

**COLLECTION POLICY AND PAYMENT PLAN GUIDELINES**  
*for*  
**PELICAN COVE CANAL OWNERS ASSOCIATION**

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STATE OF TEXAS                   §  
   §  
COUNTY OF SAN PATRICIO       §

WHEREAS, the property encumbered by this Collection Policy and Payment Plan Guidelines (the "Policy") is that property restricted by the First Amended and Restated Declaration of Conditions and Restrictions, recorded in the Official Public Records of Real Property of San Patricio County, Texas under County Clerk's File Volume No. 360030, as same has been or may be amended from time to time (the "Declaration"), and any other property which has been or may be subsequently annexed thereto and made subject to the authority of Pelican Cove Canal Owners Association (the "Association").

WHEREAS, pursuant to Chapter 209 of the Texas Property Code, the Board of Directors (the "Board") of the Association hereby adopts this Policy for the purposes of establishing a uniform and systematic procedure to collect assessments and other charges of the Association and identifying the guidelines under which owners may request an alternative payment schedule for certain assessments; and

WHEREAS, the Board has determined that it is in the best interest of the Association to adopt this Policy.

NOW, THEREFORE, BE IT RESOLVED THAT the Association does hereby adopt these Collection Policy and Payment Plan Guidelines, which shall run with the land and be binding on all owners and lots within the subdivision. This Policy replaces any previously recorded or implemented policy or guidelines that address the subjects contained herein.

**I.       COLLECTION POLICY**

**1.       ASSESSMENT PERIOD**

The Board has the duty of establishing and adopting an annual budget, in advance, for each calendar year of the Association covering the estimated costs of operation of the Association during each year.

**2.       NOTICE**

The Board shall fix the amount of the annual assessment against each lot for the following year and shall, at that time, prepare a roster of the lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any owner. Upon completion of the roster, written notice of the assessment due may be sent to every owner subject to the assessment. An owner may

not escape liability or be entitled to a deferral of interest, fines or collection costs with regard to delinquent assessments on the basis of such owner's failure to receive notice if such notice was sent via regular mail and/or via certified mail return receipt requested to the most recent address of the owner according to the records of Association. Each owner shall have the obligation to notify the Association in writing of any change in address which shall become effective five (5) days after written notice has been received.

3. DUE DATE

All assessments are due and payable on an annual basis, as determined by a majority of the Board for that assessment year. The annual assessment is due on March 1 of each year. If any assessment due the Association is not paid on the date when due, then such assessment shall become delinquent. Charges disputed by an owner are considered delinquent until such time as they are paid in full.

Payments received after the due date are considered delinquent and the entire amount due may be transferred to a Payment Plan as set forth in Section II of this Policy.

4. INTEREST

If the assessment is not paid within thirty (30) days of the due date, the assessment shall bear interest from the due date at the rate set forth in the Declaration until the assessment is paid in full.

5. DELINQUENCY NOTIFICATION

The Association may cause to be sent one or more of the following notification(s) to delinquent owners:

- a. PAST DUE NOTICE: In the event that an assessment account balance remains unpaid after the due date (or there is a default on a Payment Plan entered into prior to the Past Due Notice), a Past Due Notice may be sent via regular mail to each owner with a delinquent account setting forth all assessments, interest and other amounts due, including any late fees that may be charged by the Association. The Past Due Notice will contain a statement that the entire remaining unpaid balance of the assessment is due, including any previously imposed late fees, and that the owner is entitled to a Payment Plan as set forth in Section II of this Policy. **In the event an owner chooses to enter a Payment Plan, a monthly charge may be added to each delinquent owner's account balance for administrative costs related to the Payment Plan and such additional administrative costs will continue until the entire balance is paid in full.**
- b. FINAL NOTICE: In the event an assessment account balance remains unpaid after the due date (or there is a default on a Payment Plan entered into prior to the Final Notice), a Final Notice shall be sent via certified mail to each delinquent owner. The Final Notice may be also sent by any method of mailing for which evidence of mailing is provided by the United States Postal Service or a common carrier to the

owner's last known address as shown on the Association's records, as well as by any other method that the Board determines that the Final Notice may be received by the owner. The Final Notice will set forth the following information and the result of failure to pay, including an explanation of:

