



ROSEHEART HOMEOWNERS ASSOCIATION

COLLECTION AND PAYMENT PLAN POLICY GUIDELINE

WHEREAS, the property encumbered by the Roseheart Homeowners Association's Collection and Payment Plan Policy Guideline (the "Guidelines") is the property restricted by the Declaration of Covenants, Conditions and Restrictions for Roseheart Homeowners Association, and Provisions for the Roseheart Homeowners Association recorded under Bexar County Clerk's Document Number 20030087339 (hereinafter called the "Declaration"), as same may be amended from time to time, and any other property which has been or may be annexed thereto and made subject to the authority of the Roseheart Homeowners Association (the "Association");

WHEREAS, reference is hereby made to the Declaration for all purposes, and any and all capitalized terms used herein shall have the meanings set forth in the Declaration, unless otherwise specified herein;

WHEREAS, pursuant to Chapter 209 of the Texas Property Code, the Board of Directors (the "Board") of the Association hereby adopts these Guidelines for the purposes of establishing a uniform and systematic procedure to collect assessments and other charges of the Association and identify the guidelines under which Owners may request an alternative payment schedules for certain assessments; and

WHEREAS, the Board has established that it is in the best interest of the Association to establish these Guidelines.

NOW, THEREFORE, BE IT RESOLVED THAT the Association does hereby adopt the following Collection Policy and Payment Plan Guidelines:

I. COLLECTION POLICY

1. **ASSESSMENT PERIOD**

The Board has the duty of establishing and adopting an annual budget, in advance, for each fiscal year of the Association covering the estimated costs of operation of the Association during each calendar year.

2. **NOTICE**

In December of each year, the Board shall fix the amount of the annual assessment against each Lot for the following year and shall, at that time, prepare a roster of the Lots and assessments applicable thereto which shall be kept in the office of the Association and shall be open to inspection by any Owner. Upon completion of the roster, written notice of the assessment shall be sent to every Owner subject to the assessment. An Owner shall not escape liability or be entitled to a deferral of interest, fines or collection costs with regard to delinquent assessments on the basis of such Owner's failure to receive notice, if such notice was sent via regular mail to the most recent address of the Owner according to the records of Association. Each Owner shall have the obligation to notify the

Association in writing of any change in address which shall become effective five days after written notice has been received.

3. DUE DATE

All Annual Assessments (the "Assessment" or the "Assessments") are due on the (1st) day of January and payable on a quarterly basis, as determined by a majority of the Board for that assessment year. Those Assessment Payments are due on the first (1st) day of January, April, July, and October. If any Assessment Payment due the Association is not paid on the date when due, then the entire remaining unpaid portion of the Assessment shall be become delinquent and due. Charges disputed by an Owner are considered delinquent until such time as they are paid in full or the Owner has been provided verification of the disputed amounts due.

Payments received after the due date are considered delinquent and the entire remaining unpaid Assessment shall become due.

4. INTEREST

If the Assessment is not paid within thirty (30) days after the delinquency date, the Assessment shall bear interest from the date of delinquency at the rate of fifteen percent (15%) per annum, plus a \$50.00 administrative/collection fee will be added in accordance with Article VI, Section 8, of the Declaration of Covenants, Conditions, and Restrictions for Roseheart, until the delinquent Assessment is paid in full.

5. DELINQUENCY NOTIFICATION

The Association may cause to be sent the following notification(s) to delinquent Owners:

- a. PAST DUE NOTICE: In the event that any Assessment Payment balance remains unpaid thirty (30) days from the due date, a Past Due Notice may be sent via regular mail to each Owner with a delinquent account setting forth all Assessments, interest and other amounts due. The Past Due Notice will contain a statement that the entire remaining unpaid balance of the Assessment is due and that the owner is entitled to a Payment Plan as set forth in Section II of these Guidelines. **In the event an owner chooses to enter a Payment Plan, a charge of \$20.00 dollars per month will be added to each delinquent Owner's account balance for administrative costs related to the Payment Plan and such additional administrative costs will continue until the entire balance is paid in full.**

b. FINAL NOTICE: In the event the entire Assessment is not paid in full or there is a default on the Payment Plan, where an Assessment account balance remains unpaid sixty (60) days or later from the due date, a Final Notice may be sent via certified mail to each delinquent Owner. The Final Notice will set forth the following information and results of failure to pay, including an explanation of:

1. AMOUNTS DUE: All delinquent Assessments, interest and other amounts due;
2. HEARING: Owners shall be given notice and opportunity for a hearing before the Board. A hearing shall be granted if a written request for a hearing is received by the Association not more than thirty (30) days from the Owner's receipt of the Final Notice;

If a hearing is requested within 30 days from receipt of the Final Notice, further collection procedures are suspended until the hearing process is completed. The Board shall set a hearing date not later than 30 days after receipt of Owner's request for a hearing. Either party may request a postponement, which shall be granted for a period of not more than ten (10) days. Additional postponements may be granted by agreement of both parties. Further collection steps will be determined by the action of the Board.

