

Chancellor West Homeowners Association, Inc.

Policy Resolution No. 22.02

**Procedures to Ensure
Due Process in Enforcement Actions**

**This Resolution replaces Policy Resolution No. 06.01 of the same title.
Policy Resolution No. 22.02 amplifies, clarifies, and adds to the
previous policy.**

Authorities

WHEREAS, § 55.1-1819. Adoption and enforcement of rules within the Virginia Property Owners' Association Act (POA Act) empowers the board of directors 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.

Rules and regulations may be adopted by resolution and shall be reasonably published or distributed throughout the development. The board of directors shall also have the power, to the extent the declaration or rules and regulations duly adopted pursuant to such declaration expressly so provide, to assess charges against any member for any violation of the declaration or rules and regulations for which the member or his family members, tenants, guests, or other invitees are responsible.

Before any action is taken, the member shall be given a reasonable opportunity to correct the alleged violation after written notice of the alleged violation to the member. If the violation remains uncorrected, the member shall be given an opportunity to be heard and to be represented by counsel before the board of directors or other tribunal specified in the documents. Notice of a hearing, including the actions that may be taken by the association shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member at least 14 days prior to the hearing. Within seven days of the hearing, the hearing result shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the member.

The amount of any charges so assessed shall not be limited to the expense or damage to the association caused by the violation, but shall not exceed \$50 for a single offense or \$10 per day for any offense of a continuing nature, and shall be treated as an assessment against the member's lot. However, the total charges for any offense of a continuing nature shall not be assessed for a period exceeding 90 days. The board of directors may file or defend legal action in general district or circuit court that seeks relief, including injunctive relief arising from any violation of the declaration or duly adopted rules and regulations.

WHEREAS, Article VI Enforcement and Remedies, Section 1 Remedies (a), of the Master Declaration of Covenants, Conditions, Reservations, Restrictions, and Easements of the Chancellor West Home Owners' Association states: In the event of a violation or breach of any of the foregoing covenants, conditions, and restrictions, the Architectural Control Committee, the Declarant, the Association or any owner shall have the right to proceed at law or in equity to compel compliance with the terms hereof in order to prevent such violation or breach.

WHEREAS, for the benefit and protection of all members of the association, the Board of Directors deems it desirable to replace Policy Resolution No. 06.01 and adopt a new resolution to enact the statutory power to assess monetary charges and to establish procedures for enforcement of the regulations of the Association which are consistent with principles of due process and Virginia law.

Approved by the Chancellor West Board of Directors during an Open Board Meeting on 28 June 2022.

Michael Jordan, President

28 June 2022

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Chancellor West Homeowners Association, Inc.

**P.O. Box 783
Locust Grove, Virginia 22508**

Warning Notice

Date

Dear Neighbor: **Name and Address**

On **...Date...** the Chancellor West Homeowners' Association determined that your property is in **potential violation** of the Master Declaration of Covenants, Conditions, Reservations, Restrictions and Easements.

Nature of the potential Violation: **Use words from the Covenant reference.**

This potential violation is based on the following Covenants' provision:

Quote the exact language in the Covenants (not the Policy Manual, etc.).

If you have mitigating circumstances or other reasons for consideration regarding this Notice, then this is the time to dialogue with the Chancellor West HOA Architectural Control Committee.

Please respond to the ACC and/or remedy the potential violation no later than

_____.

Should you choose to not respond to this Notice by the above date, then the Board of Directors will issue a Citation for a Violation.

The Board of Directors has reviewed and approved this Warning Notice.

The BOD's Agent for Covenants' Compliance is the Chancellor West Architectural Control Committee (ACC). Please refer correspondence to the ACC at chancellorwestacc@gmail.com.

Respectfully,

**Chancellor West Homeowners' Association
Board of Directors**

28 June 2022

Chancellor West Homeowners Association, Inc.
P.O. Box 783
Locust Grove, Virginia 22508

Due Process in Enforcement Actions

Warning Notice Procedures

1. The Warning Notice provides the Chancellor West Home Owners' Association Board of Directors (BOD) a means to address a potential Covenants' violation without immediately resorting to enforcement via a Citation. The Warning Notice will be used by the BOD / Architectural Control Committee (ACC) for all initial potential violation discoveries.