- 1) AMOUNTS DUE: All delinquent assessments, interest and other amounts due, including any late fees that may be charged by the Association, and the total amount of the payment required to make the account current;
- 2) OPTIONS: If the owner has a right to a Payment Plan, as set forth below, the options the owner has to avoid having the account turned over to a collection agent or legal counsel, including information regarding availability of a Payment Plan through the Association;
- 3) PERIOD TO CURE: A period of at least forty-five (45) days for the owner to cure the delinquency before further collection action is taken;
- 4) HEARING: Owners shall be given notice and opportunity for a hearing before the Board. A hearing shall be granted if a written request for a hearing is received by the Association not more than thirty (30) days from the date the Final Notice is mailed to the owner.

If a hearing is requested within thirty (30) days from the date the Final Notice is mailed to the owner, further collection procedures are suspended until the hearing process is completed. The Board shall set a hearing date not later than thirty (30) days after receipt of the owner's request for a hearing. Either party may request a postponement, which shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of both parties. Further collection steps will be determined by the action of the Board;

- 5) PAYMENT PLAN: The Final Notice will contain a statement that the entire remaining unpaid balance of the assessment, including any previously imposed late fees, is due and that the owner is entitled to a Payment Plan as set forth in Section II of this Policy. **In the event an owner chooses to enter into a Payment Plan, a monthly charge may be added to each delinquent owner's account balance for administrative costs related to the Payment Plan and such additional administrative costs will continue until the entire balance is paid in full;**
- 6) COMMON AREA RIGHTS SUSPENSION: If a hearing is not requested within thirty (30) days from the date the Final Notice is mailed to the owner, the owner's use of recreational facilities and common properties may be suspended; and

- 7) MILITARY NOTICE: If the owner is serving on active military duty, the owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act.
- c. TURNOVER TO COLLECTION AGENT/ATTORNEY: If a Final Notice is sent to an owner and a hearing is not requested within thirty (30) days from the date the Final Notice is mailed to the owner, member privileges may be suspended, the account may be sent to a collection agent and/or the Association's attorney for collection and any fees and expenses may be charged to the owner's assessment account.

6. REFERRAL OF ACCOUNT TO ASSOCIATION'S ATTORNEY

Upon referral of the account to the Association's attorney, the attorney is authorized to take whatever action is necessary, in consultation with the Board, including but not limited to, sending demand letters, filing a lawsuit against the delinquent owner for a money judgment, instituting an expedited foreclosure action; and filing necessary claims, objections and motions in the bankruptcy court and monitoring the bankruptcy case in order to protect the Association's interests.

As a prerequisite to foreclosure of the Association's lien, either the Association's attorney or the Association will send notification via certified mail to any holder of a lien of record on the owner's property whose lien is inferior or subordinate to the Association's lien as evidenced by a deed of trust. The notification may also be sent by any method of mailing for which evidence of mailing is provided by the United States Postal Service or a common carrier, as well as by any other method that the Board determines that the notification may be received by such lien holder(s). Said notice will provide such lien holder with the total amount of the delinquency giving rise to the foreclosure and an opportunity to cure before the sixty-first (61<sup>st</sup>) day after the day the notice is mailed.

In the event the Association has determined to foreclose its lien as provided in the Declaration, and to exercise the power of sale thereby granted, such foreclosure shall be accomplished pursuant to the requirements of Sections 209.0091 and 209.0092 of the Texas Property Code.

7. BANKRUPTCIES

Upon receipt of any notice of a bankruptcy of an owner, the account may be turned over to the Association's attorney so that the Association's interests may be protected.

8. REQUIRED ACTION

Nothing contained herein, not otherwise required by the Declaration or by law, shall require the Association to take any of the specific actions contained herein. The Board of the Association shall have the right, but not the obligation, to evaluate each delinquency on a case-by-case basis as it, in its best judgment, deems reasonable.

