

FOXFIELD COMMUNITY ASSOCIATION, INC.
Resolution No. 102

Relating to the collection of assessments and the remedies for delinquent payments.

WHEREAS, Article IV, Section 4.01 of the Declaration of Covenants, Conditions, Restrictions and Reservation of Easements ("Declaration") belonging to Foxfield Community Association, Inc. ("Association") creates the assessment as a personal obligation and lien of each Lot Owner ("Owner"), and Section 4.03 establishes the Annual General Assessment and Services Assessment; and

WHEREAS, Article IV, Section 4.09 of the Declaration empowers the Board of Directors ("Board") to establish the due dates of the annual assessment, and Section 4.10 provides for the remedies of the Association in the event of nonpayment of any assessments, including assessing interest against delinquent Owners, foreclosing on the lien filed against the Lot (including any improvements thereon), and maintaining an action at law; and interest, costs, and reasonable attorney fees and any costs of collection of any such action shall be added to the amount of such assessment; and

WHEREAS, Section 55-513(B) of the Virginia Property Owners' Association Act ("Act") empowers the Association, after providing notice and the opportunity to be heard, to assess monetary charges for violation of the Declaration, the Bylaws, the Association's Rules and Regulations, or the Act; and

WHEREAS, Section 55-513 and Section 55-515(A) of the Act provides for the Association's recovery of reasonable attorneys' fees and costs expended in connection with an Owner's violation of the Declaration, the By-Laws, the Association's rules and regulations, or the Act; and

WHEREAS, there is a need to establish orderly procedures for the billing and collection of assessments;

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

SECTION I: ROUTINE COLLECTIONS

- A. The annual assessments shall be due in quarterly installments, with the due dates being January 1, April 1, July 1, and October 1 of the accounting year. All special assessments shall be due and payable on the first (1st) day of the next month which begins more than thirty (30) days after delivery to the Owner of notice of such special assessment or thereafter if so stated in the notice of special assessment. All covenant violation charges shall be due and payable thirty (30)

days after delivery to the Owner of notice of said charges. The fiscal year of the Association shall be the twelve-month period beginning January 1 and ending December 31.

- B. All documents, correspondence, invoices, and notices relating to the assessment or other charges shall be mailed to the address of the Owner that appears in the books of the Association or as modified by the Owner, in writing. Any notice required or permitted herein shall be deemed to be made when either made by personal delivery or five (5) days after mailing by certified mail or regular mail to the address found in the Association's records.
- C. Non-receipt of an invoice, notice, or correspondence relating to the assessment or other charges shall in no way relieve an Owner of the obligation to pay the amount by the due date.
- D. Payment(s) received from an Owner will be allocated in the following order of priority:
 - 1. Charges for attorney's fees and court costs,
 - 2. Late charges,
 - 3. Returned check charges,
 - 4. Covenant violation charges,
 - 5. Charges for breakage or individual negligence by an Owner,
 - 6. Other charges imposed by the Association, including the cost of a resale disclosure packet,
 - 7. Interest charges,
 - 8. Special assessments made by the Board against all Owners, and
 - 9. The quarterly assessment installment for each Lot, oldest outstanding first.

SECTION II: REMEDIES

- A. All Owners who are delinquent shall be subject to the provisions of this resolution and to the provisions of the governing documents with respect to nonpayment of assessments.
- B. If a check submitted by an Owner for payment of assessments is returned by a bank unpaid, the maximum amount permitted by law, currently **THIRTY-FIVE DOLLARS (\$35.00)**, will be assessed to the Owner's account for each returned check. In addition, if the Association receives from any Owner in any accounting year, two (2) or more returned checks for payment of assessments or other fees, the Board may require all current and future payments from that Owner to be made by certified check, cashier's check, or money order for the remainder of the fiscal year.

