

HILLSDALE COMMUNITY ASSOCIATION
POLICY RESOLUTION NO. 09-01
(Establishing Enforcement Procedures)

WHEREAS, Article VII, Section 1(c) of the Bylaws assign to the Board of Directors (“Board”) all of the powers and duties necessary for the administration of the affairs of Hillsdale Community Association (“Association”); and,

WHEREAS, Article VII, Section 1(a) of the Bylaws empower the Board to adopt and enforce rules and regulations; and,

WHEREAS, Article X, Section 3 of the Declaration of Covenants, Conditions and Restrictions (“Declaration”) authorizes the Board to initiate such action as may be necessary to ensure that all Owners and Residents, their guests and invitees, comply with the Association’s Bylaws, Declaration, and Rules and Regulations adopted by the Board (“Governing Documents”); and,

WHEREAS, Article VII, Section 1(b) of the Bylaws states that the Board has the right to suspend voting rights and the right to use the recreational facilities for any period during which any assessment against an owner’s lot remains unpaid; and,

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 and Rules of the Association; and,

WHEREAS, the Act provides the Board of Directors with the statutory power to suspend a 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, the Act provides the Board of Directors with the statutory power to adopt and enforce rules and regulations with respect to any areas of responsibility assigned to the Association by the Declaration; and,

WHEREAS, the Board of Directors believes it to be in the best interests of the Association and its members to adopt a policy resolution to enact the statutory power to assess monetary charges and suspend privileges and to establish a procedure for enforcement of the regulations of the Association which are consistent with principles of due process and Virginia law.

NOW THEREFORE, be it resolved that the following due process procedures are hereby adopted, which procedures shall supersede and replace any previously adopted policies and procedures relating to the same subject.

1. Prior to the initiation of the formal enforcement process, the Association may, through the Board's designee, issue an informal notification (or "friendly reminder") to any Owner whose behavior or use of property does not conform to the Governing Documents of the Association.

2. On behalf of the Association, the Board of Directors (and/or its designee) may issue a citation to any Owner whose behavior or use of property does not conform to the Governing Documents of the Association (e.g. Declaration, Bylaws, Articles of Incorporation) or Rules and Regulations (hereinafter the "Rules"), or intentionally falsely accuses another Owner of a violation or infraction.

3. The Board (and/or its designee) shall send an initial notice of citation in writing and deliver it personally or by first class mail to the Owner at his/her address listed in the Association's records, or to the Lot address, if no such address has been designated by the Owner.

4. The initial notice of citation shall generally advise the Owner of the nature of the offense and the provision of the Governing Documents and Rules which has allegedly been violated, specify the remedy required, and state the number of days within which the Owner must complete corrective action.

5. If the Owner does not remedy the offense within the number of days stated in the notice of citation, the Board of Directors (and/or its designee) reserves the power to issue a final notice of citation and hearing, which shall follow the basic form of the initial notice of citation and include any additional information deemed important by the Board of Directors about the offense.

6. The final notice of citation and hearing shall be served not less than fourteen (14) days prior to the date of the hearing. The Notice shall be hand delivered or mailed by registered or certified mail, return receipt requested, to the Owner at his/her address listed in the Association's records, or to the Lot address, if no such address is designated by the Owner. Notification will be deemed effective if any Owner fails or refuses to sign for any registered or certified mailing from the Association.

7. The final notice of citation and hearing shall state the time, date and location of the hearing and shall warn the Owner of the monetary charges or other specific sanctions that may be imposed for the alleged violation of the Governing Documents or Rules. It shall also inform the Owner of his or her right to be present at the hearing, to be represented by counsel (at the Owner's expense) and to present any witnesses or evidence. At the hearing, the Owner shall be given a reasonable amount of time to present any and all defenses to the citation.

8. If the Owner does not remedy the offense within the number of days stated in the final notice of citation and hearing, and the Owner does not appear at the hearing, the Board of Directors shall have the power to impose monetary charges and/or suspend privileges pursuant to the authority granted in Section 55-513 of the Code of Virginia, as amended, the Governing Documents, and these Rules.

9. 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 privileges should be suspended. Monetary charges may not exceed \$50.00 for a single offense or \$10.00 per day for any offense of a continuing nature, up to a maximum of 90 days; although the Board reserves the power to increase these maximum sanctions if the Virginia General Assembly enacts legislation in the future that permits the Board to do so. The Association shall treat monetary charges as an assessment against the Owner's Lot. The Board of Directors may also suspend the right of the Owner and the right of such Owner's household, guests, employees, customers, agents, invitees and tenant and the tenant's guests and invitees to use the Common Area facilities for a period not to exceed ninety (90) calendar days for any first time violation of the Governing Documents and/or Rules or for any period during which assessment, which is more than sixty (60) days past due, remains unpaid. The Board reserves the right to impose suspension that exceeds ninety (90) days for repeated violations of the Governing Documents and/or Rules.

10. The Association (through the Board's designee) shall advise the Owner of the hearing results in writing delivered by hand or mailed by first class mail to the Owner at his or her address of record with the Association within seven (7) days of the date of the hearing.

11. The Board of Directors reserves the power to hold Owners legally responsible for ensuring that members of their household, and their employees, tenants, guests, agents or invitees comply with the Governing Documents and Rules.

12. The procedures outlined in this Resolution may be applied to all violations of the Governing Documents and Rules, but do not preclude the Association from exercising other enforcement procedures and remedies authorized by the Governing Documents, 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.

15. Notwithstanding the other provisions of this Resolution, the voting rights of a Owner shall automatically be suspended without notice for any period during which any assessment is more than thirty (30) days past due until such assessment is paid.

16. This resolution supersedes and replaces any previous resolution establishing due process procedures in enforcement cases as of the Effective Date. The Effective Date of this Resolution is August 26, 2009.

We hereby certify that this Policy Resolution was duly adopted by the Board of Directors on August 26, 2009.

BOARD OF DIRECTORS
HILLSDALE COMMUNITY
ASSOCIATION

By: Zoe Lloyd
Zoe Lloyd, President

By: Jeffrey J. Walach
JEFFREY J. WALACH, Secretary

CERTIFICATE OF PUBLICATION

I, Steve Rugen, hereby certify that a copy of the foregoing Policy Resolution No. 09-01, relating to enforcement procedures, was mailed each Owner or Member of the Association, on the 16 day of NOVEMBER, 2009.

Steve Rugen
Steve Rugen, CMCA
First Management and Consulting, Inc.
Management Agent for the Hillsdale
Community Association