

Newington Community Association
Policy Resolution Regarding Delinquent Assessment Payments

WHEREAS, the Deed of Dedication and Declaration of Covenants, Conditions and Restrictions of Newington Community Association, as amended, (the "Declaration") and the Articles of Incorporation of Newington Community Association, as amended, (the "Articles of Incorporation"), provide that the Board of Directors (the "Board"), is empowered to implement procedures for collection of the assessments from the Owners; and

WHEREAS, Article VI, Section 1 of the Declaration Obligates owners to pay any Annual or Special Assessments or charges, as well as interest, costs of collection and reasonable attorney's fees; and

WHEREAS, the Declaration, the Articles of Incorporation and the By-Laws of Newington Community Association (the "By-Laws"), together known as the Governing Documents, provide that the Lots are subject to the Governing Documents and the rules and regulations of Newington Community Association (the "Association"); and

WHEREAS, Article VI, Section 7 of the Declaration empowers the Board to establish the due dates for the payment of the Annual Assessments or charges and Special Assessments; and

WHEREAS, the Board is authorized pursuant to Article VI, Section 1 and Article VI, Section 8 of the Declaration to assess interest from the Due Date at the rate of six percent (6%) per annum until paid if the Annual Assessment or Special Assessment remains unpaid more than thirty days after the Due Date; and

WHEREAS, Article VI of the Declaration, Article II of the Articles of Incorporation and Article VIII, Section 1 of the By-Laws provide that the Association shall have all of the powers conferred by the Virginia Property Owners' Association Act (the "POAA"), the Virginia Nonstock Corporation Act and the Governing Documents and may delegate any such powers to a Managing Agent unless expressly reserved to the Board; and

WHEREAS, Article VI, Section 1 and Article VI, Section 8 of the Declaration and Section 55-513 and Section 55-515 of the POAA provide that a delinquent Owner shall be responsible for the costs of collection, including court costs, and reasonable attorneys' fees; and

WHEREAS, Article V, Section 1(d) of the Declaration, Article III, Section 2 of the By-Laws and Section 55-513 of the POAA permit the Association or Managing Agent to suspend the delinquent Owner's voting rights or use of the recreational facilities; and

WHEREAS, Article VI, Section 8 and Article IX, Section 1 of the Declaration and Section 55-516 of the POAA permit the Association to enforce a memorandum of lien for unpaid homeowner association assessments by foreclosure; and

WHEREAS, effective July 1, 2013, Section 55-513 of the POAA was amended to grant the Board the authority to impose a late fee of 5% for any assessment not paid within 60 days; and

WHEREAS, there is a need to establish orderly procedures for the billing and collection of annual and special 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 Assessments shall be established by the Board and collected quarterly, in equal installments, with payment due on January 1, April 1, July 1 and October 1 of each year (the "Due Date"). The fiscal year of the Association shall be the twelve month period beginning January 1 and ending December 31. The date an assessment is considered paid will be determined by the date the payment is received by the Association or their Managing Agent (not the post mark for any payments that may be mailed).

B. Non-receipt of a payment coupon, coupon books, notices, or other such documents relating to the payment of annual or special assessments shall not excuse an Owner from the obligation to pay annual or special assessments, or any penalty that arises as a result of the Owner's failure to make payment. Pursuant to Article VI, Section 8 of the Declaration, no Owner may exempt himself for liability for annual or special assessments by abandoning any Lot or by the abandonment of the use and enjoyment of the Common Area.

C. Non-resident Owners must provide their mailing address to the Community Manager in writing. Otherwise, all notices shall be sent to the Lot address.

II. Remedies for Nonpayment of Assessments

A. Interest and Costs of Collection. If Annual Assessments and any Special Assessments, or installment thereof, are not paid within 30 days of the Due Date, the account shall be considered delinquent and interest from the Due Date at the rate of six percent (6%) per annum shall be automatically charged to the account by the Managing Agent. In addition, the Managing Agent will also add any and all costs of collection and to the account, including, but not limited to, mailing costs or other administrative costs incurred as a result of the Owner's failure to make payment.

