

WILLIAMSTON HOMEOWNERS ASSOCIATION, INC.
POLICY RESOLUTION NO. 19-02

PROCEDURES RELATIVE TO ASSESSMENTS
(Relating to collection of assessments and charges)

WHEREAS, the Virginia Property Owners' Association Act ("the Act") provides the Board of Directors ("the Board") of the Williamstown Homeowners Association, Inc. ("the Association") with the power to enforce the Association's Declaration, Bylaws, and any rules and regulations adopted by the Board (together with the Articles of Incorporation, the "Association Documents"), and to establish penalties for the infraction thereof; and

WHEREAS, Article VIII, Section 1 of the Bylaws of the Association ("Bylaws") assigns the Board all of the powers, duties and authority vested in or delegated to the Association and not reserved for the membership by other provisions of the Association Documents; and

WHEREAS, Article VIII, Section 2 of the Bylaws provides the Board with the obligation to establish the annual assessment against each lot; and

WHEREAS, Article VII, Section 1 of the Declaration of Covenants, Conditions and Restrictions ("Declaration") and Article XII, Section 1 of the Bylaws establishes that the Annual Assessments and Special Assessments are a continuing lien against each Lot against which each assessment is made, and that such assessment, together with interest, costs of collection, including reasonable attorneys' fees shall be a personal obligation of the person who was the owner of such Lot at the time such assessment became due; and

WHEREAS, Article VII, Section 8 of the Declaration creates the Association's remedies for nonpayment of assessments; and

WHEREAS, Article VIII, Section 1 of the Bylaws provides that the Board of Directors, has the power to adopt and publish such rules and regulations governing the use of the Common Area and Facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof; and

WHEREAS, Article VII, Section 8 of the Declaration provides that no Owner may waive or otherwise escape liability for any assessment provided for herein by non-use of the Common Area or abandonment of his Lot; and

WHEREAS, Article VII, Section 8 of the Declaration provides that any Assessments, not paid when due shall be delinquent; and

WHEREAS, Article XII, Section 9 of the Bylaws provides that the Annual Assessment shall be payable in monthly installments, based the calendar year; and

WHEREAS, Article VII, Section 8 of the Declaration and Article XII, Section 9 of the Bylaws provides that if any Assessments are not paid within thirty (30) days, the Association may charge interest from the date of delinquency at the rate of six percent (6%) per annum; and

WHEREAS, Article VII, Section 8 of the Declaration and Article XII, Section 9 of the Bylaws provides that if any Assessments are not paid within thirty (30) days, the Association may bring an action at law against the Owner personally obligated to pay the same; and

WHEREAS, Article VII, Section 8 of the Declaration and Article XII, Section 9 of the Bylaws provides that if any Assessments are not paid within thirty (30) days, authorizes the Association to foreclose the lien against the property;

WHEREAS, Article VII, Section 8 of the Declaration and Article XII, Section 9 of the Bylaws provides that in any action against an Owner, the amount which may be recovered by the Association shall include interest, all costs of the proceeding, including reasonable attorneys' fees of any such action;

WHEREAS, Article III, Section 2 of the Bylaws provides that during any period in which an Owner is in default in the payment of any assessment, the voting rights and right to use of the recreational facilities of such Owner may be suspended by the Board of Directors until such assessment has been paid;

WHEREAS, Article III, Section 2 of the Bylaws provides that the voting rights and right to use of the recreational facilities of such Owner may be suspended by the Board of Directors for a period not to exceed thirty (30) days, for violation of any rules and regulations established by the Board of Directors governing the use of the Common area and facilities; and

WHEREAS, Section 55-513 of the Act empowers the Association's Board of Directors, after giving notice and the opportunity for a hearing in accordance with Section 55-513 of the Act, to assess charges against any Owner for any violation of the Declaration or rules and regulations for which the Owner or his family members, tenants, guest, or other invitees are responsible; and

WHEREAS, Section 55-513.3 of the Act empowers the Association's Board of Directors to impose a late fee upon assessments which are not paid within sixty (60) days of the applicable due date, in the amount of five percent (5%) of the assessment; and

