

Sugarland Run Homeowners Association, Inc.
Resolution NO. 001-2025

Policy for Lot Owner Landscaping in Common Area

WHEREAS, the Declaration recorded on February 12, 1971 in Deed Book 524 at Page 140 ("Declaration"), as amended, the recorded Declarations of Covenants, Conditions and Restrictions recorded on February 12, 1971 in Deed Book 524 at Page 163 and on February 26, 1971 in Deed Book 524 at Page 414 ("Covenants"), as amended, the Bylaws of Sugarland Run Homeowners Association, Inc. ("Bylaws"), as amended, and the Articles of Incorporation of Sugarland Run Homeowners Association, Inc. ("Articles of Incorporation"), as amended, collectively known as the Governing Documents, provide that the Lots are subject to the Governing Documents and the rules and regulations of Sugarland Run Homeowners Association, Inc. ("Association" or "SRHOA"); and

WHEREAS, Article I, Section 1(c) of the Declaration provides that "Common Area" shall mean and refer to those areas of land designated "Common Area" and/or "Green Area" on any recorded subdivision plat of The Properties, but shall not include the real property designated as "Townhouse Common Area," and said areas are intended to be devoted to the common use and enjoyment of the Lot Owners; and

Whereas Article VI of the Bylaws empower the Board of Directors ("Board") to maintain the Common Areas; and

Whereas the Declaration charges the Board to be fiscally responsible and maintain an Annual Budget for the Association; and

Whereas Article IV, Section 1 of the Declaration states, "every Owner shall have a right and easement of enjoyment in and to the Common Areas and such easement, shall be appurtenant to and shall pass with the title to every Lot, Living Unit and Multifamily Structure;" and¹

Whereas Article IV, Section 3 of the Declaration states "Any Owner may delegate his rights of enjoyment to the Common Areas and facilities to the members of his family, tenants, or contract purchasers (and members of the family of any tenant or contract purchaser) who reside on the property...;"

SRHOA does hereby set forth as follows:

There shall be no Common Area landscaping of any kind without first obtaining Board approval.² The following guidelines pertain to the installation of new vegetation and/or alteration of existing vegetation within Common Areas by a Lot Owner.

As the Board supports neighborhood beautification, it may consider requests from Lot Owners who wish to install, at their cost, new vegetation and/or alter/remove existing vegetation (e.g. – English Ivy vines) within

¹ The Virginia Supreme Court has rule that the right of enjoyment is "nonexclusive" unless specifically and expressly stated otherwise in the recorded Declaration. This is a consideration for rulemaking. It appears that the Policy allows a Lot Owner to have exclusive use of a parcel of the Common Areas, which is subject to legal challenge, much like reserved parking in the Common Area parking lot. Most associations adopting a plan regarding the Common Area have established "community gardens" and allocated parcels of the garden on a fixed-temporary basis, such as for one to three years. I have not seen a plan that effectively allowed Lot Owners to claim a portion of the Common Area with approval. Consistent with a "community garden" policy, some associations have required that only "annuals" be planted to that the license cycle begins each season.

² Good!

Sugarland Run Homeowners Association, Inc.
Resolution NO. 001-2025

the Common Areas. To appropriately consider long-term maintenance costs, the Board requires that the requesting Lot Owner provide a written plan depicting the location of the alteration, the species to be planted/removed, and the steps that will be followed by the Lot Owner to care for any new planting during its establishment (usually a period of 1-3 years).³ Lot Owners will be responsible for the establishment and maintenance of any approved planting. The request and accompanying plan shall be provided to the General Manager, who will provide a preliminary review. The General Manager's preliminary review will determine whether the plan requires additional information from the requesting Lot Owner or the plan is sufficient for the Board to review.⁴

The Board reserves the right to deny approval of a request and revoke prior approval for any reason.

APPROVAL OF THE INSTALLATION/REMOVAL OF ANY VEGETATION ON THE COMMON AREAS BY THE BOARD SHALL CONSTITUTE A REVOCABLE LICENSE—WHICH SAID PERMISSION MAY BE REVOKED, WITH OR WITHOUT CAUSE, BY THE BOARD IN ITS SOLE DISCRETION. THE LOT OWNER SURENDERS ANY CLAIM TO OWNERSHIP OR EXCLUSIVE USE OF THE COMMON AREA. In such case, notice of revocation of the license shall be hand delivered or sent by certified mail, return receipt requested at least fourteen (14) days prior to the date of revocation of the license to the Lot Owner at the address on record with the Association.

