

Musket Ridge Homeowners Association .
REGULATORY RESOLUTION NO. 1

ASSESSMENT COLLECTION POLICY

WHEREAS, Article IV, Section 1. of the Bylaws for Musket Ridge Homeowners Association (“Association”) states that the business and affairs of the Association shall be managed by the Board of Directors (“Board”);

WHEREAS, Article V. of the Declaration for Musket Ridge (“Declaration”) empowers the Board with the authority to make assessments against the Owners to defray the Common Expenses of the Association, establish the means and methods of collecting such assessments from the Owners and establish the period of installment payments of the annual assessment;

WHEREAS, Section 55-513 of the Virginia Property Owners' Association Act (“Act”), Article IV of the Declaration, Section 1. (c) (d) adopt rules, assess charges and suspend voting and use rights and services for violation of the Association Documents and rules and regulations;

WHEREAS, Article V, Section 3. of the Declaration empowers the Board of Directors to establish the due dates of assessments; and

WHEREAS, Article V., Section 1., of the Declaration empowers the Board of Directors with the authority to establish a late fee in the amount of \$25.00 or such amount as established by the Board, if any assessment is not paid within thirty (30) days of the due date; and

WHEREAS, Article V, Section 9.(d), of the Declaration empowers the Board of Directors with the authority to accelerate the required payment date of the entire remaining annual assessment upon the default of an Owner in the timely payment of any installments not received by the thirtieth (30th) day of the assessment period; and

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

NOW, THEREFORE, IT IS HEREBY RESOLVED THAT the Board of Directors hereby adopts the following assessment procedures:

I. ROUTINE COLLECTIONS

A. All installments of the annual assessment shall be due and payable in advance on the first day of each quarter of the fiscal year; all special assessments shall be due and payable unless otherwise determined by the Board on the first day of the next

month after delivery to the lot owner of notice of a special assessment, provided that at least ten (10) days notice is provided ("Due Date").

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

D. Charges assessed pursuant to the Association Documents and Section 55-513 of the Virginia Property Owners' Association Act shall be collected in the same manner as an assessment or in such other manner as shall be determined by the Board of Directors.

II. REMEDIES FOR NONPAYMENT OF ASSESSMENT

A. **Late Fees and Interest.** If payment of the total assessments or charges due, including special assessments, charges for violations of the Association Documents or Rules and Regulations, and returned check charges, are not received by the Association by the **thirtieth (30th)** day of the month, the account shall be deemed late, a **late fee of Twenty five dollars (\$25.00)** shall automatically be added to the amount due and shall be a part of the continuing lien and personal obligation for assessments, as provided for in the Declaration and the Virginia Property Owners' Association Act, until all sums due and owing shall have been paid in full.

B. **Returned Checks.** If a check is returned and an assessment or charge due and owing is not otherwise received in the applicable time period, as provided in Paragraph II. A. above, the account shall be deemed late, a late fee and interest shall be added, in addition to the amount currently charged to the Association as a returned check charge (currently \$35.00), if applicable. If the Association receives from any owner, in any accounting year, two or more checks returned for insufficient funds for payment of assessments or other charges, the Board may require all future payments to be made by certified check, cashier's check, or money order for the remainder of the fiscal year.

C. **Late Notice.** A "Late Notice" shall be sent by the Association to owners who have not paid assessments or charges, in full, by the thirtieth (30th) day after the due date. The late notice may warn the owner that the account will be accelerated and may be sent to legal counsel for legal proceedings. Non-receipt of such notice does not relieve the owner of his financial obligation to pay the costs of collection accrued by the Association for the collection of the delinquent debt, including, but not limited to, interest, costs and attorneys' fees.

D. **Acceleration.** If a lot owner fails to fully pay any assessment installment in a timely manner, then the remaining balance of the annual or special assessment for the entire fiscal year shall be immediately due and payable in full.

E. **Legal Referral.** If payment in full, of any assessment, charge or returned check charges, is not received by the Association by the ninetieth (90th) day after the due date, the account shall be referred to counsel for the Association and a demand letter shall be sent stating that if payment in full is not received within ten (10) days, the remaining unpaid balance of the annual or special assessment will be accelerated through the end of the fiscal year and a lien filed against the owner's lot.