WHEREAS, Section 55-516 of the Act provides that once perfected, the Association shall have a lien on every lot for unpaid assessments levied against that lot in accordance with the Act and all lawful provisions of the Declaration and Bylaws and otherwise establishes procedures for the enforcement of the assessment lien via foreclosure proceedings; and

WHEREAS, the Association has retained the services of a *common interest community manager* ("Managing Agent"), as that term is defined in Va. Code § 54.1-2345, responsible for the provision of management services, including, but not limited to, the collection of assessments and payments; and

WHEREAS, the Board deems it to be in the best interest of the Association to adopt a uniform and systematic procedure for the manner in which the Association, the Managing Agent, and Association legal counsel deal with delinquent accounts, and further, believes it to be in the best interest of the Association to refer these accounts promptly to Association legal counsel for collection so as to minimize the Association's loss of assessment revenue.

NOW, THEREFORE, BE IT RESOLVED that the Board adopts the following policies and procedures applying to the collection of assessments, which shall replace and supersede all prior policies governing the collection of assessments.

I. ROUTINE COLLECTIONS

A. Annual Assessments. The Annual Assessment levied by the Board shall be established by the Board through the adopted annual budget. The annual assessment will be due the first day of January of every year. The Annual Assessments shall be payable in monthly installments (“Due Dates”) equal to one-twelfth of the Owner’s proportionate amount. Such payments shall be payable by such Owner the first day of each month.

B. Special Assessments. If the Board of Directors imposes any Special Assessments against the Units, pursuant to the terms of the Declaration, By-laws and applicable law, the Board shall establish the due date for said Special Assessments. The Board shall retain authority to permit the payment of any Special Assessment on a monthly, quarterly, semi-annual basis or annual basis. Hereinafter, Special Assessments and Annual Assessments shall be referred to as “Assessments”. The term “Due Date” shall hereinafter refer to as the monthly installment payment deadline for Annual Assessments, as well as any approved deadline for payment of Special Assessments (or installments thereof), as determined by the Board of Directors.

C. Correspondence. All documents, correspondence and notices relating to assessments or charges shall be mailed to the address which appears on the books of the Association or to such other address as is designated in writing by the Owner. It is the sole responsibility of the Owner to ensure the books of the Association reflect the proper address for receiving correspondence. Non-receipt of an invoice, coupon or correspondence shall in no way relieve the Owner of the obligation to pay the amount due by the due date.

D. Charges. Charges assessed pursuant to Section 55-513 of the Act and any Rule, Regulation or Resolution concerning the imposition of monetary charges shall be collected as an assessment or in such manner as shall be determined by the Board.

II. REMEDIES FOR NON-PAYMENT OF ASSESSMENTS

A. Default. Any assessments which are not paid when due shall be in default.

B. Late Charge. The Association reserves the right to impose a late charge onto any Assessment not paid within sixty (60) days after the applicable Due Date in an amount equal to five percent (5%) of the total Assessment.

C. Interest. The Association is permitted by its Declaration to impose interest at 6% per annum on any Assessments not paid within thirty (30) days of the Assessment’s due date. The Association reserves the right to impose 6% interest in this manner once an account is sent to the Association’s legal counsel for collections.

D. Returned Check Charge. When a Owner’s payment is returned or denied by a financial institution for insufficient funds, or for any other reason, and an assessment or charge due and owing by the Owner is not otherwise received by the Association in the applicable time period, the Owner’s

account shall be deemed past due, and in addition to interest and late fees, a returned check charge will be assessed. The amount of the charge shall be determined by the fee charged by the Association's financial institution. If the Association receives from any Owner, in any fiscal year, two or more denied or returned payments, the Board may require all future payments to be made by certified check or money order for the remainder of the fiscal year.

E. Collections. The Association may refer any account that has a minimum of \$500.00 in unpaid assessments to Association legal counsel for collection, pursuant to Section IV(D) of this Resolution.

F. Memorandum of Lien. The Association may direct legal counsel to file a Memorandum of Lien per Section IV(D) of this Resolution.

