

**APPENDIX F**  
**BROAD RUN OAKS HOMEOWNERS ASSOCIATION**  
**POLICY RESOLUTION 05-01-01**  
**(Creation of Procedures to Ensure Due Process in Enforcement Cases)**  
(as amended on \_\_\_\_\_, 2007)

**WHEREAS**, the Virginia Property Owners' Association Act (the "Act") and the Association's Declaration of Covenants, Conditions and Restrictions (the "Declaration") provides the Board of Directors with the power to adopt, by resolution, the authority to assess monetary charges and impose certain other sanctions against members of the Association who are responsible for violations of the Declaration and the Association's rules and regulations (collectively, the "Governing Documents"); and

**WHEREAS**, for the benefit and protection of all of the members of the Association, the Board of Directors deems it desirable to formally adopt a resolution to enact the statutory power to assess monetary charges and to suspend certain membership privileges and to establish a procedure for imposing those sanctions that are consistent with principles of due process and Virginia law.

**NOW, THEREFORE, BE IT RESOLVED THAT:** On behalf of the Association, the Board of Directors hereby adopts to the authority to suspend use rights and to assess violation charges pursuant to Section 55-513(B) of the Act and Article IX, Section 1(n) of the Declaration, and it is further resolved that the Board of Directors may impose such suspensions and/or assess such charges for violations of the Governing Documents only after the following procedures have been followed:

**1. Application of this Resolution:**

A. This Resolution is applicable to all alleged violations of the Governing Documents for which the Board is contemplating imposing violation charges against an owner or suspending an owner's right to use the Association-provided recreational facilities and non-essential services. However, the notice and hearing procedures in this Resolution are not prerequisites for taking any other type of enforcement action available to the Association.

**2. Informal Resolution of Complaints/Reminder Letters:**

A. The Association's directors, officers, Management Agent or other authorized agent, and any Owner has the authority to request an Owner, tenant, guest, invitee or resident to cease or correct any act or omission that appears to be in violation of the Governing Documents. Such informal requests may be made before formal action is initiated by the Association.

B. Depending on the circumstances, the Board may also have the Management Agent send "friendly reminders" or other letters to a non-compliant Owner prior to taking more formal action as set forth below.

**3. Notice(s) of Violation:**

A. The due process procedures of the Association are initiated by the Association issuing a notice of violation to the responsible owner, which shall be issued in writing and delivered by first-class mail to the owner at his/her address listed in the Association's records. A copy of the notice may also be sent to the owner's lot address, if the owner's listed address is different from the lot address.

B. Content of Notice. The notice of violation shall generally advise the owner 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 for offenses of a continuing nature, state the number of days within which corrective action must be completed. The notice of violation shall also warn the owner of the Board's power to impose monetary charges and to suspend use privileges, as applicable, for violations of the Association's Governing Documents and shall inform the owner of his /her right to request a hearing before the Board of Directors to contest the citation and/or the imposition of sanctions. The notice shall inform the owner that he/she must confirm in writing by a certain date his/her desire for a hearing and that that if no hearing is timely requested by the

owner, then the Board may impose the applicable sanctions as it deems appropriate without holding a hearing.

If previous notices of violation for the same type of violation have previously been sent to the owner, or if otherwise determined by the Board to be appropriate under the circumstances, the notice of violation need not provide for additional time to correct the violation to avoid sanctions, or it may be combined with the notice of hearing referenced in Section 4 below.

#### **4. Hearing Guidelines**

A. **Failure to Request a Hearing.** If the owner has not requested a hearing in writing by or before the date specified in the notice of violation, the owner shall be deemed to have waived any right to a hearing, and the Board of Directors shall have the power to impose monetary charges and/or suspend use rights without conducting a hearing, but the Management Agent or Board will promptly notify the owner in writing of any sanctions imposed (with the notice being sent to the owner by certified mail, return-receipt requested). However, even if the owner fails to timely request a hearing, the Board reserves the right to schedule a hearing on the matter if the Board deems it appropriate under the particular facts and circumstances presented.

B. **Notice of Hearing.** If the owner timely requests a hearing, the Board of Directors shall be required to conduct a hearing prior to the imposition of violation charges or the suspension of use rights. Written notice of the hearing, including the charges or other sanctions that may be imposed, shall be delivered to the owner by hand or mailed by certified mail, return receipt requested, to the owner (at the owner's address of record listed with the Association) at least 14 days in advance of the hearing date. The notice shall include the time, date and place of the hearing and inform the owner he or she may be represented by legal counsel at the hearing.

C. **Continuances.** The Board, in its discretion, may grant a continuance if a continuance request is received prior to the hearing date. A continuance request must describe the reasons for the request. If a continuance is granted, notice of the new date and time may be either hand-delivered or mailed by first-class mail to the owner at his or her address of record. However, it is ultimately the owner's responsibility to contact the Board or Management Agent prior to the originally scheduled hearing date to determine whether a continuance request was granted.