- C. Payments must be received by the specified due dates to avoid being late. Postmarks cannot be considered. If payment in full of any assessment, including but not limited to quarterly assessments, special assessments, and covenant violation charges, is not received by:
1. Due date plus 30 days. The account shall be deemed delinquent, and the Association Manager may send a Reminder Notice by regular mail to the Owner. The Manager's fee to the Association for sending this Reminder Notice to the Owner shall be added to the Owner's account as a cost of collection. As an additional cost of collection, a late fee of **TWENTY-FIVE DOLLARS (\$25.00)** shall be added to the account and thereafter be a part of the continuing lien for assessments, as provided for in the Association documents. In addition, interest will begin to accrue on the delinquent assessment at the lesser of the highest legally permissible interest rate in the State of Virginia and Internal Revenue Service's highest interest rate charged for late payment of taxes, currently **FIVE PERCENT (5%)** per annum; shall be computed based on each month's ending balance; and shall post to the Owner's account on the last day of each month in which the Owner's account remains delinquent.
 2. Due date plus 45 days. The Association Manager may send a Demand Notice to the Owner by certified mail demanding payment in full within fifteen (15) days and stating that if payment in full is not received within those fifteen (15) days, (1) the remaining quarterly assessments for the entire year will become due and payable immediately ("accelerated") and (2), the Board or Manager may refer the account to legal counsel, and thereby, authorize the Association Attorney to begin legal action against the Owner. The Manager's fee to the Association for sending this Demand Notice to the Owner shall be added to the Owner's account as a cost of collection.
 3. Due date plus 60 days. The account may be referred to the Association Attorney for collection. Legal fees will accrue with each action taken by the attorney. The Association Attorney may send a Demand Letter to the Owner by certified mail, requiring payment in full immediately. If payment in full is not received within the thirty (30) days specified in the Demand Letter, the attorney may take further legal action, including but not limited to filing a civil action against the Owner, filing a lien against the property, garnishing wages, and garnishing bank accounts. The attorney may also foreclose the property lien to satisfy the outstanding debt upon approval of the Board.
- D. All fees and costs associated with or incurred through the collection process or any civil action against the delinquent Owner shall be added to the amount of the delinquent account.
- E. Upon the second of two consecutive quarterly assessment installments reaching delinquency status, the schedule for the year's remaining quarterly installments

shall be automatically accelerated and upon notice to the Owner the installments shall be declared due and payable immediately without further action of the Board.

- F. In addition to exercising the financial remedies set forth herein, if an Owner is more than sixty (60) days past due in the payment of any assessments or other charges added to the Owner's account, the Board may suspend the right of the Owner and that Owner's family, tenants, guests, and/or invitees to use the Association's facilities, including general common element parking spaces, swimming pool, tennis courts, or other amenities following notice and hearing as required by the Act.
- G. An Owner shall not be entitled to vote on any Association matters while that Owner's account is delinquent. The suspension of the right to vote is not addressed by the Act and does not require a notice and hearing.

SECTION III: ADMINISTRATIVE

- A. No delay or failure by the Association or its Manager to exercise any provision in this Resolution, and no partial or single exercise of that provision, shall constitute a waiver of that or any other provision.
- B. If any provision in this Resolution is found to conflict with present or future law, that provision shall become unenforceable and void. The remaining provisions in this Resolution shall remain in full force and effect.

BE IT FURTHER RESOLVED THAT THIS RESOLUTION BE PROMULGATED TO ALL ABSENTEE OWNERS BY U.S. MAIL AND DISTRIBUTED TO ALL RESIDENTS, IT SHALL BECOME EFFECTIVE ON THE 8TH DAY OF AUGUST, 2008, AND SHALL REMAIN IN FORCE UNLESS RESCINDED OR AMENDED BY THE BOARD OF DIRECTORS. THIS SECOND AMENDMENT AND RESTATEMENT OF RESOLUTION 102 SHALL SUPERSEDE ANY PREVIOUS VERSIONS OF RESOLUTION 102.

Signature



Title

PRESIDENT

Date

8/26/08