

HILLSDALE COMMUNITY ASSOCIATION

POLICY RESOLUTION NO. 2001-_____

**(Creation of Procedures to Ensure
Due Process in Enforcement Cases)**

WHEREAS, the Virginia Property Owners' Association Act ("Act") provides the Board of Directors with the power to assess monetary charges against members who are responsible for violations of the Governing Documents of the Association;

WHEREAS, Article IV, Section 1(d) of the Declaration and Section 55-513 of the Act provide the Board of Directors with the power to suspend a member's voting rights, and the member's rights to use facilities or services, including utility services, provided directly through the Association for nonpayment of assessments which are more than sixty (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, and

WHEREAS, Article IV, Section 1(d) of the Declaration further empowers the Board to suspend a member's voting rights and right to use the common area and community facilities for up to sixty (60) days for any infraction of any of the published rules and regulations of the Association; and

WHEREAS, the Act requires the Board of Directors to formally adopt and publish a written resolution to enact the statutory power to assess monetary charges against members for violations of the Governing Documents of the Hillsdale Community Association ("Association"); and

WHEREAS, for the benefit and protection of all of the Association's members, the Board of Directors deems it desirable to formally adopt a resolution to enact the statutory power to assess monetary charges and suspend privileges and rights and to establish a procedure for enforcement of the Association's Governing Documents through this mechanism which is consistent with principles of due process and Virginia law.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. On behalf of the Association, the Board of Directors may issue a citation to any owner whose behavior or use of property does not conform to the Association's Governing Documents, or any members who falsely accuses another member of a violation.

2. The Board shall send a first notice of citation in writing and deliver it personally or by first class mail, to the member at his/her address listed in the Association's records, and to the property address, if the member's listed address is different from the property address.

3. The first notice of citation shall generally advise the member of the nature of the offense, cite the specific provision within the Association's Governing Documents which has allegedly been violated, specify the remedy required, and state the number of days within which the member must complete corrective action.

4. If the member does not remedy the offense within the number of days requested in the notice of citation, the Board of Directors reserves the power to issue a second notice of citation, which shall follow the basic form of the first notice of citation and include any additional information deemed important by the Board of Directors concerning the offense.

5. The second citation shall also warn the member of the Board's power to impose monetary charges and to suspend rights and privileges for offenses of the Association's Governing Documents and shall inform the member of his/her right to request a hearing before the Board of Directors to contest the citation. The notice of citation shall request the member to confirm in writing by a certain date his/her desire for a hearing to contest the citation.

6. The Board shall deliver the second notice of citation by hand or registered or certified mail, return receipt requested, to the member at his/her address listed in the Association's records, and to the property address, if the member's listed address is different from the property address. Notification will be deemed effective if any member fails or refuses to sign for any registered or certified mailing from the Association.

7. If the member does not remedy the offense within the number of days requested in the second notice of citation, and the member has not requested a hearing in writing by or before the hearing confirmation date, the member shall be deemed to have waived the right to a hearing and the Board of Directors shall have the power to impose monetary charges and/or suspend rights and privileges pursuant to the authority granted in Section 55-513 of the Act and the Association's Governing Documents. The Board of Directors shall not be required to conduct a hearing unless the member formally requests a hearing in writing by or before the deadline set forth in the second notice of citation.

8. When a hearing is requested by the member in writing by or before the deadline, the Board of Directors shall set the time, date and place of the hearing at its discretion.

9. Written notice of the time, date and place of the hearing shall be delivered to the member by hand or mailed by registered or certified mail, return receipt requested, to the member at least fourteen (14) days in advance of the hearing date. At the hearing, the Board of Directors shall provide the member with a reasonable amount of time to present any and all defenses to the citation. The member may have counsel present at the hearing.

10. Following the hearing, the Board of Directors shall meet in executive session to determine whether satisfactory proof of the alleged violation was presented, and if so, whether monetary charges should be imposed and/or rights and privileges should be suspended.

11. When the Board's judgment is unfavorable to the member, the Board may impose monetary charges as an assessment against the member's lot or suspend the member's privileges.

Monetary charges may not exceed \$50.00 for a single offense and \$10.00 per day for any offense of a continuing nature and shall not accrue for more than ninety (90) days. Certified notice of the violation charges and/or suspension shall be sent to the member within three (3) days of the date of the Board's decision.

12. The Board of Directors reserves the power to hold members legally responsible for ensuring that the members of their household, and their tenants, guests, or invitees comply with the Association's Governing Documents.

13. The procedures outlined in this Resolution may be applied to all violations of the Association's Governing Documents, including the rules and regulations, but do not preclude the Association from exercising other enforcement procedures and remedies authorized by the Association's Governing Documents or applicable law, including, but not limited to, the initiation of suit or self-help remedies. The Board of Directors reserves the power to assign all of its powers and responsibilities herein to a standing or special committee of its choice or to its manager or managing agent.

14. The effective date of this Resolution shall be _____, 2000, and this Resolution shall supercede any previously adopted Policy Resolution regarding Due Process in Enforcement Cases except that this Resolution shall not supersede but shall be supplemental to Hillsdale Community Association's Policy Resolution No. 99-_____ regarding parking which permits the imposition of monetary charges for violations of the parking rules.

HILLSDALE COMMUNITY ASSOCIATION

Allan Cooke, President

FOR ASSOCIATION RECORDS

I hereby certify that a copy of the foregoing Policy Resolution was mailed or hand-delivered to the members of Hillsdale Community Association on this ____ day of _____, 2000.

_____, Secretary

RESOLUTION ACTION RECORD

Duly adopted at a meeting of the Board of Directors held _____

_____.

Motion by: _____ Seconded by: _____

	VOTE: YES	NO	ABSTAIN	ABSENT
_____ President	_____	_____	_____	_____
_____ Vice President	_____	_____	_____	_____
_____ Secretary	_____	_____	_____	_____
_____ Treasurer	_____	_____	_____	_____
_____ Director	_____	_____	_____	_____
_____ Director	_____	_____	_____	_____
_____ Director	_____	_____	_____	_____
_____ Director	_____	_____	_____	_____

ATTEST:

Secretary

Date

Resolution effective: _____, 2000.