

# LAKEPOINTE TOWNHOMES HOMEOWNERS ASSOCIATION

## POLICY / REGULATORY RESOLUTION NO. 2009 - 1

### ASSESSMENT COLLECTION POLICY

**WHEREAS**, Section 55-513A of the *Virginia Property Owners' Association Act*, Va. Code § 55-508, *et seq.* ("Act") grants the Board of Directors of Lakepointe Townhomes Homeowners Association ("Association") the power to establish rules and regulations for the use of the property and with respect to such other areas of responsibility assigned to the Association by the Declaration of Covenants, Conditions, and Restrictions for Lakepointe Townhomes ("Declaration"), of record in the land records of the Circuit Court of Fairfax County at Deed Book 4499, Page 0761, *et seq.*; and,

**WHEREAS**, Section 55-515A of the Act charges all lot owners and their tenants, guests and invitees with compliance with the Act, the Declaration, By-Laws and Rules and Regulations of the Association, as amended; and,

**WHEREAS**, Article VI (*Covenant for Maintenance Assessments*) sets forth an assessment obligation for all lot owners, and Article VI, Section 8 (*Covenants for Maintenance Assessments - Effect of Nonpayment of Assessments - Remedies of the Association*) and Article VI, Section 1 (*Creation of the Lien and Personal Obligation of Assessments*) of the Declaration set forth remedies for nonpayment of the assessment and empowers the Association to enforce the covenants; and,

**WHEREAS**, Article VI, Section 8 and Article XI, Section 1 (*General Provisions - Enforcement*) of the Declaration empowers the Association to bring an action at law or foreclose the lien to collect charges and assessments provided for in the Declaration, and further provide that any assessment not paid within thirty (30) days after the due date shall bear interest from the due date at "six percent (6%) per annum" added to it, and Article VI, Section 1 authorizes such interest as well as costs and reasonable attorney's fees; and,

**WHEREAS**, Section 55-513B of the Act and Article V, Section 2(d) (*Property Rights - Members' Easements of Enjoyment*) authorizes the Association to suspend a member's right to use facilities, recreational facilities or services offered by the Association and to suspend the right to vote for nonpayment of the assessment obligation; and,

**WHEREAS**, it is the intent of the Board of Directors to revise the Association's existing general assessment collection policy and to approve rules and regulations regarding the assessment collection policy of the Association for the benefit and protection of the Association's lot owners and residents by establishing procedures to ensure consistency of enforcement;

**NOW, THEREFORE, IT IS HEREBY RESOLVED THAT** the Board of Directors adopts the following policy to become effective **April 3, 2009**.

## **I. ROUTINE COLLECTIONS**

A. All annual assessments will be collected on a monthly basis and shall be due and payable on the first day of each month. If a lot owner is in default in payment of any monthly assessment for more than ten (10) days, the assessment shall be considered delinquent and the member's right to vote shall be suspended until the account is brought current.

B. All special assessments, whether in lump sum or installments, shall be collected (if in installments) on a monthly basis and shall be due and payable on the first day of each month of the assessment year in which the assessment was approved. If applicable, the notice of special assessment shall set forth any other payment arrangements which may differ from the aforementioned schedule, as may be established by the Board of Directors.

C. 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.

D. Non-receipt of an invoice/payment coupon book shall in no way relieve the owner of the obligation to pay the amount due by the due date.

E. Charges assessed pursuant to the Association's Declaration, By-Laws and resolutions or for rules violations shall be collected as an assessment or in such manner as shall be determined by the Board of Directors.

## **II. REMEDIES FOR NONPAYMENT OF ASSESSMENTS**

A. If payment of the total assessments or charges due, including special assessments, charges for violations of the Association's governing documents or rules and regulations and returned check charges are not received by the managing agent by the tenth (10<sup>th</sup>) day after the due date, the account shall be deemed late and a Twenty (\$20.00) Dollar non-recurring late fee shall be assessed against the account. If the account is not paid by the thirtieth (30th) day after the due date, the account shall be deemed late and pre-judgment interest of six percent (6%) per annum shall be added to the account from the date of delinquency. Such charges shall be a part of the continuing lien for assessments as provided for in the Declaration, By-Laws and the Property Owners' Association Act, until all sums due and owing shall have been paid in full.

