

**RESOLUTION OF THE BOARD OF DIRECTORS
FOUNTAIN HILLS HOMEOWNERS' ASSOCIATION**
(Procedures for Collection of Delinquent Payments)

WHEREAS, Article III, Section 6 of the Declaration of Fountain Hills creates an assessment obligation for the owners of homes in the Fountain Hills Association ("Association"), which is a continuing lien on the home and a personal obligation of the owner; and

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

WHEREAS, Article III, Section 8 of the Declaration grants the Board of Directors the authority to enforce payment of assessments by means of, *inter alia*, foreclosing the lien against any home for which assessments are not paid or filing a lawsuit; and

WHEREAS, the Board of Directors desires to establish these procedures in conformity with the Declaration, the Bylaws, and as otherwise provided by law;

NOW, THEREFORE, LET IT BE RESOLVED THAT the Board of Directors, on behalf of the Association, duly adopts the following collection procedures:

1. ASSESSMENTS: Each owner's annual assessment is due on the first day of January. Notices, documents and all correspondence relating to assessments shall be mailed to the address which appears on the books of the Association. It is each owner's responsibility to inform the Association's managing agent of any address change.
2. DELINQUENCY: An owner's account is delinquent if an assessment is not received on the due date.
3. LATE FEES AND INTEREST: A delinquent account which is not paid by the first of March of each calendar year will assessed a 10% interest fee per annum. In addition, a \$25 returned check charge and any related bank charges will be assessed against the account of the unit owner responsible for payment if the payment is returned for insufficient funds.
4. LATE NOTICES: If full payment of an assessment is not received by the Association's managing agent by the due date, the managing agent will send a delinquency notice to the owner by first class mail requesting immediate payment, advising the owner of the 10% interest fee.
5. INTENT TO CREATE LIEN: If an account is delinquent, the Association may record a "Notice of Lien" against the home in county land records and charge a \$100 lien fee payable to the Association which amount may be subject to change per the Board of Directors.

The Notice of Lien will inform the public of the amount of the outstanding balance, including all past due assessments, late fees, interest, costs of collection and reasonable attorney fees. The Notice of Lien will conform with applicable laws.

6. DEBT COLLECTION OPTIONS: In order to collect a debt owed to the Association by a member, the following options may be used until the debt is satisfied:

- Legal action described below.
- Suspension of a member's privileges, including swimming pool.
- Suspension of voting rights.

7. LEGAL ACTION: If an account remains delinquent, the Association may retain an attorney to proceed with further legal action, including, but not limited to, foreclosing on the owner's property, or filing a lawsuit, or both, against the owner to collect the owner's past due assessments, late fees, interest, costs of collection, and attorney fees.

8. PAYMENTS CREDITED: Payments received from an owner will be credited to the outstanding balance in the following order:

- a. Court costs, attorney fees, and other costs of collection.
- b. Fines, late fees or accrued interest, as applicable.
- c. Special assessments.
- d. Annual assessments.

9. PARTIAL PAYMENTS: In the event an owner attempts to make a payment of less than all monies due and owing the Association after collection proceedings have commenced, the Association's attorney or designated collection agent will send a letter by first class mail to the owner advising the owner that his or her account remains delinquent as to all remaining monies owed to the Association. The Association's retention of the partial payment does not constitute a waiver of the Board's authority to foreclose on the owner's property to take action against the owner to collect the outstanding balance.

Failure by the Association to follow any of the procedures set forth in this Resolution shall not excuse any owner from their obligation to pay all assessments, interest, charges and costs, including attorney fees, due in a timely manner, nor does such failure constitute a waiver of the Association's right to collect all assessments, costs, charges and interest due the Association.

This policy is effective beginning January 1, 2018. This policy replaces and supersedes all prior policies and procedures for delinquent payments.



Signature

11/20/17

Date

Printed Name: Javier Velazquez
President – Board of Directors

Fountain Hills

Delinquency Processing Flow Chart

January 1st
Annual Dues Assessed

Payment is due January 1st, of every year. If your remittance is not RECEIVED IN FULL by March 1st of the said year, a late fee in the amount of 10% of your balance will be applied to your account. Amenity Fobs turned off until payment in full. Voting rights in the association will be suspended until paid in full.

March 1st

DL02 (Reminder Letter sent.) If your remittance is not RECEIVED IN FULL by March 1st of the said year, a late fee in the amount of 10% of your balance will be applied to your account. Amenity Fobs will be turned off until payment in full. Voting rights in the association will be suspended until paid in full.

April 1st

DL03 (Lien Threat Letter sent.) Amenity Fobs remain turned off until payment in full. Voting rights in the association will remain suspended until paid in full.

May 1st

LFDL sent 1st week in June Listing Lien Fees: FSR Lien Fee, Clay County Lien Fee, HOA Lien Fee, and Clay County Lien Release Fee. Amenity Fobs remain turned off until payment in full. Voting rights in the association will remain suspended until paid in full. When lien confirmation is sent & within 30 days and no payment is made, the account will be turned over to Association Attorney who will send a 30 day demand letter. If no payment is made, then a lawsuit and a judgment can be filed against the resident.

June 1st

When lien confirmation is sent & within 30 days and no payment is made, the account will be turned over to Association Attorney who will send a 30 day demand letter. If no payment is made, then a lawsuit and a judgment can be filed against the resident. Amenity Fobs remain turned off until payment in full. Voting rights in the association will remain suspended until paid in full.

July 1st

Legal Action continues with the home owner until account balance is paid or the BOD takes action in a different manner. Amenity Fobs remain turned off until payment in full. Voting rights in the association will remain suspended until paid in full.

NOTE: non-receipt of delinquency letter(s) does not forfeit homeowner's obligation to pay account balances.