No requested planting will be approved if the location is within 2 feet of any paths, sidewalks, or roads.

Owner assumes responsibility for any future damage to their property should the plant or its root system or any branches impact their fence or Lot.⁵

Any approval, if granted, will be conditional upon receiving a utility location report from Miss Utility that indicates no conflict with the proposed planting. The General Manager will be responsible for contacting Miss Utility. No site work can take place until the General Manager conveys such permission to the Lot Owner.⁶

- Vegetation Selection:

³ The Board wish to consider limiting the time of licenses or permits for several reasons. The concern is that continual use by a Lot Owner may result in a claim that the garden is their garden. Allowing others to use that same plot may help defuse any claim that the prior Lot Owner has exclusive use or cause a claim for adverse possession to be interrupted. There are a growing number of cases where a Lot Owner has prevailed on a claim that the ownership of a certain parcel has shifted and that it is no longer Common Area.

⁴ You may wish to issue dated permits for a fixed period. It may prove difficult to monitor which gardens have been approved. What if the garden is in a prime viewing spot and another Lot Owner wishes to plant certain flowers? Does this plot of Common Area "belong" to the Lot Owner so long as they maintain it? This arrangement moves closer to the idea of exclusive use of the Common Area which is not permitted under the Declarations.

⁵ This might not be realistic. For example, the Lot Owners plant a small tree and then move (or foreclosed by the lender). The Board cannot assume the new Lot Owner wishes to take responsibility for any damage caused by the tree roots and branches. The cost of removal of a tree grows each year, far greater than the original cost.

⁶ Approvals may be inconsistent. The Board may wish to adopt more detailed guidelines as to vegetation height, annual or perennial, etc. with the goal of a more consistent policy. Are trees, as opposed, to plants and shrubs permitted? The cost of removal can be significant and there are issues with the roots. The Board may also consider that vegetable gardens typically attract animals (and result in neighbor-to-neighbor disputes) and whether there are any restrictions on this. Many associations do not permit vegetable or food gardens.

Sugarland Run Homeowners Association, Inc.
Resolution NO. 001-2025

Invasive plants will not be approved.⁷ The Virginia Department of Conservation and Recreation maintains a Virginia Invasive Plant Species List that is updated periodically at <https://www.dcr.virginia.gov/natural-heritage/invspdflist>.⁸

SRHOA encourages the installation of native plants. The Virginia Department of Conservation and Recreation maintains a native plant selector tool at <https://www.dcr.virginia.gov/natural-heritage/native-plants-finder>.

- Maintenance:

SRHOA pathways are to be kept clear of overgrown vegetation.⁹ Common Areas are to be maintained with practices utilizing minimal application of chemicals such as pesticides, herbicides, and fertilizers¹⁰. Gardening practices shall not involve using manure as fertilizer.¹¹

-Drainage: Plantings and/or gardens shall not obstruct, alter or in any way modify the established drainage pattern from, on or over the Common Area or any Lot.

- **Vehicular Site Lines:** Plantings shall not restrict vehicular sight lines along roadways or driveways.¹²

- **Structures and Similar Items:** No structures, decorative objects, furniture, sculptures, holiday decorations, fountains, bird baths, or similar items, of any kind will be permitted. This prohibition includes but is not limited to signs, fencing, trellises, and animal feeders.¹³

- General Responsibilities:

- The Lot Owner should ensure before planting that the chosen location is amenable to the proposed landscaping (e.g., there is no bedrock just below the soil surface, appropriate sunlight will reach the site for the proposed plant species, and the area drains sufficiently following rain).
- The Lot Owner shall water the planting as needed for the planting to become successfully established.
- While care for landscaping plants within an approved plan is the responsibility of the Lot Owner, the Board maintains authority of the Common Area, and the plantings, and reserves the right to remove any installed plantings at any time for any reason.

This Resolution was adopted by the Board of Directors on **April 2-2025**.

The effective date of this Resolution is **April 2-2025**.

The Board directs that this Resolution regarding the Common Areas maintenance and planting should be reasonably published and distributed to the Lot Owners.

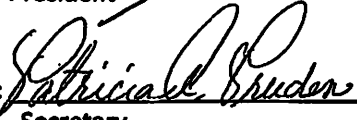
Sugarland Run Homeowners Association, Inc.
Resolution NO. 001-2025

By:


President

2 APR 25

Attest:


Secretary

2 April 2025