

**WESTERLEY HOMEOWNERS ASSOCIATION**

**POLICY RESOLUTION NO. \_\_\_\_\_**

(Policy and Procedures Concerning the Collection of Charges, Fees and Assessments)

**WHEREAS**, Article V, Section 1 of the Bylaws of Westerley Homeowners Association (“Bylaws”) states that “The affairs of this Corporation shall be managed the a Board of Directors;” and

**WHEREAS**, Article VIII, Section l(c) of the Bylaws states that “The Board of Directors shall have power to exercise for the Corporation all powers, duties, and authority vested in or delegated to this Corporation, not reserved to the membership, or other provisions of these Bylaws, the Articles of Incorporation or the Declaration;” and

**WHEREAS**, Article V of the Declaration of Covenants, Conditions and Restrictions of Westerley Homeowners Association (“Declaration”), recoded among the land records of Fairfax County at Deed Book 1539, Page 1719, and as amended at Deed Book 1614, Page 2468 creates an assessment obligation for owners; and

**WHEREAS**, Article V of the Declaration establishes certain provisions for the payment and collection of assessments; and

**WHEREAS**, Article V, Section 6 of the Declaration provides that the any installment not paid within fifteen (15) days after the first day of the Association’s installment period shall be late and a late charge shall be assessed against the Owner; and

**WHEREAS**, Article V, Section 6 of the Declaration provides that any assessment installment not paid within thirty (3) days after the first day of the Association’s installment period shall be delinquent; and

**WHEREAS**, Article VIII, Section 1(a) of the Bylaws grants the Board the authority to make, amend and publish Rules and Regulations of the Association; and

**WHEREAS**, the Board has determined that it is in the best interest of the Association to adopt a formal collection policy; and

**WHEREAS**, there is a need to establish orderly procedures for the billing and collection of said assessments.

**NOW THEREFORE, BE IT RESOLVED THAT** the following assessment procedures be adopted:

## **I. ROUTINE COLLECTION PROCEDURES**

The annual assessment is due in full on January 1 of each fiscal year. The annual assessment for common expenses, trash collection and reserves are due and payable on the first of the year, and may additionally be billed and paid on a quarterly basis. If the lot owner elects not to pay the full assessment amount on January 1 of each fiscal year, then the assessment must be paid in Quarterly Assessment Installments which shall be due and payable in advance on the first day of the months of each calendar month of January, April, July and October (hereinafter "Installment Due Date") as an accommodation made to the lot owners. All other assessments (i.e., Special Common Expense Assessment) shall be due as determined by the Board of Directors or as directed in the Association Documents.

- A. All annual assessments shall be due and payable, in advance, with monthly installments due on the first day of the applicable month, and all installments of any special or additional assessments shall be due and payable on the date or dates specified in the notice of such special or additional assessment delivered or mailed to the owners (collectively "Due Date"). The Board shall retain authority to permit the payment of any special or additional assessment on a monthly, quarterly, semi-annual basis or annual basis. (As used herein, the term "special assessment" shall include any expressly authorized monetary charges imposed upon an owner for violation of the Association's governing documents, as well as any assessments imposed for the purpose of defraying in whole or in part, the costs of any construction, reconstruction, unexpected repair or replacement of the Association's improvements).
- B. All documents, correspondence, and notices relating to regular or special or additional assessments or other charges shall be mailed to the address which appears on the official books and records of the Association or as modified in writing by an Owner. All Owners shall be responsible for providing the Association with timely notice of any changes in their address or record and each non-Resident Owner shall furnish the Board with an address where the Owner will at all times promptly and regularly receive mail.
- C. Any failure by an Owner to claim a certified mailing sent by the Association will not invalidate the notice issued by the Association.
- D. Non-receipt of an invoice, payment coupons or other notices shall in no way relieve an Owner of the obligation to pay the amount due by the Due Date.

