

**FAIRLINGTON MEADOWS COUNCIL OF CO-OWNERS
POLICY RESOLUTION NO. 05-21-08**

Due Process Procedures in Enforcement Cases

WHEREAS, the Virginia Condominium Act (“the Act”) provides the Fairlington Meadows Council of Co-Owners (“the Council”) with the power to assess monetary charges and to suspend privileges of individual co-owners (“Owners”) as a result of non-compliance with the terms of the Master Deed, Bylaws, policy resolutions, rules, criteria and/or other regulations (“the governing documents”) of the Council; and

WHEREAS, the current “Council of Co-Owners Special Resolution No. 1, Special Resolutions Relating to Due Process Procedures” is out of date in some areas, difficult to understand and burdensome for all parties involved; and

WHEREAS, the current Virginia Condominium Act and legal opinion allow for more streamlined due process procedures without forfeiting any of the rights and responsibilities of any of the parties involved; and

WHEREAS, for the benefit and protection of all Owners and to encourage compliance with the governing documents, the Board of Directors (“the Board”) deems it desirable to formally adopt the following procedures.

NOW, THEREFORE, it is hereby RESOLVED that the following policies, procedures, rules of conduct and responsibilities shall apply with respect to due process as it relates to non-compliance with the governing documents.

1. This policy resolution replaces in its entirety the “Council of Co-Owners Special Resolution No. 1, Special Resolutions Relating to Due Process Procedures.”
2. **INFORMAL RESOLUTION:** The Board and its managing agent will typically strive to resolve instances of non-compliance first by means of informal communication such as personal contact, telephone calls, written reminders and/or any other method deemed appropriate. However, if such attempts are not appropriate or if, in the sole discretion of the Board or management, formal enforcement is necessary, the citation and hearing process set forth below may be invoked.

3. **INITIAL CITATION:** On behalf of the Council, the Board or management may issue a citation to any Owner whose behavior or use of the Family Units and general or limited common elements of the Council (or that of member(s) of his/her family, tenants, guests, contractors), does not conform to the governing documents. The citation shall:

- a) Be delivered by personal service or sent by first class mail to the Owner of the property. If the unit is being rented, such notice will be mailed to the owner to his/her address listed in the Council's files.
- b) Generally advise the Owner of the nature of the violation, cite the specific provision within the Council's governing documents which has allegedly been violated and, if the violation is continuing, provide a period of time in which the Owner must correct the violation.

4. **SECOND CITATION:** On behalf of the Council, the Board or management may issue a second citation. This citation shall:

- a) Be delivered by personal service or certified mail, return receipt requested, to the Owner of the property. If the unit is being rented, such notice will be mailed to the owner to his/her address listed in the Council's files. Notification will be deemed effected if any Owner fails or refuses to sign for any registered or certified mailing from the Council.
- b) Summarize the nature of the violation, actions taken to date and the consequences of non-compliance which may include, but are not limited to, the holding of a hearing, implementation of fines, and/or suspension of privileges.
- c) Inform the Owner of his/her right to request a hearing before the Board to contest the citation. The notice shall request that the Owner confirm in writing by a date certain his/her desire for a hearing to contest the citation.

5. **HEARING NOTICE:** If the Owner does not remedy the violation within the time specified in the initial citation or repeats a violation within twelve (12) months, or if the violation is deemed serious enough by the Board, then the Board may (but is not required to unless requested by the Owner) conduct a formal hearing. A notice of hearing may be sent to the Owner which shall:

- a) Be delivered by personal service or certified mail, return receipt requested, to the Owner of the property. If the unit is being rented, such notice will be mailed to the owner to his/her address listed in the Council's files. Notification will be deemed effected if any Owner fails or refuses to sign for any registered or certified mailing from the Council.

b) Remind the Owner of the Board's power to impose monetary charges and to suspend privileges as a result of the violation.

6. **ACTION WITHOUT A HEARING:** If the Owner does not remedy the violation within the time specified in the second citation and the Owner has not requested a hearing in writing within seven (7) calendar days of receipt of the second citation, the Owner shall be deemed to have waived the right to a hearing and the Board shall have the power to impose monetary charges and/or to suspend privileges pursuant to the authority granted by the Act and in the governing documents.

Notice of the Board's decision shall:

a) Be delivered by personal service or certified mail, return receipt requested, to the Owner of the property. If the unit is being rented, such notice will be mailed to the owner to his/her address listed in the Council's files. Notification will be deemed effected if any Owner fails or refuses to sign for any registered or certified mailing from the Council.

b) Be sent within seven (7) business days of the date of the decision or such other period of time allowed by the Act.