G. Other Actions. The Association may take any other legal or administrative actions authorized by the Act, the Declaration, or Bylaws against the Owner to collect the sums due including, but not limited to, the following actions:

1. Suspend an Owner's rights, privileges and benefits to any amenities, after giving notice and the opportunity for a hearing in accordance with Section 55-513 of the Act.
2. Suspend the Owner's voting rights.

H. Other Costs. All costs, including but not limited to, printing, postage, delivery fees, administrative or processing fees, certified mail fees, collection activity expenses, letter preparation fees, research fees, posting fees incurred by the Association as a result of any violation of the Bylaws, Rules and Regulations or Resolutions of the Association by an Owner, his or her family, employees, agents or licensees, shall be assessed against such Owner and are collectible in the same manner as other assessments imposed against a lot.

III. ADMINISTRATIVE PROCEDURES FOR NON-PAYMENT OF ASSESSMENTS

A. Late Notice. The Board of Directors, or its appointed agent, shall send notification to Owners who have not paid assessments or charges, in full, by the day such assessments or charges are due, as follows:

1. The Association's appointed agent shall notify Owners who have not paid assessments or charges in full of their delinquency and the delinquent amount approximately thirty (30) days after the due date. Failure to notify an Owner of an unpaid amount does not relieve the Owner of responsibility for payment of that amount.

B. Bankruptcy/Foreclosure. The Managing Agent may consult with Association legal counsel and immediately refer for collection any account not previously referred for legal action where the Owner files or is the subject of a petition for relief in bankruptcy or where a deed of trust beneficiary or any other party has commenced foreclosure proceedings against the property.

**IV. LEGAL PROCEDURES FOR COLLECTION ACTIONS AGAINST OWNERS FOR
NON-PAYMENT OF ASSESSMENTS**

- A. Authority to Receive Payments. Association legal counsel is authorized to receive, on behalf of the Association, payments on delinquent accounts until the account is no longer delinquent. Any payments made to the Association through legal counsel shall be made directly payable to the “Williamstown Homeowners Association, Inc.”
- B. Attorneys’ Fees and Costs. The Association is entitled to recover the costs of collection, including but not limited to, attorneys’ fees. The amount shall be credited against the fees and costs incurred in the collection of a delinquent account, shall be assessed against the delinquent Owner’s lot, and shall be collectible as an assessment.
- C. Notice of Intent to Accelerate and File Lien. Upon referral of the account by the Managing Agent, Association legal counsel shall mail a Notice (the “Notice Letter”) to the delinquent Owner providing that if the delinquent account is not brought current within thirty (30) calendar days from the date of the Notice Letter, or if an agreement satisfactory to the Board with respect to payment is not reached in that period, the account will be accelerated, a personal judgment may be secured against the Owner(s), a Memorandum of Lien may be filed against the delinquent Owner’s lot in the full amount of the assessments through the end of the fiscal year, plus costs, late fees, interest, and attorneys’ fees and an action may be instituted against the Owner in the General District Court or Circuit Court for Prince William County, Virginia.
- D. Legal Action. At the expiration of the period specified in the Notice Letter, if an account remains delinquent and no payment plan has been accepted or, if accepted, is in default, the Board hereby directs that Association legal counsel is authorized to take such further action as they, in consultation with the Managing Agent, believe to be in the best interest of the Association, including, but not limited to, one or more of the following:
1. Filing a Memorandum of Lien against the Owner’s lot in the Clerk’s Office of the Circuit Court for Prince William County in the full amount of the assessments through the end of the fiscal year, plus costs, late fees, interest and attorneys’ fees, pursuant to Section 55-516 of the Act;
 2. Accelerating the assessments due through the end of the fiscal year and filing suit against the delinquent Owner for collection of assessments;
 3. Instituting action for foreclosure of the Association’s lien pursuant to Section 55-516 of the Act.
 4. Engaging a firm to conduct a search to identify assets of the delinquent owner.
 5. Commencing post-judgment collection proceedings, including levies and/or garnishment actions.