## **II. REMEDIES FOR NON-PAYMENT OF ASSESSMENT**

- A. If payment is not received by the Managing Agent by the fifteenth (15th) day of each month (or the first working day thereafter if such day is a Saturday, Sunday or legal holiday) the account shall be deemed late and a late fee of thirty dollars (\$30.00) shall automatically be added to the account and thereafter be a part of the continuing lien

for assessments as provided for in Article V, Section 6 of the Declaration until all sums due, including such late charge, shall have been paid in full.

- B. Any assessment installment not paid within thirty (30) days after the first day of the Association's assessment period shall be delinquent. Once an account is delinquent, all annual assessment, special assessments and other charges shall be accelerated through the end of the fiscal year. The Association shall 1.) charge interest at a rate of six percent (6%) per annum running from the due date and until fully paid; and 2) may impose a monetary or non monetary penalty to be determined by the Board of Directors, or such other actions permitted by the Declaration.
- C. A Late Notice shall be issued to the Lot owner after the account is delinquent for 30 days. The Board may charge the Owner with the costs it incurs through management or counsel to prepare and send this and any other late notices to the Owner.
- D. If payment in full of any assessment payable in installments including annual assessments, special assessments, and returned check charges and interest is not received by the Association or its appointed agent by the fiftieth (50th) day after the Due Date, any automatic debit, ACH or automatic pre payment plan will be terminated. The account will be referred to an attorney for collection and a "Notice of Acceleration and Intent to File Lien" shall be mailed to the Owner at the address listed on the books of the Association, or other address as furnished by the Owner, via Certified Mail, return receipt requested, with all costs added to the delinquent Owner's account.
- E. The Association is not required to provide an additional notice of the imposition of interest, late fees, reasonable legal fees, and costs of collection charges to an Owner other than the Late Notice. Any interest, late fees and/or costs of collection charges imposed shall constitute a lien upon the property of the defaulting Owner.
- F. After the Association has sent the Late Notice to the delinquent Owner, the Association, at any point and without further notice, can refer the Owner's account to an attorney for collection ("Counsel"). Counsel shall mail a "Notice of Intent to Record Lien" to the Owner at the address listed on the books of the Association, or other address as furnished by the Owner, via Certified Mail, return receipt requested and first class mail.
- G. If payment in full, including late charges, interest and costs of collection is not received by Counsel within thirty (30) days after the "Notice of Intent to Record Lien" has been issued, a lien shall be placed on the property. Counsel will so notify Owner with a copy of the lien. Counsel may also file a civil suit against the Unit Owner on the basis of the personal obligation to pay the assessments. The cost of filing both the lien and the civil suit will be added to the account, plus accrued late fees, interest on the unpaid assessments and costs, and all other costs incurred by the collection process as allowed by Article V, Section 6 of the Declaration. Counsel for

the Association shall take such other appropriate legal action as reasonably directed by the Board, including but not limited to filing a lawsuit against a delinquent owner and foreclosing on the Association's liens.

