



BIRKDALE COMMUNITY ASSOCIATION, INC.

BOARD RESOLUTION 2026 – 7

Complaint and Due Process Resolution for Violations of the Declarations, Bylaws, Rules and Regulations or Architectural Standards and Guidelines

The Board of Directors of Birkdale Community Association, Inc. at their meeting held on August 17, 2026 approved the COMPLAINT AND DUE PROCESS RESOLUTION FOR THE VIOLATIONS OF THE PROPERTY OWNERS' ASSOCIATION ACT OR THE DECLARATION, BYLAWS, RULES AND REGULATIONS OR ARCHITECTURAL STANDARDS AND GUIDELINES attached hereto to be effective immediately. This resolution and policy supersede any previous policies approved by the Board.

President

Secretary

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WHEREAS, Section 55.1-1819(A) of Chapter 18 of Title 55.1 of the Code of Virginia (The Property Owners' Association Act, or "Act") empowers a Board of Directors to establish, adopt and enforce rules and regulations respecting use of common areas and other areas of responsibility assigned to the Association by the Association's declaration; and,

WHEREAS Article III, Section 3.4 of the Master Protections, A Declaration of Covenants, Easements and Restrictions, dated November 17, 1988 and recorded on December 6, 1988 in the Clerk's Office of the Circuit Court of the County of Chesterfield, Virginia, in Deed Book 1990 at Page 237, et. seq., as amended and/or supplemented ("Declaration"), and Article III, Section 2(f) of the Bylaws of Birkdale Community Association, Inc. ("Bylaws") authorize the Board of Directors of the Association to enact and amend rules for the use of the Common Areas and Recreation Area; and

WHEREAS, pursuant to Section 55.1-1819 and 55.1-1828(A) of the Act and the Declaration, all Lot Owners and all those entitled to occupy a Lot in the Birkdale community (collectively "Lot Owners") shall comply with the Declaration, Bylaws and Rules and Regulations, and Architectural Standards and Guidelines, as amended (collectively, "Governing Documents"),

WHEREAS, Article II of the Amended and Restated Articles of Incorporation of Birkdale Community Association, Inc., provides that the Association will exercise all of the powers and privileges and perform all duties and obligations of the Association as set forth in the Declaration and

WHEREAS, in accordance with Section 55.1-1819(B) of the Act and Article III, Section 3.4, Article IV, Section 4.3, and Article IX, Section 9.1 of the Declaration, the Association has the authority to assess charges against any Lot Owner, suspend of the right to vote, suspend the right to use any Common Area or Recreation Area, enter an owner's lot to correct a violation and charge the cost to the owner, or initiate legal action against an owner for any violation of the Governing Documents; and

WHEREAS, pursuant to Section 55.1-2310(A)(15) of the Resale Disclosure Act, the Association is also supposed to include notice of any violations in any resale certificate issued for a lot; and

WHEREAS, in accordance with Section 55.1-1819(B) of the Act, the Association, by duly adopted resolution, has the authority to "suspend a member's right to use facilities or services, including utility services, provided directly through the association for nonpayment of assessments which are more than sixty days past due"; and

WHEREAS, it is the intent of the Board of Directors, by virtue of this Resolution, to bring its enforcement policies and procedures provided by Article III, Section 3.4, Article IV, Section 4.3, and Article IX, Section 9.1 of the Declaration and Article 111, Section 2(f) of the Bylaws into compliance with the enforcement authority established by Section 55.1-1819(B) of the Act; and

WHEREAS, it is the intent of the Board of Directors, pursuant to Section 55.1-1819(B) of the Act and Article IX, Section 9.1 of the Declaration, to adopt by Resolution a due process procedure to be utilized for the Association to assess charges for violations of the Governing Documents; to suspend Lot Owners' use of facilities or services, including utility services, provided directly through the Association; and to initiate legal action for a violation of the Governing Documents (other than for past due assessments in which case this due process procedure is not required prior to legal action); and

WHEREAS, Section 55.1-1819 (C) of the Act further provides that certain procedures must be followed before such charges may be assessed and such suspensions may be imposed; and

WHEREAS, it is the intent of the Board of Directors to enforce the Governing Documents for the benefit and protection of the Association's Lot Owners, by establishing procedures which ensure due process and consistency of enforcement;

NOW THEREFORE, IT IS HEREBY RESOLVED THAT the Board of Directors of the Birkdale Community Association, by the Act, the Declaration, Bylaws and this Resolution, hereby adopts and establishes a procedure by which the Governing

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Documents can be enforced and herewith establishes a Covenants Committee for the administration thereof. Further, that the Board of Directors establishes a procedure by which facts and information pertaining to an alleged violation are brought to the attention of the responsible Owner and that Owner be given a chance to rectify an identified violation, and, further, that if no such remedy is made, the Board of Directors, or a committee appointed by the Board of Directors, on behalf of the association, called, from now and this point forward, the Covenants Committee, can investigate and review related facts and information, report to the Board of Directors, and attempt to resolve the matter, prior to the Covenants Committee or the Board imposing any sanctions provided herein and/or bringing any legal action. The Covenants Committee shall consist of up to five (5) homeowners of record of the community appointed by the Board.

