

COUNCIL OF CO-OWNERS OF KEENE MILL WOODS CONDOMINIUM

Policy Resolution No. 16-01

(Policies and Procedures Relative to Collection of Assessments)

WHEREAS, Article V, Section 3 of the By-Laws provides that the Board of Directors ("Board") shall have all the powers and duties necessary for the administration of the affairs of the Council of Co-Owners of Keene Mill Woods Condominium ("Association") and the Condominium Project and that the Board may do all such acts and things as are not by law or by the By-Laws directed to be exercised and done by the Members; and

WHEREAS, Article V, Section 3(b) of the By-Laws charges the Board with the power and duty to establish and collect assessments and carrying charges;

WHEREAS, Article IX, Section 1 of the By-Laws requires each Member to pay monthly installments equal to one-twelfth (1/12) of the annual proportionate share of the annual Common Expenses (hereinafter, "annual assessment") as fixed by the Board; and

WHEREAS, Article IX, Section 4 of the By-Laws provides that any assessment which is not paid on the date when due shall be delinquent and, together with interest and costs of collection thereof, shall become a continuing lien on the unit; and

WHEREAS, Article IX, Section 5 of the By-Laws provides that any unpaid assessment or installment shall bear interest at no more than eight percent (8%) per annum; and

WHEREAS, Article IX, Section 5 of the By-Laws also provides that the Association may bring an action at law or foreclose its lien, in either event the Association shall be entitled to add interest, costs and reasonable attorneys' fees of not less than fifteen percent (15%) to the assessment; and

WHEREAS, Article IV, Section E of the Master Deed authorizes the Association to suspend the right of any co-owner or other person to use the General or Limited Common Elements upon that person's breach of the By-Laws, rules and regulations; and

WHEREAS, Section 55-79.84 of the Virginia Condominium Act authorizes the Board to foreclose on its liens;

WHEREAS, Section 55-79.80:2 of the Virginia Condominium Act provides that to the extent the condominium instruments or rules and regulations duly adopted pursuant thereto expressly so provide, the Association has the power to (i) suspend a unit owner's right to use facilities or services, including utility services, provided directly through the Association, for nonpayment of assessments that are more than sixty days past due, to the extent that access to the unit through the common elements is not precluded and provided that such suspension shall not endanger the health, safety, or property of any unit owner, tenant, or occupant and (ii) assess charges against any unit owner for any violation of the condominium instruments or of the rules or regulations promulgated pursuant thereto for which such unit owner or his family members, tenants, guests or other invitees are responsible; and

WHEREAS, pursuant to the powers granted to Board by the By-Laws, the Board has determined that it is in the best interest of the Association to establish orderly procedures for the billing and collection of said assessments, and to adopt an amended collection policy to apprise each Member of the remedies and procedures that the Association will employ to collect delinquent assessments.

NOW, THEREFORE, BE IT RESOLVED that the Board hereby adopts the following policies and procedures governing the collection of assessments:

I. ROUTINE COLLECTION PROCEDURES

- A. The monthly installment of the annual assessment shall be due and payable on or before the first day of each month (“due date”).
- B. The Association will send all documents, correspondence, and notices relating to assessments to the unit address, unless the Member has made a written request that such notices be sent to some other address where the Member regularly receives mail.
- C. Non-receipt of payment coupons or other notices will not relieve a Member of the obligation to pay the monthly installment, or any other charge that may be imposed as a result of the Member’s failure to make payment. All Members are obligated to seek out information about the annual assessment if they do not receive the Association’s notice. The Association is under no obligation to ensure that any such notices are actually received by the Member.

II. REMEDIES FOR NON-PAYMENT OF ASSESSMENTS

- A. Carrying Charge and Interest. Any assessment installment that has not been paid by the 10th day of any month will be assessed a carrying charge (or late charge) of \$25.00 per month and will incur interest at a rate of eight percent (8%) per annum.
- B. Costs of Collection. The Association will claim all costs of collection, which are defined to include any costs or expense incurred by the Association in the collection of a Member’s account. Such costs or expenses shall include, but are not limited to, administrative expenses charged by management to the Association, court costs (not including attorneys’ fees) and expenses incurred by counsel, and any other expenses incurred by other parties as part of the collections process.
- C. Attorneys’ Fees. The Association shall claim all attorneys’ fees incurred in the collection of a Member’s account unless or until a specified amount of legal fees is awarded to the Association by a court of competent jurisdiction.
- D. Delinquency Notices.
 - 1. If an assessment installment has not been paid by the 10th day of the month, management will send a “late notice” informing the Member that the installment is delinquent.