B. 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 and interest and the late fee shall be added in addition to a Twenty Dollar (\$20.00) returned check charge or such other amount as the Board shall determine, if applicable.

C. A "Late Notice" shall be sent by the managing agent to lot owners who have not paid assessments or charges, in full, by the tenth (10th) day after the due date. The notice shall advise the owners that their rights to park in the common area parking spaces (including reserved parking spaces) of the Association and use recreational facilities or other services and facilities of the Association may be suspended if their account remains delinquent for more than sixty (60) days. The notice shall further offer the owners the opportunity to have a hearing before the Board to contest the suspension. The notice shall also warn them that their account will be accelerated and referred to legal counsel if it remains more than sixty (60) days delinquent. If

the owner requests a hearing, then a notice of hearing shall be sent to the owner by the management agent, by certified mail, return receipt requested and the owner shall be afforded a hearing before the Board.

D. If an assessment or other charge due and owing is not received within sixty (60) days after it is due, and if a hearing has not been requested by the delinquent owner, the owner's privileges to: (i) to park on the Association's common area property (the private streets and the parking spaces in the community, including the reserved parking spaces for that lot); and, (ii) to use recreational facilities or other services and facilities of the Association shall all be suspended and revoked until the account is paid in full or a satisfactory payment plan is accepted by the Board. Suspension of the parking privilege shall be enforced by towing without prior notice. Notice of such suspension shall be sent to the owner by the management agent by certified mail, return receipt requested not less than seven (7) days prior to the actual effective date for towing.

E. If payment in full, of any assessment or charge, interest and returned check charge, is not received by the managing agent by the sixtieth (60th) day after the due date, the account shall be referred to counsel for the Association and shall thereby be deemed accelerated through to the end of the Association's fiscal year. Counsel for the Association shall mail a demand for payment, notice of acceleration of the annual and/or special assessment for the balance of the fiscal year and lien warning by certified mail to the lot owner at the address listed on the books of the Association.

F. If payment in full, of the amounts due, is not received by counsel or the managing agent within fifteen (15) days after the lien warning letter has been sent by certified mail, a memorandum of lien for the accelerated assessment amount shall be filed. Non-receipt of a notice shall not prevent the Association from filing a lien within the statutory deadline. Reasonable attorneys' fees, interest from the date of delinquency at six percent (6%), and the costs of collection, including, without limitation, the costs of filing and releasing the memorandum of lien, shall be added to the account and the delinquent lot owner shall be liable for all costs, interest, and reasonable attorneys' fees pursuant to Article IV, Section 1 of the Declaration.

G. If payment in full, of all amounts due, is not received by counsel or the managing agent by the ninetieth (90th) day after a due date, a civil suit for the accelerated assessment may be filed personally against the delinquent lot owner.

H. If an account remains delinquent after the filing of a lien or civil suit or in lieu thereof, counsel for the Association shall take other appropriate legal action to collect the amounts due, only as directed by the Board of Directors of the Association. The aforementioned time guidelines are advisory only. The Association shall not be bound thereby if in the exercise of its discretion the Board of Directors deems expedited action is required regarding any particular account.

I. If a lien remains unpaid, a suit to enforce the lien or a public sale to foreclose on the lot may be initiated within thirty-six (36) months of the date the lien is recorded, upon authorization from the Board of Directors.

J. If the Association receives from any owner, in any accounting year, two or more returned checks for payment of assessments, 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.