IT IS HEREBY FURTHER RESOLVED THAT the Board of Directors is adopting the ability for the Covenants Committee, on behalf of the Board of Directors, to impose sanctions for violations of the Governing Documents after the following procedures have been followed:

1. It is encouraged that Lot Owners aware of a violation should first advise the violating Lot Owner of the violation and request that the alleged violating resident comply with the appropriate governing documents.
2. Notwithstanding Paragraph 1, above, any Association Member, Lot Owner, tenant, Managing Agent, employee or Board member who believes that a Member or a Lot is in violation of the Act, Declaration, Bylaws, Rules and Regulations or Architectural Standards and Guidelines may report a violation to the Covenants Committee and/or the Managing Agent. A Rules Violations Complaint form is available on www.birkdaleonline.com or by providing similar information via a telephone call, email, or in a letter to the Covenants Committee Chair or the Managing Agent. If the complaint is in regard to a suspected violation, the person bringing about the complaint must provide full details of the matter. All verbal or written reports of suspected violations will generally be treated as confidential and held in the Association files kept by the Managing Agent for the Association. Provided, however, if there is litigation regarding the violation, that information may have to be disclosed as part of the litigation.

3. Upon receipt of the complaint, Covenants Committee shall investigate the matter. The Covenants Committee Chair will utilize the Complaint Form, attached as Exhibit "A" as a way of logging each step taken from the time that a possible violation was noted until resolved without a hearing or a hearing was held in accordance with this Resolution. This file is to be used only by the Covenants Committee Chair and the members of the Covenants Committee to correctly ascertain the timeline of the event. After a resolution is reached between the Covenants Committee and the violating Lot Owner/Member, the file of record should be placed into the Lot Owner's file located with the Managing Agent as custodian in perpetuity.
4. Upon receipt of a written complaint, a conference, either via email or phone call, should take place between the Covenants Committee Chair and the Managing Agent to review the matter. With the Managing Agent and Covenants Committee Chair's authority, a Courtesy First Notice, which may be in a form similar to Exhibit "B" hereto, shall be sent by first class mail or shall be hand-delivered to the lot owner at the address which the owner has provided the Association or at the Lot's address if no other address has been provided. A copy may be sent to the tenant if there is a tenant. The Courtesy First Notice shall specify the alleged violation, the action required to abate the violation and a date usually not less than ten (10) days after the date of the Courtesy First Notice letter 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.
5. The Covenants Committee Chair shall monitor the situation and if no remedy is made within the specified time noted in the Courtesy First Notice letter, the Covenants Committee shall mail a Violation First Notice, which may be in the form similar to Exhibit "C" hereto, that shall state if the violation is not remedied by a specified date, usually ten (10) days after a Violation First Notice, the alleged violator may be subject to a hearing.
6. If the alleged violation is not remedied within the date or time specified in the Violation First Notice, the Covenants Committee shall mail a Violation Second Notice, which may be in the form similar to Exhibit "D" hereto, shall state that if the violation is not remedied by a specified date, usually ten (10) days, the alleged violator may be subject to a hearing.

7. If the alleged violation is not remedied within the date or time specified in the Violation Second Notice and the Lot Owner requests a hearing or if the Board of Directors or Covenants Committee determines a hearing is necessary, a hearing before the Covenants Committee shall be scheduled at a reasonable time and place in the discretion of the Board of Directors or Covenants Committee, and notice of hearing shall be sent. A Violation Hearing Notice shall be hand delivered or mailed by registered or certified United States mail, return receipt requested, at least fourteen (14) days in advance thereof, or within such other time as may be required by the Act, to the Lot Owner at the address which the Lot Owner is required to provide to the Association. Service by mailing shall be deemed effective two (2) days after the notice has been mailed in a regular depository of the United States mail. The Violation Hearing Notice may be similar to Exhibit "E" attached hereto and shall specify:
 - a) The time, date and place of the hearing of the Covenants Committee.
 - b) That the Lot Owner and tenant, if applicable, shall be given an opportunity to be heard and to be represented by counsel before the Covenants Committee.
 - c) The alleged violation, citing provisions of the Governing Documents, which allegedly have been violated.
8. At the violation hearing, the Managing Agent or Covenants Committee Chair will present the facts and other information relating to the alleged violation and will review each of the notices mailed to the suspected violating Member/Lot Owner. The alleged violating Member will be entitled to present facts, and other information related to the matter. The alleged violating Member may also bring and be represented by an attorney. Furthermore, some, but not all, alleged violations might require the presence of the ARC Chairperson, to discuss the issue as it relates to the Architectural Standards and Guidelines of the community. It will be up to the discretion of the Covenants Committee to decide whether the ARC Chair is to be present at the hearing.

