

HAMPTON VILLAGE OWNERS ASSOCIATION

COLLECTION AND DELINQUENT ASSESSMENT POLICY

Timely payment of regular and special assessments is of critical importance to the Association. Your Board of Directors takes very seriously its obligation under the Association's governing documents to enforce the members' obligation to pay assessments. The failure of any owner to pay assessments creates a cash-flow problem for the Association and impedes the Association's ability to perform its functions.

In order to encourage prompt payment of assessments and other amounts due and so that all owners are informed of the policies the Association will follow in collecting these delinquent amounts, the Board of Directors has adopted this Collection Policy. It becomes effective on JANUARY 1, 2006 and will remain in effect until changed by the Board.

1. **Assessment Due Date.** All regular monthly assessments are due and payable on the first day of each month. It is the owner's responsibility to pay assessments every month regardless of whether a statement is issued or received. All other assessments, including special assessments, are due and payable on the date specified in the notice imposing such assessment, however, in no event shall a special assessment be due and payable earlier than thirty (30) days after the date the members receive notice of the special assessment.

2. **Late Fees.** Any regular monthly assessment not paid by the fifteenth day at 5:00 p.m. of the month shall be delinquent and a late charge of ten percent (10%) of the unpaid assessment, or ten dollars (\$10), whichever is greater, will be imposed on the sixteenth day of the month. All lump-sum special assessments or installments of special assessments not paid within fifteen (15) days after they become due shall be delinquent and a late charge of ten percent (10%) of the unpaid lump sum assessment or installment of the special assessment will be imposed. A late charge will not be imposed more than once per delinquent installment.

3. **Application of Payments.** Payments will be applied in the following order: (a) assessments and fines, (b) late charges, (c) interest, and (d) collection costs. Payments will be applied to the oldest balances in each of these categories.

4. **Interest.** All delinquent assessments, reasonable fees and costs of collection, and reasonable attorney's fees shall be subject to an annual interest rate of twelve percent (12%), commencing thirty (30) days after the assessment comes due.

5. **Pre-Lien Notice.** At least thirty (30) days prior to recording a lien on the separate interest property, the Association must provide the owner, in writing, by certified mail, all of the following information:

- a. A general description of the collection and lien enforcement procedures of the association and the method of calculation of the amount, a statement that the owner of the separate interest has the right to inspect the association records, pursuant to Section 8333 of the Corporations Code, and the following statement in **14-point boldface** type, if printed, or in capital letters if typed:

"IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION."

- b. An itemized statement of the charges owed by the owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney's fees, any late charges, and interest, if any.

- c. A statement that the owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the association.
- d. The right to request a meeting with the board as provided by Civil Code section 1367.1(c)(3).
- e. The right to dispute the assessment debt by submitting a written request for dispute resolution to the association pursuant to the association's "meet and confer" program required by the Civil Code commencing with section 1363.810.
- f. The right to request alternative dispute resolution with a neutral third party pursuant to the Civil Code commencing with Section 1369.510, before the association may initiate foreclosure against the owner's separate interest, except that binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

6. Dispute Resolution. If requested by an owner who is in receipt of a Pre-Lien Notice as described in paragraph 5, the Association will participate in a dispute resolution program. Pending its outcome, the Association will not record a Notice of Delinquent Assessment against the owner's separate interest property.

7. Recording Notice of Delinquent Assessment. If an owner does not request dispute resolution within thirty (30) days from the date of mailing of the Pre-Lien Notice, or upon the conclusion of dispute resolution, the Board shall vote, in an open meeting to determine whether a Notice of Delinquent Assessment shall be recorded. Any decision to record a Notice of Delinquent Assessment must be approved by a majority of the Board and shall be recorded in the minutes of that meeting. A copy of the Notice of Delinquent Assessment will be mailed by certified mail to all record owners of the separate interest property no later than ten (10) calendar days following the date of its recordation.

8. Payment Plan Requests. An owner may make a formal, written request to meet with the Board to discuss a payment plan for the debt described in the Pre-Lien Notice. The Board shall meet with the owner, in executive session, within forty-five (45) days of the postmark of the request, if the request is mailed within fifteen (15) days of the date of the postmark of the notice, unless there is no regularly scheduled Board meeting within that period.

9. Collecting Delinquent Assessments.

A. Non-Foreclosure. For delinquent assessments of an amount less than \$1,800, not including any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, the Association may collect or secure the debt by implementing any of the following methods:

- (i) *Small Claims Court.* The Association may file a small claims court action against the owner.
- (ii) *Record a Lien.* The Association may record a lien against the owner's separate interest property, in accordance with paragraph 7. Once the amount of the delinquent assessments secured by the lien, exclusive of any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, equals or exceeds \$1,800 or the assessment is more than twelve (12) months delinquent, the Association may foreclose on the property in accordance with paragraph 9 (B).
- (iii) *Other Manner Provided by Law.* The Association may collect or secure the debt using any other manner provided by law, except for judicial or non-judicial foreclosure.

B. Foreclosure. For delinquent assessments of an amount of \$1,800 or more, not including any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, or any assessments that are more than twelve (12) months delinquent, the Association may use judicial or non-judicial foreclosure subject to the following conditions:

- (i) Prior to commencing foreclosure, the Association shall offer to an owner, and if requested, participate in dispute resolution pursuant to either Civil Code sections 1363.810 or 1369.510.
- (ii) The Board of Directors shall meet in executive session and vote as to whether to foreclose upon an owner's separate interest property. A vote to approve foreclosure of a lien shall occur at least thirty (30) days prior to any public sale. The Board shall approve the decision to foreclose by a majority vote and shall record the vote in the minutes of the next meeting of the Board open to all members.
- (iii) Upon voting to approve foreclosure, the Board will provide notice by personal service to the owner who occupies the separate interest or to the owner's legal representative.
- (iv) A non-judicial foreclosure by the Association is subject to the right of redemption. The redemption period within which the separate interest may be redeemed from a foreclosure sale ends ninety (90) days after the sale.

10. Remedies. In addition to and/or in place of any other remedy specified in this Collection Policy, the Association shall be entitled to bring an action at law against the owner personally responsible for the payment of the amounts due.

11. Attorneys' Fees and Costs. The Association shall be entitled to charge the owner for the reasonable costs of collection, including without limitation attorneys' fees, in addition to the late charges imposed in accordance with this Collection Policy.

12. Returned payments. Any check or authorized electronic fund transfer (EFT) returned by the member's bank for insufficient funds, stop payment or any other reasons will be charged back to the owner and a \$25.00 administrative fee plus any bank fees will be assessed to the account. If the account has been turned over to the Association's agent for collection and a check is returned, the account will be assessed whatever administrative fees as the Agent provides.

13. The Mailing Address for Overnight Payments. The mailing address for overnight payment of assessments is the same as that for routine assessment payments unless otherwise noted.

CERTIFICATE OF ADOPTION

I hereby certify that:

A. I am the Secretary of the Hampton Village Owners Association.

B. The foregoing Collection Policy was adopted by the unanimous vote of the Board of Directors on 11/17, 2005.

Dated: 11/17 /, 2005

Merrilee Davidson
Merrilee Davidson, Secretary
[Please print or write name]