

# **Mount Woodley Manor Homeowners Association**

## **Administrative Resolution No. \_\_\_\_\_**

### **ASSESSMENT COLLECTION PROCEDURES**

WHEREAS, the Mount Woodley Manor Homeowners Association Declaration of Covenants, Conditions and Restrictions (the “Declaration”), the Bylaws of Mount Woodley Manor Homeowners Association (the “Bylaws”) and the Articles of Incorporation of Mount Woodley Manor Homeowners Association (the “Articles of Incorporation”), collectively known as the Governing Documents, provide that the Lots (“Lots”) are subject to the Governing Documents and the rules and regulations of the Association; and

WHEREAS, Article V, Section 1 of the recorded Declaration creates an Assessment obligation for an Owner which includes the payment of Annual Assessments and Special Assessments (“Assessment”); and

WHEREAS, Article IV (2) of the Articles of Incorporation of Mount Woodley Manor Homeowners Association (the “Association”) provide that the Board of Directors (the "Board") is empowered to implement procedures for collection of the Assessments from the Owners; and

WHEREAS, Article V, Section 8 of the Declaration provides that if an Owner fails to pay the Assessments within thirty (30) days after the due date, the Board may (a) assess interest at the rate of eight percent (8%) per annum; (b) impose a penalty; (c) accelerate the required payment date of the entire remaining annual assessment; and (d) bring legal action seeking a personal judgment and collection thereafter against the Owner, file a lien, and foreclose a lien, against an Owner’s Lot; and

WHEREAS, Article V, Section 8 of the Declaration authorizes the recovery of reasonable attorney’s fees and collection cost in the event an action at law and/or foreclosure of the lien is brought to collect assessments; and

WHEREAS, Article VIII, Section 2 (c)(i) of the Bylaws and Article V, Section 7 of the Declaration empowers the Board to fix the amount of the Assessment and set the dates such Assessment shall become due; and

WHEREAS, Article VIII, Section 1 (g) of the Bylaws mandates that the Board adopt a policy concerning foreclosure of liens against any property for which assessments are not paid, or to bring an action at law against the owner personally obligated to pay the same; and

WHEREAS, Article X, Section 1 (h) of the Declaration and Article VIII, Section 1(f) of the Bylaws provide that the Association may employ a manager, an independent contractor, or such other employee as they deem necessary, and to prescribe their duties; and

WHEREAS, Article IV, Section 1(d) of the Declaration provides that the Association may suspend an Owner’s right to vote for any period during which any assessment against his Lot remains unpaid; and

WHEREAS, Article IV, Section 1(d) of the Declaration provides that the Association may suspend use of any recreational facilities constructed on the Common Area for any period during which any assessment against his Lot remains unpaid; and

WHEREAS, there is a need to establish orderly procedures for the billing and collection of the Assessments;

NOW THEREFORE, it is hereby RESOLVED THAT the Board duly adopts the following assessment collection procedures:

## **I. Routine Collections**

A. The amount of the annual assessment shall be established by the Board and an Owner shall be permitted to pay the annual assessment in two installments due on the first day of April and October each year (the "Due Date"). All special assessments shall be due and payable as determined by the Board as specified in the notice of assessment (the "Special Assessment Due Date). There shall be no penalty for prepayment of an installment of the Assessment. In accordance with Article XXIV, Section 1 of the Bylaws, the fiscal year of the Association shall begin on the first day of April and end of the 31<sup>st</sup> day of March of every year.

B. Non-receipt of a payment coupon, coupon books, notices, or other such documents relating to the payment of the Assessments shall not excuse an Owner from the obligation to pay Assessments. In accordance with Article V, Section 8 of the Declaration, no Owner may exempt himself from liability for Assessments by abandonment of any Lot belonging to him or by the abandonment of his right to the use and enjoyment of the common areas and community facilities.

C. Non-resident Owners must provide the Board with a telephone number and address, in writing, where the Owner can be contacted; otherwise, all notices shall be sent to the Lot address or address on record with the Association.

## **II. Remedies for Nonpayment of Assessments**

A. Interest. If an assessment or installment thereof is not paid and received within thirty (30) days of the Due Date, interest shall accrue from the Due Date at the rate of eight percent (8%) per annum on the unpaid assessment.

B. Late Charge. If the semiannual installment for the annual assessment remains delinquent for more than thirty (30) days from the due date, a late charge of \$50.00 will be incurred.

C. Acceleration. If an Owner is delinquent for more than thirty (30) days from the Due Date of the annual assessment, after written notice to the Owner, the entire annual assessment shall be immediately due and payable for the remainder of the fiscal year without any further action of the Board.

D. Returned Check Charge. If the Association receives a check from an Owner which fails to clear the Owner's personal banking account, the Association or the Managing Agent shall charge the Owner a returned check charge of fifty dollars (\$50.00), or the maximum amount permitted by law, whichever is greater. If the Association receives from any Owner, in any fiscal year, one or more returned checks for payment of an installment of the Assessments,

the Managing Agent may require all future payments to be made by cashier's check or money order for the remainder of the fiscal year.

E. Collection Cost. The costs of collections charged by the Managing Agent to the Association shall be assessed to the delinquent Owner's account. Such amounts may include, but are not limited to, the reminder notice, the demand letter, postage and any other charges authorized by the Property Owners Association Action ("POAA"), as amended.