K. All costs incurred by the Association as a result of any violation of the Declaration, By-Laws, rules and regulations or resolutions of the Association by a lot owner, his family, employees, agents, lessees or licensees, shall be specially assessed or charged against the lot owner. Such costs include, without limitation, legal or administrative expenses (regardless of whether suits or liens are filed) resulting from a lot owner's failure to pay charges or assessments when due, or from any other default referred to in this paragraph or in the Declaration, By-Laws and rules. Such charges shall also specifically include any administrative charges which the Association may incur as a result of notices, letters or other correspondence which may be sent to the lot owner by the management agent pursuant to collection of the assessment obligation. The management agent is hereby authorized to charge against an assessment account a \$20.00 replacement fee to cover the issuance of replacement coupons for coupons lost or misplaced by the owner(s).

L. 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 a lot owner alleging a personal hardship. Such relief granted a lot owner shall be appropriately documented in the files with the name of the person or persons representing the Board granting the relief and the conditions of the relief.

M. The Board hereby authorizes the managing agent to waive the imposition of interest on payments received by the managing agent after the tenth (10th) day of the month, if, in the judgment of the managing agent, the delinquent lot owner has owned the lot for less than three (3) months at the time of the delinquency and the managing agent determines the delinquency was the result of a misunderstanding of the correct procedures relative to payment of the assessment.

N. Payments received from a lot owner shall be credited in the following order:

1. Charges for attorneys' fees and court costs.
2. All returned check charges or interest accrued, as applicable.
3. All other charges incurred by the Association as a result of any violation by a lot owner, his family, employees, agents, lessees or licensees of the Declaration, By-Laws, rules and regulations or resolutions.
4. The monthly and any special assessment of each lot, applied first to the oldest amount due.

O. In the event that the right to park in the common area parking spaces is suspended for nonpayment of the assessment obligation, the suspension shall pertain to ALL common parking area parking spaces, including those spaces reserved to the lot as well as guest/visitor spaces. After seven (7) days of the mailing of the notice of suspension (by certified mail, return receipt requested) to the owner's address of record with the Association, the suspension shall be enforced by towing without notice. Such towing shall be at the sole risk and expense of the vehicle owner, and the Association shall under no circumstances be liable for any damage to the vehicle or the costs to repair same.

# LAKEPOINTE TOWNHOMES HOMEOWNERS ASSOCIATION

## POLICY / REGULATORY RESOLUTION NO. 2009 - 1

### RESOLUTION ACTION RECORD

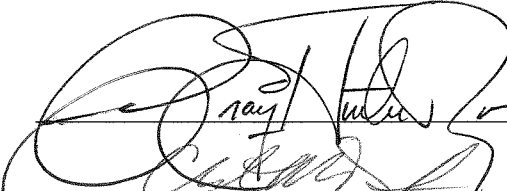

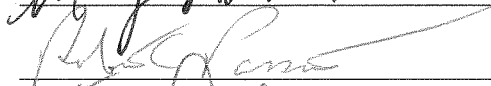
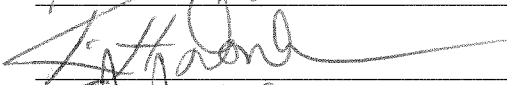


Resolution Type: Policy / Regulatory No. 2009 - 1

Pertaining to: Assessment Collection Policy

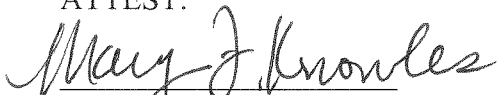
Duly adopted at a meeting of the Board of Directors of the Lakepointe Townhomes Homeowners Association, held January 19, 2009.

