectural Control Committee, the Board of Directors, or a Court of Law. Your immediate attention to these matters is requested.

Sincerely,
Silver Cup Estates Homeowners' Association, Inc.
Board of Directors

By: _____
Name, President