9. Because the Covenants Committee hears matters regarding violations of the Governing Documents, after an initial Open Session, the hearing shall be conducted in Executive Session pursuant to Section 55.1-1816(C) of the Act, at

the discretion of the Covenants Committee 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. During the course of any hearing held, the Covenants Committee, within its discretion, may afford those residents involved with the dispute or violation an opportunity to be heard within reasonable time limits.

If the Lot Owner fails to appear at the hearing or if no hearing is requested, the hearing or meeting may continue as scheduled and the Covenants Committee may assess charges from the final compliance date of the Notice of Violation letter or take such other action and impose such other sanctions as may be authorized by the Governing Documents or by law. If the violation is corrected prior to the hearing date, or if the parties agree upon a resolution prior to that date, the hearing may be cancelled or rescheduled.

10. After the facts have been presented and all discussions have ended regarding the noted violation, the Covenants Committee will excuse all non-Covenants Committee parties except the managing agent and/or Association's attorney if in attendance and if the Committee Chair determines that their continued participation would be helpful, and review the facts and evidence presented during the hearing and discuss what, if any, further action is to be taken or sanctions will be imposed, including, but not limited to:

- a) levying charges for violation of the Governing Documents, which may be in the form of Exhibit "G" (Violation Fee Assessment) hereto, which may include assessment of up to Fifty Dollars (\$50.00) for a single offense or Ten Dollars (\$10.00) per day for any offense of continuing nature or such greater amounts as may be authorized by the Virginia Property Owners' Association Act;
- b) suspension of the Lot Owner's right to use facilities or services, including utility services, offered by the Association until the violation is cured and/or

ceased, or until assessments are paid if the suspension is due to nonpayment of assessments which are more than sixty days past due;

- c) entry onto the Lot to correct the violation with the costs charged to the Lot Owner; provided, judicial proceedings must be instituted before any

improvements/structures are altered or demolished on a Lot;

- d) turning the matter over to the Association's attorney for potential legal action against the Owner(s) and/or occupants which may include seeking injunctive relief or damages, including, but not limited to, recovery of the Association's legal fees and court costs;

- e) disclosure of the violation in any resale certificate issued for the Lot; and/or

- f) any other action or sanction authorized by the Act, the Association's Governing Documents, or other applicable laws.

Upon completion of all hearings and Executive Session discussions, the Covenants Committee will end the Executive Session and return to an Open Session to vote on the findings and outcome of each hearing using a predesignated identifier (number, letter, etc.) so as to maintain the confidentiality of the lot owners. Minutes of each hearing or meeting shall be kept and a form similar to that attached hereto as Exhibit "F", Violation Hearing Results, shall be completed and placed in the Lot Owner's file and appropriate Association files.

11. In accordance with Section 55.1-1819 (C) of the Act, within seven (7) days of the violation hearing, the Covenants Committee shall notify, in writing similar to Exhibit "F," the alleged violator of its decision by hand-delivery or mailing by registered or certified mail, return receipt requested to the violator's address of record with the Association, and the actions taken or sanctions imposed (if any). If sanctions include the assessment of any charges, which may be in the form similar to Exhibit "G" hereto, this communication shall include the date which those charges shall accrue from and be due, which shall not be earlier than the date set as the deadline for compliance in the Notice of Violation letter described in paragraph 5 (sample form shown on Exhibit "C").

The letter shall include the alleged violator's right to appeal the decision to the Board of Directors in writing and that charges or suspension of rights will continue/stay in effect and/or continue to accrue during the appeals process.

12. This resolution shall not be deemed to require a hearing: (a) prior to assessment of violation charges or suspension of access to facilities and services provided by the Association if a hearing is not requested; (b) for any action to collect delinquent assessments other than the suspension of the right to use facilities or services provided by the Association; (c) for violations to be listed in any resale certificate issued for the Lot; (d) prior to the initiation of litigation in situations that are time sensitive (e.g., construction is actively occurring or about to occur on the Lot without the requisite approval, sample form Exhibit "H," Notice of Violation: Cease and Desist); (e) prior to the use of remedies for which a hearing is not required by the Governing Documents or the Act. This resolution also shall not prevent the Association from exercising any other remedies authorized or available under the Act, the Association's Governing Documents or by law. Imposition of one or more sanctions shall not constitute an election of remedies. Remedies may be cumulative and include any action or sanction permitted under the Governing Documents or applicable law whether or not listed in this Policy.

