

Revisions adopted on June 6, 2009 are noted as ***bold, underlined and italicized***

**SUNSET BAY HOMEOWNERS ASSOCIATION, INC.**

**PROCEDURES FOR COLLECTION OF  
ASSESSMENTS AND DELINQUENT PAYMENTS**

**Board Resolution Adopting  
Board Policy No. Financial - 01  
As Adopted on March 7, 2009 *and*  
As Revised on June 6, 2009**

WHEREAS, Article II of the Declaration of Covenants, Conditions and Restrictions of Sunset Bay (hereinafter "Declaration") creates an assessment obligation for owners; and

WHEREAS, Article II of the Declaration states certain procedures for the billing and collection of said assessments; and

WHEREAS, The Board of Directors has determined that there is a need to further define and establish orderly procedures for the billing and collection of said assessments;

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

**Section I - ROUTINE COLLECTIONS**

- A. Annual assessments shall be mailed during the last week in December and due and payable on January 31 of each year.
- B. All documents, correspondence and notices relating to the charges shall be mailed to the address which appears on the books of the Association or as modified in writing by the owner.
- C. Non-receipt of an invoice shall in no way relieve a property owner of the obligation to pay the amount due by the due date.

**Section II - NONROUTINE COLLECTIONS**

- A. Special assessments approved by the members of the Association shall be due and payable on the date set forth in the resolution approving the special assessment.

**Section III - REMEDIES FOR NONPAYMENT OF ASSESSMENT**

- A. If payment is not received when due, the account shall be delinquent. A "Late Notice" shall be sent to owners who have not paid their assessments in full within thirty (30) days

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of when due.

- B. A late charge of \$25.00 will be assessed against any Association member's account which is over 30 days past due. Late charges shall automatically be assessed to delinquent accounts and thereafter become part of the outstanding assessment; they will be a part of the continuing lien for assessment; and like other assessments, they shall incur interest charges of 1.5% per month (18% per year) while unpaid.
- C. With regard to delinquent accounts the Association, as determined by the Board, may exercise, without limitation, any or all of the following remedies, or any other remedies that may be available, personally or, as appropriate, by counsel:
- i) File a memorandum of lien in the Clerk's office of the Pittsylvania County against a property for which delinquency exists for amounts due, including, without limitation, annual assessments, special and other assessments, late charges, interest, costs of collection and attorney's fees;
  - ii) File and litigate against the owner(s), or former owner(s), of a property for which delinquency exists (or appropriate others) a civil lawsuit based upon an owner's personal obligation to pay assessments and other charges, for amounts due including, without limitation, annual assessments, special and other assessments, late charges, interest, costs of collection and attorney's fees;
  - iii) File and litigate a lien foreclosure suit to enforce and foreclose a lien or liens on property at Sunset Bay for which delinquency exists, to include amounts for, without limitation, annual assessments, special and other assessments, late charges, interest, costs of collection and attorney's fees;
  - iv) Garnishment of wages or bank accounts;
  - v) Undertake non-judicial foreclosure proceedings pursuant to applicable law to enforce a lien or liens on property at Sunset Bay;
  - vi) Following sixty (60) days of delinquency, and pursuant to governing documents and applicable law, suspend for the duration of the delinquency the delinquent member(s)' right to use common area recreational facilities offered by the Association, to the extent that access to the lot through the common areas is not precluded; and such suspension does not endanger health, safety, or property of any owner, tenant or occupant.
  - vii) In accordance with governing documents, suspend for the duration of the delinquency a person's membership in the Association with respect to his right to vote. Such membership suspension alone shall only affect voting rights.

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- D. Below is the timeline that the Association will use in collecting delinquent assessments:
- i) By **March 15**, delinquent property owners will be sent a late notice, which states that the late fee has been imposed and that if the assessment and late fee are not paid by April 15, interest will begin accruing as of February 1.
  - ii) On **May 1**, delinquent property owners will be sent a late notice, by certified mail at the property owner's last known address, which states the amount currently due, a reminder that interest is accruing and that if the account balance is not paid in full by **June 30** and that a memorandum of lien will be filed on the property **on or about August 1 or per the date as stated in the certified mailing** in the circuit court clerk's office in Pittsylvania county.
  - iii) If the delinquent account is not paid in full within one year of the date that the lien is filed on the property, the Association will initiate non-judicial foreclosure proceedings, a civil suit and/or any other remedies available.
- E. The cost of filing and removing the lien, of filing the suit(s), late charges, interest, private sale expenses, costs of collection and attorney's fees, without limitation, shall be added to the account, in addition to annual and special assessments, in any Association civil suit and any lien foreclosure suit. The Association shall be entitled to recover all of said amounts in any such litigation.
- F. Written notice shall be given by the Association, its agents or attorneys to delinquent owner or owners about delinquent accounts, lien filing, suit filing and other actions connected with delinquency as is appropriate and necessary.
- G. If the Association receives from any owner, two or more returned checks for payment of assessments, the Board may require all future payments to be made by certified or cashier's check or money order. A \$30.00 charge will be assessed against an owner's account for each returned check.
- H. Payments shall be credited to an account in the following order beginning with the first to be credited: (1) attorney's fees, (2) costs of collection, (3) late charges, (4) interest, (5) annual, special and other assessments. Payments applied to delinquent assessments will be applied to oldest delinquent assessment first.
- I. The Board may grant a waiver of any provision herein upon petition in writing by an owner alleging a personal hardship. 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.

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- J. In the event that any provision of this Resolution shall be adjudged by a court of competent jurisdiction to be unenforceable, the remaining provisions shall nonetheless survive and remain in full force and effect.
- K. This Resolution supersedes and replaces all previous Association collection resolutions. Copies of this Resolution shall be made available to all Association members.