- E. Costs of Collection. The costs of collection together with legal fees awarded by the court in the effort to collect delinquent assessments will be added to the assessment account. Association's legal counsel may take any necessary actions without regard for the timeframes set out herein for accounts where any Owner has filed for bankruptcy protection.
- F. Payments Received. Payments received from an Owner will be credited in the following order of priority:
1. Charges for attorneys' fees, court costs and administrative expenses.
 2. Late Fees and Interest accrued and denied payment charges.
 3. All other charges incurred by the Association as a result of any violation by an Owner, his or her family, employees, agents or licensees of the Declaration, Bylaws, Rules and Regulations or Resolutions, including charges assessed pursuant to Section 55-513 of the Act.
 4. The assessments for each Lot applied first to the oldest amount due.

V. COMPLIANCE BY BOARD, ASSOCIATION OR AGENTS

A. Compliance. Failure of the Board, the Association and/or any of their agents to comply with any or all of the requirements contained in this Resolution shall not affect the validity of any of the remedies set forth in Section II above.

B. Waiver. 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 files with the name of the person(s) representing the Board granting the relief and the conditions of the relief. The managing agent shall have the authority to grant a one (1) time waiver to any owner, provided such owner is required to pay the principal amount owed to the Association, and any costs and attorney's fees incurred by the Association through the date of such waiver.

VI. SUSPENSION OF ACCESS TO FACILITIES AND PRIVILEGES

A. Where it has been established that an Owner has been determined delinquent in the payment of common expenses, the Board or its appointed agents may suspend the Owner's right to vote and right to use recreational facilities and to receive Association services in accordance to Section 55-513 of the Act and in accordance with the procedures set forth in the Association's Policy creating procedures to ensure due process in enforcement cases.

B. If the Owner is determined to be delinquent in his or her payment of assessments, following a hearing held in accordance with Section 55-513 of the Act, the Managing Agent shall notify the delinquent Owner, in writing, that the Owner's right to use facilities and to receive Association services will be suspended until such time as the unpaid assessments owed to the Association are satisfied in full.

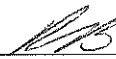
C. If the Managing Agent has knowledge that the Owner has leased the lot, a notification letter may also be mailed to the tenant. The tenant will not be considered a party to any proceedings or hearings. However, Association services shall be denied to the tenant.

D. Sanctions will be lifted immediately upon confirmation of full payment, in certified funds, or within thirty (30) calendar days of confirmation of payment in full by means of a non-guaranteed form of payment of all delinquent assessments and related costs.

Any capitalized terms used herein, but not defined herein shall have the same meaning ascribed to them in the Association's Declaration and Bylaws.

The effective date of this Resolution shall be 2/21, 2019.

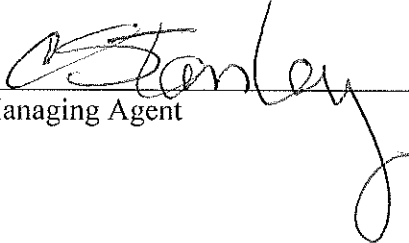
**WILLIAMSTOWN HOMEOWNERS
ASSOCIATION, INC.**

 2/21/19

President

FOR ASSOCIATION RECORDS

I hereby certify that a copy of the foregoing Policy Resolution was posted to the Association webpage and notice of its availability was mailed to the Williamstown Homeowners Association, Inc. on this 15 day of March, 2019.



Managing Agent

WILLIAMSTOWN HOMEOWNERS ASSOCIATION, INC.
POLICY RESOLUTION NO. 19-02

PROCEDURES RELATIVE TO ASSESSMENTS
(Relating to collection of assessments and charges)

Duly adopted at a meeting of the Board of Directors held February 21, 2019

Motion by: Anita Gray

Seconded by: Tricia Rampersad

VOTE: YES NO ABSTAIN ABSENT

[Signature] ✓ _____
Director

[Signature] ✓ _____
Director

[Signature] ✓ _____
Director

[Signature] ✓ _____
Director

Director

Resolution effective: February 21, 2019.