F. Action of Managing Agent. Whenever an Owner becomes delinquent in the payment of an Assessment, the Managing Agent, without any further action of the Board, shall automatically take the following action:

1. The Managing Agent shall send a reminder letter to the Owner if an account is delinquent. If the Owner remains in default, the Managing Agent shall send a final demand letter notifying the Owner that if the account is not current by the due date stated therein, that the account will be referred to legal counsel for further collection action. As the Governing Documents of the Association do not require reminder notices to commence legal action, an Owner's failure to receive said notices shall not prohibit the ability of the account to be referred to legal counsel for collection action.

2. The Managing Agent shall refer the Owner's account to legal counsel for immediate collection action when the Owner is more than sixty (60) days delinquent.

3. After notice as further outlined in Section III and Section II(F)(4) of this resolution herein, the Board or Managing Agent may suspend an Owner's right to use of the Recreational Facilities on the Common Areas when an Owner is delinquent in the payment of the Assessments in excess of sixty (60) days.

4. If the Board or Managing Agent elects to suspend the privileges to the use of the Recreational Facilities on the Common Area, in compliance with Section 55.1-1819(C) of the POAA, as amended, the Owner shall be mailed a written notice after he is sixty (60) days delinquent providing a reasonable opportunity for Owner to cure the delinquency to avoid the commencement of the suspension or limitation of use of the Recreational Facilities on the Common Areas as further detailed in Section III (B) herein. This notice period shall not prohibit the commencement of collection action of legal counsel.

G. Referral to Legal Counsel.

1. Legal counsel is authorized, without further action of the Board, to take the following action:

- (a) send required notices in accordance with the Governing Documents, laws of the Commonwealth of Virginia, and any applicable Federal Law to Owner demanding payment and notification of recordation of liens and acceleration for failure to cure delinquency by specified date which shall not be less than thirty (30) days from date of notice;

- (b) proceed to collect the delinquency, including late fees, as well as the entire balance of the Assessments for the remainder of the fiscal year after notice to Owner and failure of Owner to remedy delinquency by date specified;

(c) after notice to Owner, record a memorandum of lien securing the delinquency as well as the unpaid balance of the Assessment for the remainder of the fiscal year against the title to the Lot;

(d) file a civil action for judgment against the Owner for the unpaid Assessments, accelerated Assessments, interest, late charges, attorney's fees, cost of collection, and any other properly assessed charges to the Owner; and

(e) take post-judgment action to collect the unpaid Assessment, accelerated Assessment, interest, late charges, attorney's fees, management fees, collection cost, or any other properly assessed charges to the Owner.

2. The Board may choose to authorize legal counsel to foreclose the memorandum of lien for unpaid Assessments, pursuant to the Declaration and in the manner provided by the laws of the Commonwealth of Virginia, including the POAA after required notices have been sent to the Owner.

H. Method of Crediting Payments. After an account becomes delinquent, payment received from an Owner will be credited to the account according to general accounting methods in the following order of priority:

- a. Charges for attorney's fees.
- b. Interest, late charges, management fees, collection costs, resale disclosure packet fees or any other fees authorized by the POAA, and returned check charges.
- c. Any Special Assessments.
- e. The Annual Assessment, oldest outstanding first.

### **III. Suspension of Voting and Use of Recreational Facilities on Common Areas.**

A. Voting. Pursuant to Article IV, Section 1 (d) of the Declaration and Article VIII, Section 1 (c) of the Bylaws, an Owner may not vote at the annual or special meeting during any period in which such Owner shall be in default in the payment of any assessment levied by the Association.

B. Suspension of Use of Recreational Facilities on Common Areas. Once an account is delinquent for sixty (60) days, such Owner, or his tenants or guest may not be entitled to use of recreational facilities on Common Areas. Suspension, pursuant to Paragraph B, is subject to the notice and hearing provisions of the POAA as follows:

1. Before any suspension, the Owner shall be given a reasonable opportunity to correct the delinquency as set forth in Section II (F) (4), above. This notice period shall not prohibit the collection action of legal counsel.

2. If the delinquency is not cured within the specified time stated set forth in the Notice of Suspension referred to in Section II (F) (4), the Owner shall be given an opportunity to be

heard, to present witnesses and to be represented by counsel before the Board or other tribunal specified in the Governing Documents and rules and regulations of the Association.

3. Notice of the hearing shall be mailed by certified mail, return receipt requested to the Owner at the address of record with the Association, at least fourteen (14) days prior to the hearing.

4. The Notice of the hearing shall contain a description of the amount of the unpaid assessments and the provisions of the Governing Documents and rules and regulations of the Association alleged to have been violated.

5. The Board decision shall be hand delivered or mailed by certified mail, return receipt requested, to the Owner at the address of record with the Association within seven (7) days of the hearing.

This Resolution is effective September 30, 2020.

The Board directs that this Policy Resolution Regarding Assessment Collection Procedures shall be reasonably published or distributed to the Owners of the Association.

This Resolution supersedes any prior adopted resolution pertaining to collection of assessments.

MOUNT WOODLEY MANOR HOMEOWNERS  
ASSOCIATION

By:

  
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President

ATTEST:

  
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Secretary