9. PAYMENTS RETURNED NON-SUFFICIENT FUNDS

An owner will be assessed a service charge for any check that is returned or Automatic Clearing House (ACH) debit that is not paid for any reason, including but not limited to Non-Sufficient Funds (NSF) or stop payment order (hereinafter "Unpaid Amounts"). The amount of the service charge assessed by the Association will be the amount charged by the financial institution related to any such Unpaid Amounts plus any administrative costs incurred by the Association as a result of such Unpaid Amounts.

**II. PAYMENT PLAN**

The Association hereby establishes a Payment Plan schedule by which an owner may make partial payments to the Association for delinquent assessments, or any other amount owed to the Association without accruing additional monetary penalties. Monetary penalties do not include interest or reasonable costs associated with administering the Payment Plan. Any late fees imposed prior to a request for a Payment Plan may be made part of such Payment Plan at the discretion of the Board. The Payment Plan Schedule is as follows:

1. The term for the Payment Plan shall be three (3) months;
2. A Payment Plan may require equal monthly payments based on the number of months for such Payment Plan, with each payment due on the first day of each month;
3. Failure to pay the first monthly payment of the delinquent amount shall be considered a default of the Payment Plan;
4. An owner, upon written request, may request a longer period of time;
5. The Association is not required to enter into a Payment Plan with an owner who failed to honor the terms of a previous Payment Plan during the two (2) years following the owner's default under a previous Payment Plan;
6. If an owner requests a Payment Plan that will extend into the next assessment cycle, the owner will be required to pay future assessments by the due date in addition to the payments specified in the Payment Plan;
7. The Association is not required to offer a Payment Plan to an owner after the thirty (30) day period to cure the delinquency has expired;
8. The Association is not required to allow an owner to enter into a payment plan more than once in any twelve (12) month period.

**III. APPLICATION OF PAYMENTS**

- A. Except as provided in subsection B immediately below, a payment received by the Association shall be applied in the following order of priority:

1. Any delinquent assessment;
  2. Any current assessment;
  3. Attorney's fees or third-party collection costs incurred by the Association associated solely with assessments or other charges that can be the basis of foreclosure;
  4. Attorney's fees not subject to "3" above;
  5. Fines; and
  6. Any other amount owed to the Association.
- B. If/when an owner defaults on a Payment Plan, the remaining delinquent amount will become due in full and the Association may begin further collection action as set out above. Any payment(s) received by the Association after such default of a Payment Plan shall be applied in the following order of priority:
1. Costs;
  2. Attorney's fees;
  3. Interest;
  4. Late fees;
  5. Delinquent assessments;
  6. Current assessments; and
  7. Fines.

As to each category identified in this subsection B, payment shall be applied to the most-aged charge first. The acceptance of a partial payment on an owner's account does not constitute a waiver of the Association's right to collect the full outstanding balance due on said owner's account.

[SIGNATURE PAGE FOLLOWS]

**CERTIFICATION**

I hereby certify that, as Secretary of Pelican Cove Canal Owners Association, the foregoing Collection Policy and Payment Plan Guidelines was approved on the 15 day of June, 2022, at a meeting of the Board of Directors at which a quorum was present.

DATED, this the 15 day of June, 2022.

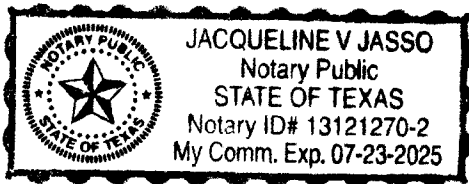
**PELICAN COVE CANAL OWNERS ASSOCIATION**

Bernard P. Beaulieu  
Print Name: BERNARD BEAULIEU  
Title: Secretary

STATE OF TEXAS           §  
  §  
COUNTY OF BEXAR       §

BEFORE ME, on this day personally appeared Bernard P. Beaulieu, the Secretary of Pelican Cove Canal Owners Association, known by me to be the person whose name is subscribed to this instrument, and acknowledged to me that s/he executed the same for the purposes herein expressed, in the capacity herein stated, and as the act and deed of said corporation.

Given under my hand and seal this the 15 day of June, 2022.



Jacqueline V. Jasso  
Notary Public - State of Texas