Once the ACC identifies a potential Covenants violation, then it will take one or more time-date stamped photos of the alleged violation, prepare a Warning Notice, and forward the package via email to the BOD within 24 hours of discovery.

2. The BOD will review the Warning Notice and dialogue with the ACC with regard to any concerns. A completed Warning Notice shall be sent by the BOD to the homeowner and ACC via email as soon as all concerns are addressed. The ACC will also hand deliver the Warning Notice to the homeowners' mailbox within 48 hours of receipt from the BOD.
3. The Warning Notice provides the homeowner an opportunity to dialogue with the ACC about the nature and background of the potential violation and request consideration of various options. This opportunity is not available once a Citation is issued.

Dialogue could address: mitigating circumstances, establishment of a remedy completion date, a request for waiver to the regulation / rule, a "middle-ground solution", or other related matter. Such dialogue may result in the withdraw of the Warning Notice, an approved waiver provided certain actions are accomplished, or reaffirmation of the Warning Notice and issuance of a Citation for a Violation.

4. Should the homeowner desire a dialogue, then a written submission shall be sent via email to the ACC no later than the Response deadline. An "in-person" discussion with the ACC is encouraged, but the essence of all verbal dialogue shall be captured in writing by the ACC.

Once dialogue is judged complete by the ACC (a maximum of 14 days from homeowner submission), then the ACC shall send all correspondence and a recommendation to the BOD NLT 24 hours after the dialogue is complete. The BOD shall review the ACC recommendation and correspondence and issue a letter to the homeowner and the ACC detailing the decision within 24 hours.

Should the Warning Notice be reaffirmed, then the ACC shall prepare a Citation Notice and send it to the BOD via email within 24 hours of the decision notification. The potential violation shall now be handled as a Citation.

Should the Warning Notice be withdrawn, then the BOD will send a note via email to the homeowner and ACC detailing the decision (to include any waivers or agreements) within 24 hours.

5. Should the homeowner not pursue a dialogue by the Response Date, then the ACC will physically check for violation compliance within 48 hours after the Response Date and take appropriate photos.
 - a. If the potential violation is remedied, then the ACC shall send the homeowner a Thank You email note with info copy to the BOD within 24 hours of the determination.
 - b. If the potential violation is not remedied, then the ACC shall prepare a Citation Notice and send it to the BOD along with photos and any exchange with the homeowner within 24 hours of discovery. The potential violation will now be handled as a Citation.
6. The BOD will file the Warning Notice, any decisions, and related correspondence in the Homeowners' Lot # file.

Chancellor West Homeowners Association, Inc.
P.O. Box 783
Locust Grove, Virginia 22508

Citation

Date

Dear Neighbor: **Name and Address**

On **Date**.....The Chancellor West Homeowners' Association determined that your property is in violation of the Master Declaration of Covenants, Conditions, Reservations, Restrictions and Easements.

Nature of the Violation: Use words from the Covenant reference.

This violation is based on the following Covenants' provision:

Quote the exact language in the Covenants (not the Policy Manual, etc.).

Remedy Required: State the recommended action required to remove the violation.

Please remedy this violation by the Corrective Action Completion Date: **XXXXXXX**

You have the RIGHT to present evidence to the Chancellor West Home Owners' Association Board of Directors (BOD) that no violation exists. You may do this in writing or at a Hearing with or without counsel.

Should you offer written evidence, you must do so before the Corrective Action Completion Date. Send your submission to the BOD through the ACC. The BOD shall coordinate a BOD meeting date, time, and location to address your submission. The BOD shall notify you and the ACC by email at least 14 days prior to the date. You shall be invited to attend.

Should you desire a Hearing, send your request before the Corrective Action Completion Date to the BOD through the ACC. You must state whether or not a counsel will be present. The BOD shall coordinate a Hearing date, time, and location and notify you and the ACC at least 14 days prior to the date.