7. **HEARING:**

NOTICE: When a hearing is requested by the Owner in writing by or before the deadline, the Board shall set the time, date and place of the hearing at its discretion. Written notice of the time, date and place of the hearing shall:

a) Be delivered by personal service or certified mail, return receipt requested, to the Owner of the property. If the unit is being rented, such notice will be mailed to the owner to his/her address listed in the Council's files. Notification will be deemed effected if any Owner fails or refuses to sign for any registered or certified mailing from the Council.

b) Be sent at least fourteen (14) calendar days in advance of the hearing date.

c) Inform the Owner of the potential sanctions. Sanctions include suspension of privileges and/or monetary penalties. Currently, per the Act, charges of up to \$10 per day for a continuing violation, not to exceed a period of 90 days, and \$50 per individual violation may be imposed.

HEARING PROCEDURE: At the hearing, the Board shall provide the Owner with a reasonable amount of time to be heard and to present information which bears on the alleged violation. The Owner may, but is not required to, have counsel present at the hearing at Owner's sole expense. The hearing may be convened in open or executive session at the determination of the Board and shall be conducted in accordance with such rules as the Board deems appropriate. The Owner may present any relevant information and will be given full opportunity to examine documentary evidence and to cross-examine all witnesses. The Owner is entitled to request the attendance of witnesses and to review documents and other items in possession of the Board of Directors that are relevant to the issue. If an Owner desires the services of a certified court reporter for recording the proceedings, the owner may arrange for this service at his or her sole expense.

DECISION/NOTICE OF RESULTS: Following the hearing, the Board 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 suspended. It is at the Board's sole discretion as to whether or not to vote in public forum and to include the results in minutes of the proceedings. Notice of the hearing results shall:

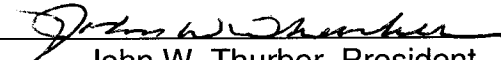
- a) Be delivered by personal service or certified mail, return receipt requested, to the Owner of the property. If the unit is being rented, such notice will be mailed to the owner to his/her address listed in the Council's files. Notification will be deemed effected if any Owner fails or refuses to sign for any registered or certified mailing from the Council.
- b) Be sent to the Owner within seven (7) calendar days of the date of the hearing or such other period of time allowed by the Act.

8. **OTHER REMEDIES:** The procedures outlined in this Resolution may be applied to all violations of the governing documents, but do not preclude or in any way limit the Council from exercising, at any time, other enforcement procedures and remedies authorized by the Council's governing documents or law, including, but not limited to, the initiation of lawsuits or self-help remedies. The Board 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.

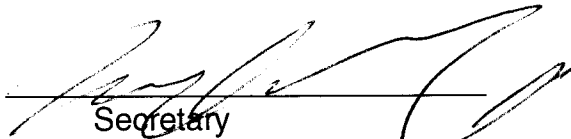
9. **PRIVILEGES:** Privileges which may be suspended include:
- a) Use of the swimming pools, tennis courts and the basketball court.
 - b) Use of a reserved or unreserved parking space within any of the Fairlington Meadows parking courts. Cars belonging to Owners with suspended parking privileges that are parked within the Fairlington Meadows parking courts after due process has been completed and privileges have been suspended will be towed at the Owners expense. The Virginia Condominium Act (55-79.80.2) allows the Association to suspend a unit owner's right to use facilities (including parking spaces) for non-payment of assessments which are more that sixty (60) days past due, to the extent that such suspension shall not endanger the health, safety, or property of any unit owner or tenant.

The effective date of this Resolution shall be June 6, 2008.

FAIRLINGTON MEADOWS COUNCIL OF CO-OWNERS

By: 
John W. Thurber, President

I hereby certify on this 21st day of May, 2008, the Board of Directors duly adopted the foregoing Resolution.


Secretary

COUNCIL OF CO-OWNERS OF
FAIRLINGTON MEADOWS

RESOLUTION ACTION SHEET

Resolution Type: **Policy** Number: **05-21-08**
Subject: **Due Process Procedures in Enforcement Cases**

Duly adopted at a meeting of the Board of Directors held on May 21, 2008.

Motion by: John Thurber Seconded by: David Andrews

VOTE:	YES	NO	ABSTAIN	ABSENT
<u>John W. Thurber</u> President	✓	—	—	—
<u>David R. Andrews</u> First Vice President	✓	—	—	—
<u>Viva J. J. J.</u> Second Vice President	✓	—	—	—
<u>[Signature]</u> Secretary	✓	—	—	—
<u>Alma N. Owen</u> Treasurer	✓	—	—	—

Attest:
[Signature] Secretary

FOR COUNCIL RECORDS

I hereby certify that a copy of the foregoing Policy Resolution was mailed or hand-delivered to the members of Fairlington Meadows Council of Co-Owners, on or before June 6, 2008.

[Signature]
Secretary