

SULLY STATION COMMUNITY ASSOCIATION, INC.

POLICY RESOLUTION NO. 05-02

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

WHEREAS, Article III, Section 3(b) of the Declaration of Covenants, Conditions and Restrictions (“Declaration”) of the Sully Station Community Association (“Association”) states that “the Board of Trustees shall have all powers for the conduct of the affairs of the Association which are enabled by law or the Founding Documents which are not specifically reserved to members or the Developer by said Documents”;

WHEREAS, Article III, Section 3(c)(7) of the Declaration allows the Board of Trustees (“Board”) to perform acts, as may be reasonably necessary or appropriate, to enforce or effectuate any of the provisions of the Articles of Incorporation, the Declaration, Supplementary Declarations, the Association Bylaws, and regulations (collectively, “the Governing Documents”);

WHEREAS, Article II, Section 2.2 of the Articles of Incorporation give the Association the power to perform all duties and obligations of the Association as set forth in the Declaration and related Supplementary Declarations, to establish rules and regulations for the use of its property, and to perform such acts, as may be reasonably necessary or appropriate, to enforce or effectuate any of the provisions of the Declaration, the Articles and the Bylaws;

WHEREAS, Article VI, Section 9(c) of the Bylaws stipulate that it shall be the duty of the Board to “[a]dopt and follow procedures for adoption and publication of Board Resolutions to be included in the Book of Regulations, including the provision for hearing and notice to Members”;

WHEREAS, Section 55-513 of the Virginia Property Owners’ Association Act (“the Act”) provides the Board with the statutory power to assess monetary charges against owners who are responsible for violations of the Declaration and the rules and regulations of the Association;

WHEREAS, Section 55-513 of the Act provides the Board with the statutory power to suspend an owner’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 Board of Trustees has previously adopted policy resolution no. 97-15 and policy resolution no. 4 to establish procedures governing the enforcement of the Association’s Governing Documents; and

WHEREAS, the Virginia General Assembly has amended Section 55-513 of the Act to establish additional conditions regarding the conduct of proceedings to enforce the Association's Governing Documents; and

WHEREAS for the benefit and protection of all owners, the Board deems it desirable to formally adopt a new policy resolution to enact the statutory powers to assess monetary charges, to suspend an owner's privileges and to establish a procedure for enforcement of Association's Governing Documents which are consistent with principles of due process and Virginia law as it has been amended from time to time by the Virginia General Assembly.

NOW, THEREFORE, BE IT RESOLVED THAT:

1. On behalf of the Association, the Board may issue a citation to any owner whose behavior or use of the property does not conform to the Governing Documents. Owners are responsible for actions by their family members, guests, visitors, tenants, and invitees.
2. The Board shall send a first notice of citation in writing and deliver it personally or by ordinary first class mail, to the owner at his/her address listed in the Association's records, and to the property address, if the owner's listed address is different from the property address. The first notice of citation shall generally advise the owner of the nature of the offense, cite the specific provision within the Governing Documents which has allegedly been violated, specify the remedy required, and state the number of days within which the owner must complete corrective action. Notwithstanding the provisions in this paragraph, the Board is not required to provide a first citation letter as set forth in this paragraph if it determines that the interests of health and safety of the residents of the Association requires a more expedited handling of the allegations. In such a case, the Board shall send an initial citation letter that shall be consistent in form to the second citation as set forth in paragraph 4.
3. If the owner does not remedy the offense within the number of days requested in the notice of citation, the Board 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 concerning the offense.
4. The second citation shall also advise the owner of the Board's power to impose monetary charges and to suspend privileges for violations of the Governing Documents and shall inform the owner of his/her right to request a hearing before the Board to contest the citation. The notice of citation shall request the owner to confirm in writing by a certain date his/her desire for a hearing to contest the citation.
5. The Board shall deliver the second notice of citation by Registered or Certified Mail, Return Receipt Requested, and via first class mail, postage pre-paid, to the owner at his/her address listed in the Association's records, and to the property address, if the owner's listed address is different from the property address. Notification will be deemed effective if any owner fails or refuses to sign for any certified mailing from the Association.

6. If the owner does not remedy the offense within the number of days requested in the second notice of citation, and the owner has not requested a hearing in writing by the hearing confirmation date, the owner shall be deemed to have waived the right to a hearing and the Board shall have the power to impose monetary charges pursuant to the authority granted in Section 55-513 of the Act and the Governing Documents. The Board shall not be required to conduct a hearing unless the owner formally requests a hearing in writing by or before the deadline set forth in the second notice of citation.
7. 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 be mailed to the owner by Registered or Certified Mail, Return Receipt Requested, and via first class mail, postage pre-paid, to the owner at least fourteen (14) days in advance of the hearing date. At the hearing, the Board shall provide the owner with a reasonable amount of time to present any and all defenses to the citation. The owner may have counsel present at the hearing. The Board has the discretion to hold the hearing in executive session.
8. Following the hearing, the Board shall request everyone present to leave the rooms and it will meet in executive session to discuss whether satisfactory proof of the alleged violation was presented, and if so, whether monetary charges should be imposed and/or privileges should be suspended. The Board shall then exit executive session to hold a vote in open session on whether satisfactory proof of the alleged violation was presented, and if so, whether monetary charges should be imposed and/or privileges should be suspended.
9. When the Board's judgment is unfavorable to the owner, the Board may impose monetary charges as an assessment against the owner's lot or suspend the owner's privileges. Monetary charges may not exceed \$50.00 for a single offense or \$10.00 per day for a maximum of ninety (90) days for any offense of a continuing nature, although the Board reserves the power to increase these maximum sanctions if the General Assembly enacts legislation in the future that permits the Board to do so. An offense of a continuing nature is defined as a violation of the Governing Documents which, by its nature, remains a violation continuously for more than twenty-four (24) hours unless corrected by the owner. The Board shall treat monetary charges as an assessment against the owner's lot.
10. The Board shall deliver notice of its decision to the owner by Registered or Certified Mail, Return Receipt Requested, and via first class mail, postage pre-paid, at the owner's address of record with the Association within seven (7) days of the date of the hearing.
11. The procedures outlined in this Resolution may be applied to all violations of the Governing Documents, 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 effective date of this Resolution shall be 1/1, 2005. 2006

RESOLUTION ACTION RECORD

Duly adopted at a meeting of the Board of Trustees held November 2, 2005

Motion by: GEORGE STALCUP Seconded by: MARK HAMLIN

	VOTE:			
	YES	NO	ABSTAIN	ABSENT
<u>John Bell</u> President	✓			
<u>George H. Stalcup</u> Vice President	✓			
<u>Mark Hamlin</u> Secretary	✓			
<u>[Signature]</u> Treasurer	✓			
Trustee				
Trustee				
Trustee				

ATTEST:
Mark Hamlin
Secretary

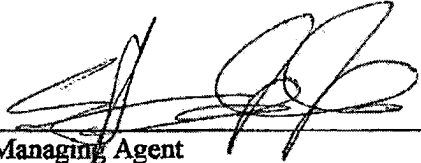
11.2.05
Date

Resolution effective: 1/1, ~~2005~~ 2006

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FOR ASSOCIATION RECORDS

I hereby certify that a copy of the foregoing Policy Resolution was mailed or hand-delivered to the owners of the Sully Station Community Association, Inc. on this 21 day of NOVEMBER, 2005.



Managing Agent
Armstrong Management Services