EXHIBIT A - RULES VIOLATION COMPLAINT

Address of alleged violation: _____

Describe in detail the alleged violation:

When did the violation occur? ____ / ____ / ____

Is the violation on-going? ____ Yes ____ No

Person making complaint (Optional) : _____

Attach photos if appropriate.

FOR ASSOCIATION USE ONLY

Owner Name: _____

Street Address: _____

City, State, Zip: _____

Tenant Name: _____

Comments:

Date 1st letter sent: ____ / ____ / ____

Date 2nd letter sent: ____ / ____ / ____

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Request for hearing by owner ____Yes ____No Date request received: ____/____/____

Hearing date set for ____/____/____ Date hearing letter sent: ____/____/____

EXHIBIT B – COURTESY FIRST NOTICE

«Created Date»

Birkdale Community Association

c/o Community Manager

«Mailing address »

«City»« State»« Zip»

«Telephone / Email»

«Homeowner Name»

«Mailing address »

«City»« State»« Zip»

«Property Address»

Dear «Homeowner Name»,

A recent inspection of the community found that the following item(s) on your home and/or lot are not in adherence to the community-wide standards required of all homeowners, as set forth in the Declaration of Covenants, Conditions and Restrictions and/or Rules and Regulations (jointly known as the Governing Documents) for your Association. Specifically, the following have been found to be out of compliance: **«CCR Item»**

Additional Notes:

«CCR Item Letter Description»-

This is a courtesy notice to advise that the Board of Directors respectfully requests that you correct the condition(s) cited above no later than «Cure Date». If you feel that this letter has been sent in error, please contact «Name of Managing Agent», the community's managing agent, by logging into your homeowner web portal at «Managing Company Portal», to provide any comments or make requests for extensions to complete the necessary work.

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We appreciate your cooperation in promptly correcting any items in non-compliance, and for doing your part to help keep the community a beautiful place to live.

Sincerely,

«Name »
Community Manager

EXHIBIT C – VIOLATION FIRST NOTICE

«Created Date»

Birkdale Community Association
c/o Community Manager
«Mailing address »
«City»« State»« Zip»
«Telephone / Email»

«Homeowner Name»
«Mailing address »
«City»« State»« Zip»

«Property Address»

Dear «Homeowner Name»,

A recent inspection of the community found that the following item(s) on your home and/or lot are not in adherence to the community-wide standards required of all homeowners, as set forth in the Declaration of Covenants, Conditions and Restrictions and/or Rules and Regulations (jointly known as the Governing Documents) for your Association. Specifically, the following have been found to be out of compliance: **«CCR Item»**

Additional Notes:

«CCR Item Letter Description»-

This is a violation notice to advise that the Board of Directors respectfully requests that you correct the condition(s) cited above no later than «Cure Date». If you feel that this letter has been sent in error, please contact «Name of Managing Agent», the community's managing agent, by logging into your homeowner web portal at «Managing Company Portal», to provide any comments or make requests for extensions to ~~complete the necessary work.~~

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We appreciate your cooperation in promptly correcting any items in non-compliance, and for doing your part to help keep the community a beautiful place to live.

Sincerely,

«Name »
Community Manager

EXHIBIT D - VIOLATION SECOND NOTICE

«Created Date»

Birkdale Community Association
c/o Community Manager
«Mailing address »
«City»« State»« Zip»
«Telephone / Email»

«Homeowner Name»
«Mailing address »
«City»« State»« Zip»

«Property Address»

Dear «Homeowner Name»,

A recent inspection of the community found that there continues to exist on your home/lot one or more violations of the community-wide standards set forth in the Declaration of Covenants, Conditions and Restrictions and/or Rules and Regulations for your Association. Specifically, the following have been found to continue to be out of compliance:

«CCR Item» - «Action Item Description»

«CCR Item Letter Description»

Please take the necessary steps to correct this non-compliance with the community's standards. Should this violation continue, you could be called to a violation hearing before the community's Board of Directors and be subject to possible violation assessments until the infraction is corrected.

If you wish to provide further detail for the non-compliance issue, or to request an extension to bring the issue into compliance, please contact «Name of Managing Agent», the community's managing agent, by logging into your homeowner web portal at «Managing Company Portal», where you can submit these responses.