3. COMMON AREA RIGHTS SUSPENSION: If a hearing is not requested within 30 days from receipt of the Final Notice, the Owner's use of common properties and facilities may be suspended and owners gates remotes may be made inactive requiring an owner to access the community by keypad code only

c. NOTICE OF TURNOVER TO COLLECTION AGENT/ATTORNEY: If a hearing is not requested within 30 days from receipt of the Final Notice, member privileges will be suspended, if any, and the account may be sent to a collection agent and/or the Association's attorney for collection and any fees and expenses will be charged. An Owner may not be charged fees of a collection agent (as same is defined in Property Code §209.0064) or legal counsel unless the Association first provides written notice to the Owner by certified mail, return receipt requested, that:

1. Specifies each delinquent amount and the total amount of the payment required to make the account current;
2. Describes the options the Owner has to avoid having the account turned over to a collection agent or legal counsel, including information regarding availability of a payment plan through the Association; and

3. Provides a period of at least thirty (30) days for the Owner to cure the delinquency before further collection action is taken.

6. REFERRAL OF ACCOUNT TO ASSOCIATION ATTORNEY

Upon referral of the account to the Association's attorney, the attorney is authorized to take whatever action is necessary, in consultation with the Board, including but not limited to: sending demand letters, filing a lawsuit against the delinquent Owner for a money judgment, instituting an expedited foreclosure action; and, filing necessary claims, objections and motions in the bankruptcy court and monitoring the bankruptcy case in order to protect the Association's interests.

In the event the Association has determined to foreclose its lien provided in the Declaration, and to exercise the power of sale thereby granted, such foreclosure shall be accomplished pursuant to the requirements of Section 209.0092 of the Texas Property Code by first obtaining a court order in an application for expedited foreclosure under the rules adopted by the Supreme Court of Texas.

7. BANKRUPTCIES

Upon receipt of any notice of a bankruptcy of an Owner, the account may be turned over to the Association's attorney so that the Association's interests may be protected.

8. REQUIRED ACTION

Nothing contained herein, not otherwise required by the Declaration, shall require the Association to take any of the specific actions contained herein. The Board of the Association shall have the right, but not the obligation, to evaluate each delinquency on a case-by-case basis as in its best judgment deems reasonable.

II. PAYMENT PLAN

1. PAYMENT PLAN SCHEDULE

The Association hereby establishes a Payment Plan schedule by which an Owner may make partial payments to the Association for delinquent Annual Assessments and any other amount owed to the Association without accruing additional monetary penalties. Monetary penalties do not include interest or reasonable costs associated with administering the Payment Plan. The Payment Plan Schedule is as follows:

- a. For those assessments that first become delinquent on the (1st) day of February, the entire Annual Assessment balance along with interest and administrative fees shall be due and payable in six (6) equal consecutive monthly installments. For those assessments that first become delinquent on the (1st) day of May, the entire Annual

Assessment balance along with interest and administrative fees shall be due and payable in five (5) equal consecutive monthly installments. For those assessments that first become delinquent on the (1st) day of August, the entire Annual Assessment balance along with interest and administrative fees shall be due and payable in four (4) equal consecutive monthly installments. For those assessments that first become delinquent on the (1st) day of November, the entire Annual Assessment balance along with interest and administrative fees shall be due and payable in three (3) equal consecutive monthly installments;

- b. An Owner, upon written request, may request a longer period of time for a Payment Plan;
- c. The Association is not required to offer a Payment Plan to an Owner if said Owner has defaulted on any previous Payment Plans with the Association in the past two (2) years.

2. APPLICATION OF PAYMENTS

- a. Except as provided in subsection (b) immediately below, a payment received by the Association shall be applied in the following order of priority:
 - 1. Any delinquent Assessment;
 - 2. Any current Assessment;
 - 3. Attorney's fees or third party collection costs incurred by the Association associated solely with Assessments or other charge that can be the basis of foreclosure;
 - 4. Attorney's fees not subject to "3" above;
 - 5. Fines;
 - 6. Any other amount owed to the Association.
- b. If/when an Owner defaults on a Payment Plan, the remaining delinquent amount will become due in full and the Association may begin further collection action as set out above in Article I(5)(b). Any payment(s) received by the Association after such default shall be applied in the following order of priority:
 - 1. Costs;
 - 2. Attorney fees;
 - 3. Interest;
 - 4. Late Fees;
 - 5. Delinquent Assessments;
 - 6. Current Assessments
 - 7. Fines

Any provision herein which restricts the sale, or use of the described real property because of race is invalid and unenforceable under Federal law
STATE OF TEXAS, COUNTY OF BEXAR
I hereby Certify that this Instrument was FILED in File Number Sequence on this date and at the time stamped hereon by me and was duly RECORDED in the Official Public Record of Real Property of Bexar County, Texas on:

NOV 15 2011



Gerard C. Rickhoff
COUNTY CLERK BEXAR COUNTY, TEXAS

Doc# 20110203637 Fees: \$40.00
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Filed & Recorded in the Official
Public Records of BEXAR COUNTY
GERARD C. RICKHOFF COUNTY CLERK