- H. All costs incurred by the Association as a direct result of any default in the payment of assessments shall be assessed against such Owner and such Owner's property as permitted herein. Such costs include, without limitation, actual legal or administrative expenses (regardless of whether suits or liens are filed) resulting from the Owner's failure to pay any assessment when due or from any other default by such Owner as provided herein.
- I. If the Association receives from any Owner, in any accounting year, two or more returned checks for payment of assessments, the Board may require all future payments to be made by certified check or cashier's check or money order for the remainder of the fiscal year. A reasonable charge will be made for any returned checks, which amount shall be established by the Board of Directors and may be changed by the Board from time to time. Action may also be taken under Section 55-516, and Section 801.-27.1 et seq., of the Code of Virginia, at the discretion of the Board.
- J. All costs incurred by the Association as a result of any violation of the Declaration, Bylaws, Rules and Regulations or Resolutions of the Association by an Owner, his family, employees, agents or licensees, shall be specifically assessed against such Owner. Such costs include, without limitation, legal or administrative expenses (regardless of whether suits or liens are filed) resulting from an Owner's failure to pay assessment when due or from any other default referred to in this resolution.
- K. At its discretion, the Board may grant a waiver of any provision herein upon petition in writing by an Owner alleging a personal hardship or other exceptional cause. Such relief granted an Owner shall be appropriately documented in the Association files. Such documentation shall include, without limitation the basis for taking such action. Generally, late charge waivers will not be considered for owners who have not mailed their assessment in sufficient time to have been received by the due date. Waivers shall be made on a case-by-case basis upon review of the particular circumstances. Furthermore, any waiver on one occasion shall not be deemed to construed as a waiver in any future instances of delinquency by such Owner or any other Owner.
- L. The Board hereby authorizes the Managing Agent to waive the imposition of late fees on payments received by the Managing Agent after the fifteenth (15th) day of the month, if the delinquent Owner has owned the property for less than three (3) months at the time of the delinquency and, in the judgment of the Managing Agent the delinquency was the result of a misunderstanding of the correct procedures relating to payment of the assessment. Such a waiver may be granted only once to any delinquent Owner.

- M. At the time an owner's account becomes more than sixty (60) days past due, the Association shall automatically suspend an owner's access to any and all common areas, to the extent that access to the lot through the common areas is not precluded and such suspension shall not endanger the health, safety or property of any owner. Suspension shall include the denial of parking privileges on the Common Area. The Owner shall not be entitled to any of the rights and privileges of membership, including a member's right to use the Association's facilities or services, and the right to vote at any meeting of the Association's membership, in accordance with Va. Code Ann. § 55-513(B).
  
- N. Once an account has been referred to Counsel for collection, payments received towards the account will be credited in the following order of priority:
  - 1. Charges for legal fees and costs
  - 2. Late fees
  - 3. Cost of collection charges
  - 4. All interest accrued.
  - 5. All other charges incurred as a result of any default hereunder.
  - 6. Any assessment due for each property, including any special assessment thereon.
  
- O. All Owners who are delinquent shall be subject to the provisions of this Resolution and to the provisions of Article V of the Declaration with respect to nonpayment of assessments.
  
- P. This Resolution supersedes all previously adopted Resolutions governing the collection of routine and delinquent accounts.

The procedures outlined herein may be curtailed or abbreviated on a case-by-case basis as deemed appropriate by the Board or the Association's managing agent.

The effective date of this Resolution shall be \_\_\_\_\_, 2008.

WESTERLY HOMEOWNERS ASSOCIATION

\_\_\_\_\_  
President

FOR ASSOCIATION RECORDS

The Secretary hereby attests that this Policy Resolution was approved and adopted by the Board of Directors on this \_\_\_\_\_ day of \_\_\_\_\_, 2008 and the Resolution was mailed or hand-delivered to the addresses of record of the owners on this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Secretary

**WESTERLEY HOMEOWNERS ASSOCIATION**

**RESOLUTIONS ACTION RECORD**

Resolution Type \_\_\_\_\_ Policy Resolution \_\_\_\_\_ No. \_\_\_\_\_

Pertaining to: Policy and Procedures Concerning the Collection of Charges, Fees, Assessments.

Duly adopted at a meeting of the Board of Directors of the Westerley Homeowners Association,  
held \_\_\_\_\_.

Motion by: \_\_\_\_\_ Seconded by: \_\_\_\_\_

<b>OFFICER</b>	<b>TITLE</b>	<b>YES</b>	<b>NO</b>	<b>ABSTAIN</b>	<b>ABSENT</b>

ATTEST:

\_\_\_\_\_  
Secretary

\_\_\_\_\_  
Date

CERTIFICATE OF MAILING

This Resolution was mailed or hand-delivered to the addresses of record of the owners on this \_\_\_\_\_ day of \_\_\_\_\_, 2008.

\_\_\_\_\_  
Date

\_\_\_\_\_  
Michael Marcolla, Community Manager

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