

RHYGATE HOMEOWNERS ASSOCIATION

AMENDED AND RESTATED RESOLUTION NO. 2

Policies relating to procedures for collection of homeowner assessments

WHEREAS, the Amended and Restated Declaration of Covenants, Conditions and Restrictions for Rhygate ("Covenants") and the Amended and Restated Bylaws of Rhygate Homeowners Association ("Bylaws") provide for remedies against members of the Association who fail to pay annual or special assessments on a timely basis; and

WHEREAS, Resolution No. 2 of the Rhygate Board of Directors was adopted in 1992 to implement the provisions in the Covenants and Bylaws regarding delinquencies and failures to pay homeowner assessments; and

WHEREAS, Resolution No. 2 was amended in 2010 to conform to the Association's conversion from monthly to quarterly billing and collection of assessments; and

WHEREAS, the Board of Directors has concluded that the procedures for collecting delinquent accounts should be simplified and streamlined in some respects;

NOW, THEREFORE, BE IT RESOLVED THAT Resolution No. 2 is amended to read as follows:

I. ROUTINE COLLECTIONS

A. All quarterly installments of the annual assessments shall be due and payable on the first day of the second month of the quarter (e.g., on February 1 for the first quarter; on May 1 for the second quarter; etc.) (the "Due Date"). All special assessments shall be due and payable on the first day of the next month which begins more than seven days after delivery to the Owner of notice of such special assessment (the "Due Date") or at the discretion of the Board of Directors shall be due and payable over such period as the Board selects.

B. All documents, correspondence and notices relating to the assessments shall be mailed to the address which appears on the books of the Association or to such other address as may be designated in writing by the Owner.

C. Non-receipt of an invoice shall in no way relieve the Owner of the obligation to pay the amount due by the Due Date.

## II. REMEDIES FOR NON-PAYMENT OF ASSESSMENTS

A. If payment of an assessed amount is not received by the person designated by the Treasurer (currently East Coast Management & Consulting Co.) within 30 days of the Due Date, a late fee of 20 percent of the assessment, rounded to the nearest whole dollar, shall automatically be added to the account and shall thereafter be a part of the continuing lien for assessments, as provided for in the Bylaws, until all sums due and owing have been paid in full.

B. The late fee provided for in Paragraph A above shall be assessed if a payment check is returned and the total amount due is not otherwise paid within the time period provided in paragraph A. In addition, the Owner shall be liable for any charges by financial institutions for returned checks.

C. When a late fee is charged, written notice of the charge shall be given to the Owner. Such notice may be included in the next regular billing of assessments or by a separate mailing.

D. If payment in full of any amounts owed by an Owner to the Association (including quarterly or special assessments, late fees and returned check charges) is not paid within 60 days of the Due Date, a "Notice of Intent to Accelerate Installments and Take Legal Action" shall be mailed to the Owner at the address listed in the records of the Association via certified mail, and the cost shall be added to the delinquent Owner's account. The Notice shall inform the Owner that unless all amounts then due and owing to the Association are paid in full within 30 days, the remaining installments of the annual assessment, as well as any remaining balance of a special assessment, shall be accelerated and shall immediately become due, and that the Association will take other legal action regarding the delinquency, including, without limitation, recording a lien on the Owner's lot and/or filing a collection suit against the Owner.

E. If payment in full of any amounts owed by an Owner to the Association is not paid within 30 days of mailing a "Notice of Intent to Accelerate Installments and Take Legal Action," then the remaining installments of the annual assessment and the remaining balance of any special assessment shall be accelerated to become immediately due and payable. In addition, the Board may take such additional actions with regard to the debt as may be allowed by law, and the Owner shall be liable for the cost thereof, including legal fees. The Board shall notify the Owner of the actions taken and shall also notify the Owner's mortgagee, if known.

F. If the Association receives from any Owner, in any fiscal year, two or more returned checks for payment of assessments, the Board may require all future payments to be made by certified check or money order for the remainder of the fiscal year.

G. All costs incurred by the Association as a result of any violation of the Declaration or Bylaws by an Owner, his family, employees, agents, invitees or licensees, shall be specially assessed against the Owner. Such costs include, without limitation, legal or administrative expenses (regardless of whether suits or liens are filed) resulting from an Owner's failure to pay assessments when due or from any other default referred to in this Paragraph II.

H. The Board may, but is not required to, grant a waiver of any provision herein upon petition in writing by an Owner alleging a personal hardship. Any such relief granted to an Owner shall be documented in the files with the name of the person or persons representing the Board granting relief and the conditions of the relief.

I. The Board hereby authorizes the Treasurer to waive the imposition of late fees on payments received by the Treasurer after the date when late fees could be assessed hereunder if, in the judgment of the Treasurer, the delinquent Owner has owned the lot for less than three months at the time of the delinquency and the Treasurer determines that the delinquency was the result of a misunderstanding of the correct procedures relative to payment. Such a waiver may be granted only once to any Owner.

J. Payments received from an Owner shall be credited in the following order of priority:

1. Expenses of the Association or its agents for attorney's fees and court costs.
2. Late charges and returned check charges.
3. All other expenses incurred by the Association or its agents as a result of any violation by the Owner, his family, employees, agents, invitees or licensees of the Declaration or Bylaws or the Resolutions, Rules or Regulations of the Association.
4. The quarterly installments of the annual assessment and any special assessment, as applicable.

Approved: September 10, 2014

Mark Spooner, President  
Cliff Thomas, Vice President  
Cathleen Heideman, Secretary  
Scott Erskine, Treasurer  
Margaret Fisher  
Brent Roderick  
Claire Giambastiani  
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