#### **D. Conduct of Hearing.**

(1) At the hearing, the Board of Directors shall provide the owner and any attending witnesses or interested parties with a reasonable amount of time to present their position regarding the cited violation and whether sanctions should be imposed. The Board has the discretion to hold the hearing in executive session. If the owner fails to appear at the hearing at the scheduled time, the Board may deem the alleged violation to be admitted by the owner..

(2) After all presentations to the Board have been made within the allotted time period, the Board of Directors shall meet in executive session to determine whether satisfactory evidence of the alleged violation has been provided to the Board, and if so, whether violation charges and/or suspension of use rights should be imposed. If additional time is needed to reach a decision, the Board may continue the hearing to an announced date and time, with no further written notice required (or, if the date and time is not announced at the hearing, then the Association will send advance written notice of the continuance date and time to the Owner, by hand-delivery or first-class mail).

E. **Notice of Hearing Results.** Within seven (7) days of the date of the hearing (including any continuances), the Association shall deliver notice of its decision to the owner by certified mail, return-receipt requested, at the owner's address of record with the Association.

#### **5. Administrative Action Guidelines:**

A. When the Board's judgment is unfavorable to the owner, the Board and/or Management Agent shall undertake the administrative actions required to effectuate the monetary charge(s) as an assessment against the owner's lot and/or the suspension of use rights.

B. **Violation Charges.** Violation charges may not exceed \$50.00 for a single offense or \$10.00 per day for any offense of a continuing nature for a period of up to ninety (90) days or until the violation is corrected, whichever occurs first. An offense/violation of a continuing nature is defined as a violation of the Governing Documents that,

by its nature, remains a violation continuously for more than twenty-four (24) hours unless corrected by the owner. If a lawsuit is filed challenging any violation charges, no additional charges for that violation shall accrue during the pendency of the lawsuit. Any violation charges assessed for violation of the Governing Documents shall be treated as an assessment against the owner's lot and shall also be the personal obligation of the owner.

C. Suspension of Use Rights. The Board may suspend an owner's right to use Association-provided recreational facilities and other non-essential services provided by the Association (as long as access and the provision of utilities to the owner's Lot through the common area is not precluded) if that owner's assessment account is more than 60 days' past due, with such suspension continuing for the duration of the delinquency, or for any other violation of the Association's rules and regulations, with such suspension lasting not more than 60 days.

NOTE: A suspension applies to the owner and that owner's family members, guests and tenants, unless the owner is explicitly informed otherwise in writing by the Board or management agent.

NOTE: Lot owners are responsible for ensuring that their family members, tenants, guests and invitees comply with the Association's Governing Documents, and sanctions may be imposed against an owner for their violations.

#### 6. Other Remedies:

A. The procedures outlined in this resolution may, in the Board's discretion, be applied to all violations of the Association's Governing Documents, but do not preclude the Board, acting on behalf of the Association, from exercising other enforcement procedures and remedies authorized by law or the Association's Governing Documents, including, but not limited to, the following:

(1) Right of Entry. If an owner fails to properly maintain, repair or restore his or her Lot and the exterior of his or her dwelling as required by the Governing Documents, then as authorized by Article XI, Section 1(l) of the Declaration, the Association (acting through its agents) has the right, after 14 days' written notice to the non-compliant owner, to enter onto the owner's Lot to perform any maintenance, repair or restoration to the Lot, the exterior of the dwelling or other improvements thereon, which is deemed necessary by the Board, with the costs of such action being assessed against the owner; and/or

(2) Suspension of Right to Vote and to Run for or hold Office. Pursuant to this Resolution, Article IV, Section 1 of the Bylaws, and Article IV, Section 1(d), Article V, Section 10(c) and Article IX, Section 1(n) of the Declaration, the right of an owner to cast a vote as a member of the Association and to run for or hold office within the Association (or to be elected to the Board) shall be automatically suspended if that owner is delinquent in paying any assessment to the Association (*i.e.*, by failing to pay any assessment or installment thereof within 30 days after the applicable due date); and/or

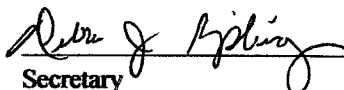
(3) Legal Action. The Association has the right to file a lawsuit for monetary damages and/or injunctive relief.

The Board of Directors reserves the right to assign to a standing or special committee of its choice the responsibility for investigating alleged violations and/or conducting hearings.

The effective date of this Resolution, as amended, shall be \_\_\_\_\_, 2007.

Duly adopted at a meeting of the Board of Directors of Broad Run Oaks Homeowners Association held on the \_\_\_\_\_ day of \_\_\_\_\_, 2007.

ATTEST:

  
Secretary

27 Nov 07  
Date