You shall be deemed to have waived the right to respond in writing or have a Hearing with counsel should the ACC not receive a response by the Corrective Action Completion Date.

If the BOD finds that a violation has not been committed as a result of written evidence or a Hearing, then it shall send an email note so stating with rationale to you and the ACC within 24 hours of the finding.

If the BOD determines that a violation has occurred then it shall issue a **Decision Letter** and **Penalty Notice** to you and the ACC via email within 24 hours of the determination. The ACC shall also send the Decision Letter and Penalty Notice to you **by registered mail, return receipt requested, within 48 hours of receiving the letter/Notice from the BOD.**

The Board of Directors has reviewed and approved this Citation.

The BOD's Agent for Covenants' Compliance is the ACC. Please refer any correspondence to the ACC at chancellorwestacc@gmail.com.

Respectfully,

**Chancellor West Homeowners' Association
Board of Directors**

Chancellor West Homeowners Association, Inc.
P.O. Box 783
Locust Grove, Virginia 22508

Due Process in Enforcement Actions

Citation Procedures

1. When a homeowner does not respond to a Warning Notice or does not remedy the situation by the Warning Notice Corrective Action Date, the ACC shall prepare a Citation Notice and provide it to the BOD with date-time stamped photos of the violation within 48 hours of the Corrective Action Date. The violation description shall use the exact language in the Covenants.

Each violation shall require a separate Citation.

2. A BOD member shall be the signatory authority on the Citation Notice. The BOD shall send the signed Citation Notice to the homeowner and the ACC via email within 24 hours of receipt. The ACC shall also send the Citation with photos by registered mail, return receipt requested, to the homeowner within 48 hours of receipt.

The homeowner shall be provided a minimum of 15 days (or longer if merited by the situation) to complete corrective action. Completion time will be carefully considered.

3. The Citation shall provide the homeowner the opportunity to prove that no violation exists. This may be done in writing or in a Hearing, with or without counsel.
 - a. Should the homeowner offer written evidence, then the submission shall be sent to the BOD through the ACC before the Corrective Action Completion Date. The BOD shall coordinate a meeting date, time, and location and notify the homeowner and ACC at least 14 days prior to the date. The Homeowner shall be invited to attend.
 - b. Should the homeowner request a Hearing, then the request shall be sent to the BOD through the ACC before the Corrective Action Completion Date. The homeowner must notify the BOD if counsel will be present. The BOD will coordinate a Hearing date, time, and location and notify the homeowner and ACC at least 14 days prior to the date.
 - c. If the BOD finds that a violation has not been committed (as a consequence of either the meeting or Hearing), then it will send an email note so stating with rationale to the homeowner and ACC within 24 hours of the finding.
 - d. If the BOD determines that a violation has occurred (as a consequence of the meeting or Hearing, then it shall issue a Decision Letter and an Initial Penalty Notice within 24 hours of the determination to the homeowner and ACC via email. The ACC shall also

send the Decision Letter and Penalty Notice to the homeowner by registered mail, return receipt requested, within 48 hours of receiving the letter/Notice.

4. Should the homeowner not respond to the Citation Notice, then the ACC shall check to determine if the violation is remedied within 48 hours after the Citation Notice Corrective Action Completion Date, take date-time stamped photos, and send the results to the BOD the same day.
5. See Penalty Notice Procedures for follow on actions.
7. The BOD will file all Citation Notices, decisions, and related correspondence in the Homeowners' Lot # file.

Chancellor West Homeowners Association, Inc.
P.O. Box 783
Locust Grove, Virginia 22508

Penalty Notice

Initial

Continuing Violation

Date

Name and Address

The Chancellor West Homeowners' Association has found your property in violation of the Master Declaration of Covenants, Conditions, Reservations, Restrictions and Easements. Nature of the Violation: Specifically: Use the identical language from the Citation. If applicable, state if the violation is of a continuing nature.

If this is a First Penalty Notice: you are assessed a monetary penalty of: _____ against the current year. Please submit payment to the Chancellor West Home Owners' Association at the above address within 30 days.