~~We appreciate your cooperation in correcting this matter as promptly as possible.~~

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Sincerely,

«Name »
Community Manager

EXHIBIT E – VIOLATION HEARING NOTICE

Birkdale Community Association
c/o Community Manager
«Mailing address »
«City»« State»« Zip»
«Telephone / Email»

«Homeowner Name»
«Mailing address »
«City»« State»« Zip»

«Property Address»

Dear «Homeowner Name»,

«Today Long Format»

Sent via: eCertified & Regular Mail

Reference: «Property Address Full 1 Line»

Dear «First and Second Owner»,

A follow up inspection of (or a report of) issues on your home and/or lot was conducted, and one or more ongoing violations continue as cited in prior written notice to you. As of the most recent inspection, the following item(s) were found to still be in non-compliance with the community-wide standards as cited in the Association's Declaration or Rules & Regulations:

«CCR Item»- «Action Item Description»
«CCR Item Letter Description»

Because of your continued violation of the community-wide standards and the Association's governing documents, you are hereby called to a hearing before the Covenants Committee for your Association to determine whether a violation assessment should be imposed.

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Hearing Details:

You are invited on «**Hearing Date**» to attend this hearing, located at «Action Item Note», and present any information you feel pertinent to this infraction, including stating the reasons you feel a violation assessment should not be imposed. Your presence is not mandatory, but **your absence will not delay the decision of the Covenants Committee or the posting of a violation assessment to your account if the Board decides a violation assessment is warranted.** You may wish to submit a written response if you are unable to attend the hearing in person. Your written response must be received in our office by the end of the business day prior to the hearing. You will be notified with the results of the hearing. Thank you for your prompt attention to this matter.

Sincerely,

«Name»
Community Manager

EXHIBIT F – VIOLATION HEARING RESULTS

«Today Long Format»

Birkdale Community Association
c/o Community Manager
«Mailing address »
«City»« State»« Zip»
«Telephone / Email»

«Homeowner Name»
«Mailing address »
«City»« State»« Zip»

«Property Address»

Dear «Homeowner Name»,

Reference: «Property Address Full 1 Line»

Dear «First and Second Owner»,

This letter is to inform you of the results of the judicial hearing held on **«Hearing Date»** regarding the violation on your account as listed below.

«CCR Item» «CCR Item Letter Description»

Hearing Results:

«Action Item Note»

«Include Owner's right to appeal decision of the Covenants Committee to the Birkdale Board of Directors»

Thank you for your prompt attention to this matter.

Sincerely,

«Name»
Community Manager

Sent via: CERTIFIED MAIL & REGULAR MAIL

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EXHIBIT G – VIOLATION FEE ASSESSMENT

«Today Long Format»

Birkdale Community Association
c/o Community Manager
«Mailing address »
«City»« State»« Zip»
«Telephone / Email»

«Homeowner Name»
«Mailing address »
«City»« State»« Zip»

«Property Address»

Dear «Homeowner Name»,

You were previously notified that you were in non-compliance with the governing documents of your Association. In that notification, you were advised that a violation assessment may be imposed for continued or repeated non-compliance in this matter. You were offered a hearing as to why a violation assessment should not be imposed in regards to the infraction related to:

«CCR Item»-«Action Item Description»
«CCR Item Letter Description»

You have been charged a one-time violation assessment in the amount of \$50.00. This violation assessment will also be charged in the future each time this violation occurs until the violation is rectified or the total of all violation assessments reaches \$900.00.

- **You can review the current total of violation assessment charges by logging into your account on the «Web Portal».**
- **You may appeal the decision of the Covenants Committee to the Birkdale Board of Directors».**

Thank you for attention to this matter.

Sincerely,

«Name»
Community Manager

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Sent via: CERTIFIED MAIL & REGULAR MAIL

EXHIBIT H - NOTICE OF VIOLATION: CEASE AND DESIST

«Today Long Format»

Birkdale Community Association
c/o Community Manager

«Mailing address »

«City»« State»« Zip»

«Telephone / Email»

«Homeowner Name»

«Mailing address »

«City»« State»« Zip»

«Property Address»

Your property has been previously cited for:

«CCR Item»- «Action Item Description»

You must immediately cease and desist the violation stated in this notice. Failure to comply will result in further enforcement actions including, but not limited to, the assessment of violation penalties as outlined in state law and/or legal action to resolve the issue.

«CCR Item Letter Description»

Contact «Manager Email» for questions regarding this matter. Disputes to this violation must be in writing.

Sincerely,

«Name»

Community Manager

Sent via: CERTIFIED MAIL & REGULAR MAIL