Motion by: Mary Knowles Seconded by: Kevin Donlea

VOTE:

|                                                                                                   |  | YES   | NO    | ABSTAIN | ABSENT |
|---------------------------------------------------------------------------------------------------|--|-------|-------|---------|--------|
|  _____, Member  |  | ✓     | _____ | _____   | _____  |
|  _____, Member |  | _____ | _____ | _____   | ✓      |
| <u>Mary J Knowles</u> _____, Member                                                               |  | ✓     | _____ | _____   | _____  |
|  _____, Member |  | _____ | _____ | ✓       | _____  |
|  _____, Member |  | ✓     | _____ | _____   | _____  |
|  _____, Member |  | _____ | _____ | _____   | ✓      |
|  _____, Member |  | ✓     | _____ | _____   | _____  |

ATTEST:

  
Secretary

2/16/09  
Date

Book of Minutes - 2009

| Book Resolutions: | Book No. | Page No. |
|-------------------|----------|----------|
| <b>Policy</b>     | _____    | _____    |
| <b>Regulatory</b> | _____    | _____    |
| Special           | _____    | _____    |
| General           | _____    | _____    |

Resolution effective: April 3, 2009

# LAKEPOINTE TOWNHOMES HOMEOWNERS ASSOCIATION

## AMENDMENT TO RESOLUTION NO. 6

### AMENDMENT TO PARKING POLICIES

**WHEREAS**, Section 55-513A of the *Virginia Property Owners' Association Act*, Va. Code § 55-508, *et seq.* ("Act") grants the Board of Directors of Lakepointe Townhomes Homeowners Association ("Association") the power to establish rules and regulations for the use of the property and with respect to such other areas of responsibility assigned to the Association by the Declaration of Covenants, Conditions, and Restrictions for Lakepointe Townhomes ("Declaration"), of record in the land records of the Circuit Court of Fairfax County at Deed Book 4499, Page 0761, *et seq.*; and,

**WHEREAS**, Section 55-515A of the Act charges all lot owners and their tenants, guests and invitees with compliance with the Act, the Declaration, By-Laws and Rules and Regulations of the Association, as amended; and,

**WHEREAS**, Article VI (*Covenant for Maintenance Assessments*) sets forth an assessment obligation for all lot owners, and Article VI, Section 8 (*Covenants for Maintenance Assessments - Effect of Nonpayment of Assessments - Remedies of the Association*) and Article VI, Section 1 (*Creation of the Lien and Personal Obligation of Assessments*) of the Declaration set forth remedies for nonpayment of the assessment and empowers the Association to enforce the covenants; and,

**WHEREAS**, Section 55-513B of the Act and Article V, Section 2(d) (*Property Rights - Members' Easements of Enjoyment*) authorizes the Association to suspend a member's right to use facilities, recreational facilities or services offered by the Association and to suspend the right to vote for nonpayment of the assessment obligation; and,

**WHEREAS**, Lakepointe Townhomes Homeowners Association Resolution No. 6 (*Parking Policies*), approved by the Board of Directors on February 17, 1997, established parking rules and regulations for the Association; and,

**WHEREAS**, Lakepointe Townhomes Homeowners Association Resolution No. 2009 - 1 (*Assessment Collection Policy*), approved by the Board of Directors on January 19, 2009, set forth the authority of the Association, acting through the Board of Directors, to suspend the right to park on the common area, including the suspension of the common area parking spaces that have been reserved for use by the lot owners, for nonpayment of the assessment obligation; and,

**WHEREAS**, it is the intent of the Board of Directors to amend the Association's existing parking policies so as to codify the suspension of the parking privilege as a remedy of the Association in the event of non-payment of the assessment obligation, and to thereby make consistent the Association's Assessment Collection Policy Resolution and the Association's Parking Policies Resolution, for the benefit and protection of the Association's lot owners and residents by ensuring consistency of policies and the enforcement thereof;

**NOW, THEREFORE, IT IS HEREBY RESOLVED THAT** the Board of Directors amends Resolution No. 6 (*Parking Policies*) (approved, adopted and published in February 1997) in the following particulars, and this amendment shall become effective **April 3, 2009**.