2. If the owner does not make payment within 30 days of the due date, management will send a “demand letter” requiring that the Member make payment within 10 days. The “demand letter” will also inform the Member that if he or she does not make payment in full, the account will be referred to legal counsel for collection, and that Member will be held liable for any attorneys’ fees and costs of collection incurred.
 3. Failure of the Association and/or its management agent to send any notices required hereunder shall not be deemed to restrict or limit the Association’s authority to proceed with any and all collection actions. Any notice described herein shall not be deemed a condition precedent to the taking of any other actions by the Association.
- E. Returned Check Charge. If the Association receives a check from a Member which fails to clear the Member’s personal banking account, the Association shall charge the Member’s account a non-sufficient funds fee (“NSF Fee”) of \$25.00.
- F. Referral to Legal Counsel, Acceleration and Suspension of Privileges. If the Member fails to pay as required by the “demand letter” sent by management, the account will be referred to legal counsel for collection. The following steps will then be taken:
1. The entire balance of the annual assessment shall be accelerated and declared due in full and a lien may be recorded against the title of the unit to secure the Association’s claim for the accelerated amount.
 2. Legal counsel shall take such other appropriate legal action, including but not limited to recording a lien and filing a lawsuit. All legal fees and costs of collection will be claimed in addition to any unpaid assessments or other charges. For assessment accounts that have been delinquent for 90 days or more after being referred to legal counsel, the Board may authorize legal counsel to enforce the assessment lien recorded against the property by selling the property at a foreclosure sale.
 3. Such foreclosure proceedings will be accomplished in accordance with Section 55-79.84 of the Virginia Condominium Act.
 4. Accounts will be considered delinquent and remain with counsel until the Association’s entire claim is paid, including interest, carrying charges, attorneys’ fees and costs of collection.
- G. Waiver. The Board may grant a waiver of any provision herein upon petition in writing by a Member alleging a personal hardship or for other good cause shown. Such relief granted to a Member shall be appropriately documented in the Association’s files, including the conditions upon which any such relief is based.

H. Suspension of Privileges. If a Member's assessment account remains unpaid more than sixty (60) days, the Board shall undertake steps to declare the Member to be a Member "not-in-good-standing" and suspend the Member's rights, privileges and benefits of membership after notice and an opportunity to be heard is provided to the Member. If imposed, the suspension shall continue until payment in full is received by the Association. Suspension of membership privileges shall include, but is not limited to, the suspension of parking privileges and pool privileges.

1. If, after notice and an opportunity to be heard, the Member fails to pay the past due assessments in full, the Board shall revoke the Member's privilege of access to a reserved parking space, at which time the Board shall cause the "Reserved" designation on the parking space to be covered by painting over the designation.
2. The Member's assessment account shall be assessed a charge of \$50.00 to cover the supplies and labor associated with painting over the "Reserved" designation and for repainting the designation when the Member's parking privileges are restored.

The effective date of this Resolution shall be June 1, 2016. This Resolution shall supersede any previously adopted resolution regarding collection of assessments.

I hereby certify that this Policy Resolution was duly adopted by the Board of Directors at a regular meeting of the board on May 11, 2016.

COUNCIL OF CO-OWNERS OF KEENE
MILL WOODS CONDOMINIUM



Michelle Olsen, President

COUNCIL OF CO-OWNERS OF KEENE MILL WOODS CONDOMINIUM

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RESOLUTION ACTION RECORD

Duly adopted at a meeting of the Board of Directors held on May 11, 2016

Motion by: Michelle Olsen

Seconded by: Kouadio Koko

VOTE:

	YES	NO	ABSTAIN	ABSENT
<u>Michelle Olsen</u> Director	X	_____	_____	_____
<u>Kara Zwick</u> Director	P	_____	_____	_____
<u>Cliff Huh</u> Director	X	_____	_____	_____
<u>[Signature]</u> Director	X	_____	_____	_____
<u>Koko, Kouadio</u> Director	X	_____	_____	_____
<u>Kristen Gamm</u> Director	X	_____	_____	_____
<u>Mike Lennett</u> Director	_____	_____	_____	X

ATTEST:

Kristen Gamm
Secretary

5/11/16
Date

Resolution Effective: June 1, 2016

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