You must remedy the violation no later than _____ to avoid a Continuing Violation additional penalty. Notify the BOD through the ACC once the violation has been corrected.

The maximum allowable amount for a single first-time offense is \$50.

If this is a Continuing Violation Penalty Notice, then you are assessed \$10 per day beginning on _____ and continuing each day until the penalty is remedied, the maximum allowable amount is reached, or the day before an action is filed in court by either the Association's legal representative or you. You must notify the BOD through the ACC once the violation has been corrected.

The total amount for any single offense of a continuing nature cannot exceed \$10 per day. Total charges of a continuing nature for a single offense cannot exceed \$900 (90 days).

The Association may pursue in court, with legal representation, a judgement seeking compliance with the covenants, payment of the violation assessment, and restitution of all legal costs. The Association may also seek a Lien on your property (per Code of Virginia, Chapter 18, Property Owners' Association Act Title 55.1-1833).

Respectfully,

President, Chancellor West Homeowners' Association Board of Directors

28 June 2022

Chancellor West Homeowners Association, Inc.
P.O. Box 783
Locust Grove, Virginia 22508

Due Process in Enforcement Actions

Penalty Notice Procedures

1. The BOD will prepare all Penalty Notices, and the President shall be the signatory authority.
2. Initial Penalty Notice.
 - a. An initial Penalty Notice shall be issued by the BOD when a homeowner is found in violation of the Master Declaration of Covenants during the Citation phase of enforcement. The BOD shall issue an Initial Penalty Notice within 24 hours of ACC notification. The Notice shall use the identical language from the Citation in describing the violation. A Remedy Date, beyond which the offense shall become one of a “continuing nature”, shall be designated in the Notice. The Penalty Notice shall be delivered to the homeowner and ACC via email. The ACC shall also deliver the Penalty Notice by registered mail, return receipt requested, within 48 hours of receipt from the BOD.
 - b. When an Initial Penalty Notice is issued, the ACC shall check for corrective action within 48 hours after the Penalty Notice Remedy Date, take date-time stamped photos, and provide the results to the BOD the same day. If the Initial Penalty Notice violation is remedied, then the BOD will send a letter to the homeowner within 24 hours acknowledging compliance and reminding the homeowner of any unpaid penalty assessment.
3. Continuing Violation Penalty Notice.
 - a. If a violation has been previously remedied, and the homeowner repeats the violation within a year, then the ACC shall take date-time stamped photos within 24 hours of discovery and request the BOD issue a Continuing Violation Penalty Notice. The BOD shall send a Continuing Violation Penalty Notice within 24 hours of ACC notification via email to the homeowner and the ACC. The ACC shall also deliver the Penalty Notice to the homeowner by registered mail, return receipt requested, within 48 hours of receipt from the BOD.
 - b. If an Initial Penalty Notice violation is not remedied, then the BOD shall send a Continuing Violation Penalty Notice to the homeowner and the ACC via email within 24 hours of notification. The Notice shall indicate the continuing nature of the violation and an additional monetary penalty, commencing the day after the Penalty Notice Remedy Date and continuing until the homeowner notifies the BOD in writing through the ACC that the violation has been corrected. The ACC shall also send the Penalty

Notice with photos to the homeowner by registered mail, return receipt requested, within 48 hours of receipt.

- c. Should a homeowner refuse to remedy a violation then the daily monetary penalty shall continue until it either reaches the allowable maximum or the day before an action is filed in court by the Association's legal representative or the homeowner.
4. Should the homeowner refuse to pay the assessed monetary penalty, then the Association shall pursue in court, with legal representation, a judgement seeking compliance with the covenants, payment of the violation assessment, and restitution of all legal costs. The Association may also seek a Lien on a homeowners' property (per Code of Virginia, Chapter 18, Property Owners' Association Act Title 55.1-1833).
5. Any monetary penalty shall be a current year assessment, payable within 30 days of homeowner notification or monthly if a continuing violation.
6. The BOD shall file all Penalty Notices and related correspondence in the homeowner's lot file.