**The following shall be added as Sections II.F, II.G, and II.H to the Parking Policies Resolution:**

F. In the event that a lot owner has not paid all assessments and charges by the 30<sup>th</sup> day after the due date therefor, notice shall be sent by the managing agent to the lot owner. The notice shall advise the owner that his/her right to park in the common area parking spaces (**including reserved parking spaces for that lot**) of the Association may be suspended if their account remains delinquent for more than sixty (60) days. The notice shall further offer the owner the opportunity to have a hearing before the Board to contest the suspension. The notice shall also warn him/her that his/her account will be accelerated and referred to legal counsel if it remains more than sixty (60) days delinquent. If the owner requests a hearing, a notice of hearing shall be sent to the owner by the management agent, by certified mail, return receipt requested and the owner shall be afforded a hearing before the Board.

G. If an assessment or other charge due and owing is not received within sixty (60) days after it is due, and if a hearing has not been requested by the delinquent owner, the owner's privileges to: (i) to park on the Association's common area property (the private streets and the parking spaces in the community, **including the reserved parking space(s) for that lot**) shall be suspended and revoked until the account is paid in full or a satisfactory payment plan is accepted by the Board. Suspension of the parking privilege shall be enforced by towing without prior notice. Notice of such suspension shall be sent to the owner by the management agent by certified mail, return receipt requested not less than seven (7) days prior to the actual effective date for towing.

H. In the event that the right to park in the common area parking spaces is suspended for nonpayment of the assessment obligation, the suspension shall pertain to ALL common parking area parking spaces, including those spaces reserved to the lot as well as guest/visitor spaces. Upon the lapse of seven (7) days after the mailing of the notice of suspension (by certified mail, return receipt requested) to the owner's address of record with the Association, the suspension shall be enforced by towing without notice. Such towing shall be at the sole risk and expense of the vehicle owner, and the Association shall under no circumstances be liable for any damage to the vehicle or the costs to repair same.

In all other respects, the Association's Resolution No. 6 (*Parking Policies*) remains in force and effect.



# LAKEPOINTE TOWNHOMES HOMEOWNERS ASSOCIATION

## AMENDMENT TO RESOLUTION NO. 6

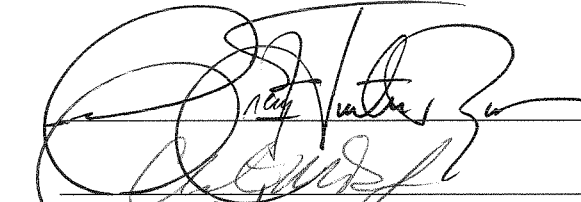



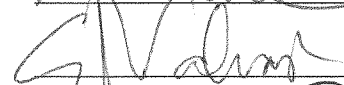
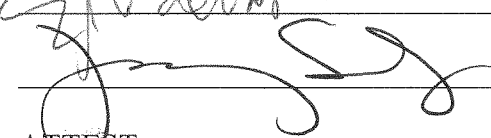
### RESOLUTION ACTION RECORD

Resolution Type: Policy / Regulatory No. 2009 -2

Pertaining to: Amendment to Parking Policies Resolution

Duly adopted at a meeting of the Board of Directors of the Lakepointe Townhomes Homeowners Association, held January 19, 2009.

Motion by: Kevin Donlea Seconded by: Jeremy Seiz

|                                                                                     |        | VOTE: |    |         |        |
|-------------------------------------------------------------------------------------|--------|-------|----|---------|--------|
|                                                                                     |        | YES   | NO | ABSTAIN | ABSENT |
|   | Member | ✓     |    |         |        |
|   | Member |       |    |         | ✓      |
| <u>Mary Knowles</u>                                                                 | Member | ✓     |    |         |        |
|  | Member |       |    | ✓       |        |
|  | Member | ✓     |    |         |        |
|  | Member |       |    |         | ✓      |
|  | Member | ✓     |    |         |        |

ATTEST:

  
Secretary

2/16/09  
Date

Book of Minutes - 2009

|                     |          |          |
|---------------------|----------|----------|
| Book Resolutions:   | Book No. | Page No. |
| ) <b>Policy</b>     | _____    | _____    |
| ) <b>Regulatory</b> | _____    | _____    |

Resolution effective: April 3, 2009