

NEWINGTON FOREST COMMUNITY ASSOCIATION, INC.

POLICY RESOLUTION NO. 12
(Policies and Procedures Relative to Collection
of Routine and Delinquent Assessments)
(12/10/19)

WHEREAS, Article IV, Section 4.01 of the Association's Declaration of Covenants, Conditions and Restrictions and Reservation of Easement ("Declaration") requires each Lot Owner to pay Annual General Assessments, Services Assessments, and Special Assessments (collectively referred to herein as "Assessments") as are established by the Board of Directors; and

WHEREAS, Article IV, Section 4.08 of the Declaration empowers the Board with certain remedies in the event that a Lot Owner fails to pay Assessments, including, but not limited to, the imposition of interest, the acceleration of the account through the end of the fiscal year, filing suit, and foreclosing on its lien for assessments; and

WHEREAS, Article IV, Section 4.01 of the Declaration states the Board may charge interest and recover its costs of collection for any delinquent Assessment and Article IV, Section 4.08 provides for the recovery of all costs, including reasonable attorney's fees; and

WHEREAS, Section 55.1-1824 of the Virginia Property Owners Association Act provides that the Board may impose a late fee up to five percent (5%) for any assessment or installment not paid within sixty (60) days of the due date for payment; and

WHEREAS, the Board believes that it is in the best interest of the Association to establish and clarify the policy it will administer and enforce in connection with the establishment and collection of Assessments;

NOW, THEREFORE, BE IT RESOLVED THAT the Board does hereby adopt the following policies and procedures governing the collection of Assessments:

1. Budget Adoption/Notice: The Board of Directors shall establish the Annual General and Services Assessments (collectively the "Annual Assessment") at the time it approves the Operating Budget for the fiscal year. The Association will notify the Owners of the Annual Assessment in writing by any means deemed reasonable by the Board of Directors. Unless otherwise notified, the Association will send all notices under this Resolution to the address on the books of the Association. Off-site Owners shall be responsible for notifying the Association in writing of any alternate address they want the Association to use for notices from the Association.
2. Due Dates: The fiscal year of the Association shall be a calendar year. Owners may pay the Annual Assessment in four (4) equal quarterly installments, due on the first day of January, April, July, and October of each fiscal year. The Board may, prior to the beginning of any Annual Assessment period, change the installment payments to an

annual, semi-annual, or monthly payments. Non-receipt of any bill or notice shall in no way relieve an Owner of the obligation to pay the amount due by the due date. Accrued monetary charges or other charges imposed by the Association shall be due upon demand and due dates for Special Assessments shall be set forth in the notice of Special Assessment.

3. Late Payments: Per Section 4.08 of the Declaration, Owners who have not paid an Assessment within thirty (30) days after the due date are delinquent (late) and the Association may exercise any or all of the remedies contained in the Governing Documents and/or provided by state law. When an account is close to becoming “late”, the Board may send a reminder notice to the Owner, and when the account becomes sixty (60) days late, the Board will impose a late fee of 5 percent (5%) of the amount of the Assessment or installment against the Owner’s account. If the Owner fails to timely pay two (2) consecutive installments and any accrued late charges and interest, the Association will send a demand letter by certified mail, return receipt requested, to the member and will add a \$40.00 demand letter fee to the account balance. This demand letter may include a statement that:
 - If the balance is not received within sixty (60) days, an additional late fee of 5% will be imposed on the second late quarterly Annual Assessment installment that is unpaid for sixty (60) days or more;
 - If the balance is not received by the date set forth in the letter, the Owner’s account will be accelerated and all installments for the remainder of the fiscal year will be immediately due and payable;
 - The account will be referred to the Association’s counsel, at which time additional charges will be added to the account (the Board may, in its discretion, authorize legal action in other circumstances where the facts warrant such action (e.g., repeat debtors, bankruptcy, pending foreclosure, and other instances as determined by the Board));
 - The member’s voting privileges, parking privileges, and common area or recreational facilities privileges may be suspended; and
 - An Owner may be required to remit all future payments by certified bank check, or money order, until the account balance is brought current.
4. Acceleration: If a quarterly Assessment installment remains unpaid for sixty (60) days, the account may automatically be accelerated through the end of the fiscal year
5. Late Fee: All accounts which are delinquent for sixty (60) or more days shall be subject to a late fee in the amount of 5% of the Annual Assessment installment.

6. Legal Action: Counsel for the Association shall be authorized to use all legal means available to recover the outstanding assessments, late fees, interest, legal fees, and/or other delinquent sums including, but not limited to, the following:
 - Filing liens against the delinquent Owner's Lot which may impact or delay the Owner's ability to sell or refinance without first satisfying the lien (if signed by the President or Vice President);
 - Filing civil lawsuits against the Owners to collect all delinquent sums and garnishing wages, bank accounts and levying personal property of delinquent Owners to satisfy any judgments against such Owners (if approved by the Board);
 - Foreclosure sale of a delinquent Owner's Lot to satisfy the Association's liens (if approved by the Board); and
 - Counsel for the Association shall add all legal fees and court costs to the account of the delinquent member as permitted by law.
7. Return Check Charge: If an Owner submits a check or other form of payment to the Association which fails to clear the Owner's account for any reason, the Association may add a charge to the account to the greater of what it is charged by the Association's financial institution or the amount of \$50.00 pursuant to Virginia Code Section 8.01-27.1. Repeated instances of "bad check" or "insufficient funds" submittals by Owners may result in the Association requiring that all future payments be either a certified bank check, money order, cash or its equivalent.
8. Interest: In all lawsuits or liens, the Association may claim interest on all principal sums at the judgment rate set forth by the Virginia Code.
9. Application of Payments: For bookkeeping purposes, the Association shall apply payments received from delinquent Owners in the following order:
 - a. Any legal fees or costs of collection;
 - b. Late charges and interest;
 - c. All other incidental charges or fees for collection incurred by the Association;
 - d. Any and all Special Assessments; and
 - e. The quarterly Annual Assessments.
10. Suspension of Membership Rights: If an Owner's account becomes more than sixty (60) days past due, the Association may suspend all of the member's rights and privileges, including, but not limited to, the right to use recreational facilities or other common areas, the right to vote, and the right to serve on the Board or any committee. The suspension shall remain in effect until the Owner pays all amounts due.

11. Expedited Procedures: The Board is authorized to engage in expedited collection procedures when deemed necessary by the Board to protect the Association's claim for delinquent Assessments.

The effective date of this amended Resolution shall be December 10, 2019. The rules and regulations set forth in this policy resolution supersede and replace all rules and regulations set forth in any prior assessment collection policy.

I hereby certify that this Policy Resolution was duly amended and adopted by the Board of Directors at a regular meeting on December 10, 2019.

NEWINGTON FOREST COMMUNITY
ASSOCIATION, INC.

By: _____
Clayton A. Vieg, President