B. Friendly Reminder/ Late Notice. If payment is not received by the Managing Agent within 30 days of the Due Date, the payment shall be "late". A Reminder/Late Notice shall be sent by regular first class mail by the Managing Agent to the delinquent Owner demanding payment of the assessment, any costs of collection or other charges. The Reminder/Late Notice will inform the Owner that if he or she fails to pay the amount due in the Reminder Notice within 30 days of the date of that Notice; the delinquent account may be referred to legal counsel for the pursuit of legal action. The Reminder Notice will also inform the Owner that his or her voting privileges and use of the recreational facilities may also be suspended if the owner fails to make payment, and will provide the necessary notices as detailed in Section III below. The fee charged by management to the Association for the sending of the notice will be incurred on the Owner's account.

C. Delinquent Notice. If payment is not received by the Managing Agent in response to the Late Notice, a Delinquent Notice shall be sent by certified mail, return receipt requested by the Managing Agent to the delinquent Owner stating that the delinquent account shall be referred to legal counsel for the pursuit of legal action. Owners will be warned in the

Delinquent Notice of the responsibility for any attorney's fees incurred by the Association for collection services. The fee charged by management to the Association for the sending of the notice will be incurred on the Owner's account.

D. Late Fee. Effective July 1, 2013, a late fee of 5% of any individual unpaid quarterly assessment more than 60 days past due will be assessed to the Owner's account.

E. Returned Check Charge. If the Association receives a check from an Owner which fails to clear the account upon which the check is drawn, the Association shall charge the Owner a returned check charge of 35.00, 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 annual or special assessments, the Managing Agent may require all future payments to be made by certified funds or cashier's check for the remainder of the fiscal year.

F. Referral to Legal Counsel, Acceleration and Suspension of Privileges. Whenever an Owner fails to pay any installment of the Annual Assessments and any Special Assessments, the Managing Agent, without any further action of the Board, shall automatically take the following action:

1. The account shall be referred to legal counsel for immediate action.
2. Legal counsel is authorized, without further action of the Board, to take the following action approved by the Board including, but not limited to: the entire balance of the Annual Assessments, Special Assessments or Services Assessments for the remainder of the fiscal year shall automatically be declared due in full; a memorandum of lien for unpaid Annual Assessments and any Special Assessments, the balance of the Annual Assessments and any Special Assessments for the remainder of the fiscal year and any accrued interest shall be recorded against the title to the Lot and a civil action for judgment shall be brought against the Owner for unpaid Annual Assessments and any Special Assessments, interest, attorney's fees and costs. Legal counsel is authorized to take action to collect the unpaid Annual Assessments and any Special Assessments.
3. The Board may choose to authorize legal counsel to foreclose the memorandum of lien for unpaid homeowner association assessments, pursuant to the Governing Documents and in the manner provided by the laws of the Commonwealth of Virginia, including the POAA.
4. The Managing Agent may suspend an Owner's rights, privileges and benefits of membership, pursuant to Article III of this Resolution, below. If imposed, the suspension shall continue until payment in full is received by the Association, including attorney's fees, interest costs of collection and any other unpaid charges. Such suspension may include, but is not limited to, revocation of recreation and voting privileges.

G. Method of Crediting Payments. After an account becomes delinquent, payment received from an Owner will be credited to the account pursuant to generally accepted accounting principles and in the following order of priority:

- a. Court-awarded attorney's fees and court costs.
- b. Interest, costs of collection and returned check charges.

c. All other repair or maintenance assessments or charges (pursuant to Article VIII, Section 11 of the Declaration and Section 55-513 of the POAA) for violation by an Owner, his family, employees, agents, tenants or licensees of the Governing Documents and rules and regulations of the Association.

d. Any and all Special Assessments or Additional Assessments.

e. The quarterly Annual Assessments, oldest outstanding first.

III. Suspension of Privileges

Suspension of Use of Recreational Facilities and Voting. Once an account is delinquent for sixty (60) days, the responsible Owner shall no longer be a Member in good standing of the Association. Such Owner may not be entitled to any of the rights and privileges of membership, including the right to general access to and use of the recreational facilities. In addition, the Owner's voting rights will be suspended. Suspension is subject to the notice and hearing provisions of the POAA. Before any suspension, 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 POAA and Rules and Regulations of the Association.

This Resolution replaces the prior Policy on Dues Assessments and is effective August 7, 2013.

The Board directs that this Resolution shall be reasonably published or distributed to the Owners of the Association.

Adopted at a meeting of the Board of Directors on August 7, 2013.

Michael E. Smith
President

8-16-13
Date

Attested By:

Louise K. Hitt
Secretary

8-4-13
Date