F. **Lien.** If payment in full of the amounts due is not received by counsel or the managing agent within thirty (30) days after the demand letter has been sent, an accelerated memorandum of lien may be filed. Non-receipt of a notice shall not prevent the Association from filing a lien within the statutory deadline. Reasonable attorneys' fees, interest at eight percent (8%) per annum (or the maximum lawful interest rate a Mortgagee can charge, up to 12%), and the costs of collection, including the costs of postage and filing and releasing the memorandum of lien, or other legal action, shall be added to the account and the delinquent lot owner shall be personally liable for those costs, interest, and attorneys' fees.

G. **Civil Suit.** If payment in full, of all amounts due, is not received by counsel or the Association by the one hundredth twentieth (120th) day after a due date, a civil suit for the accelerated annual or special assessment may be filed personally against the delinquent lot owners.

H. **Further Legal Action.** If an account remains delinquent after the filing of a lien or civil suit, counsel for the Association shall take other appropriate legal action to collect the amounts due, except as provided in Paragraph G and unless directed otherwise by the Board of Directors of the Association.

I. **Foreclosure.** If a lien remains unpaid, the Board of Directors may authorize counsel for the Association to proceed with enforcing the lien by filing a suit to foreclose on the lot within three (3) years of the date the lien is recorded or to sell the lot at public sale at any time after perfecting the lien.

J. **Board Waiver.** The Board may grant a waiver of any provision herein, except filing of memoranda of liens beyond the statutory deadline, upon petition, in writing, by an owner alleging a personal hardship. If, in the unlikely event, an approved payment plan extends for more than twelve months, then the lot owner shall be required, as a condition of the payment plan, to sign a Promissory Note provided by legal counsel. In addition, notwithstanding the existence of an approved payment plan or a signed Promissory Note, as long as the account remains delinquent, the Association shall protect its interests by filing Memoranda of Liens against the Lot to secure the unpaid assessments in accordance with the Act.

K. **Agent/Counsel Waiver.** The Board hereby authorizes counsel or the managing agent to waive the imposition of late fees on payments received by counsel or the managing agent after the thirtieth (30th) day of the assessment period, if, in the

judgment of counsel or the managing agent, the delinquent owner has owned the lot for less than three (3) months at the time of the delinquency and counsel or the managing agent determines the delinquency was the result of a misunderstanding of the correct procedures relative to payment of the assessment. Further, such a waiver may be granted only once to any delinquent lot owner and will be documented in writing in the lot owner's file.

L. **Application of Payments.** Payments received from a lot owner shall be credited to currently outstanding amounts and the amount owed for each category below shall be paid in full before payment is applied to the next category in the following order:

1. Charges for attorneys' fees and court costs.
2. All returned check charges, postage, or costs.
3. Other charges (rule violations, damages, etc.)
4. Late fees and interest.
5. The annual and special Association assessments for each lot, applied first to the oldest amount due.

N. **Suspension of Voting Rights and Use of Facilities and Services.** An owner's voting rights shall be automatically suspended for any period during which any assessment remains unpaid for more than sixty (60) days. An owner whose account remains delinquent for more than sixty (60) days may also have his or her right to use the facilities and services of the Association suspended for the duration of the delinquency, after notice and opportunity for a hearing pursuant to Section 55-513 of the Act. The notice required under the Act shall advise the owner that he or she may contest the suspension by requesting a hearing before the Board within ten (10) days of the date of the letter. If a hearing is timely requested regarding suspension, the Association shall hand-deliver or mail, by certified mail (return-receipt requested), a notice to the owner at least fourteen (14) days in advance of the hearing date stating the sanctions that may be imposed and the time, date and place of the hearing. The remedies stated herein shall not constitute an election of remedies and all remedies shall be deemed cumulative.

**MUSKET RIDGE HOMEOWNERS ASSOCIATION INC.
RESOLUTION ACTION RECORD**

Resolution Type: Policy No.

Pertaining to: Assessment Collection Procedures Duly adopted at a meeting of
the Board of Directors held 8/13, 2009.

Motion by: Donny Audi Seconded by: Lisa Emery

	YES	NO	ABSTAIN	ABSENT
<u>DS</u> Director	✓	—	—	
<u>Lisa M. Emery</u> Director	✓	—	—	
<u>KS</u> Director	✓	—	—	
<u>Richard H. ...</u> Director	✓	—	—	
_____ Director	—	—	—	
_____ Director	—	—	—	
_____ Director	—	—	—	

ATTEST:
Therese ... Secretary 8/13/09 Date

FILE:
Book of Minutes 2009
Book of Resolutions:

	Book No.	Page No.
Policy	_____	_____
Regulatory	<u>2009</u>	_____
Special	_____	_____
General	_____	_____

Resolution effective: _____