

## AMENDMENT TO THE COVENANTS CODES AND RESTRICTIONS

### COVENANTS, CODES & RESTRICTIONS CURRENTLY STATE:

**4.6 Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessments or installments thereof which are not paid when due shall be delinquent. The Association shall cause a notice of delinquency to be given to any member who has not paid within thirty (30) days following the due date. Any assessment or installment thereof delinquent for a period of more than sixty (60) days shall incur a late charge in an amount as the Board may from time to time determine. If the assessment is not paid within (90) days, a lien, as herein provided, shall attach and, in addition, the lien shall include the principal amount due, all continuing late charges from the date first due and payable, all costs of collection, including, without limitation, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid after twenty-four (24) months, the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt or to foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same.

### PROPOSED AMENDMENT TO THE COVENANTS, CODES & RESTRICTIONS:

**4.6 Effect of Nonpayment of Assessments; Remedies of the Association.** Any assessments or installments thereof which are not paid when due shall be delinquent. The Association shall cause a notice of delinquency to be given to any member who has not paid within ninety (90) days following the due date. Any assessment or installment thereof delinquent for a period of more than ninety (90) days shall incur a late charge in an amount as the Board may from time to time determine. If the assessment is not paid within (90) days, a lien, as herein provided, shall attach and, in addition, the lien shall include the principal amount due, all continuing late charges from the date first due and payable, all costs of collection, including, without limitation, reasonable attorney's fees actually incurred, and any other amounts provided or permitted by law. In the event that the assessment remains unpaid the Association may, as the Board shall determine, institute suit to collect such amounts and/or to foreclose its lien. Each Owner, by acceptance of a deed or as a party to any other type of conveyance, vests in the Association or its agents the right and power to bring all actions against such Owner personally, for the collection of such charges as a debt or to

foreclose the aforesaid lien in the same manner as other liens for the improvement of real property. The lien provided for in this Article shall be in favor of the Association and shall be for the benefit of all other Owners. The Association, acting on behalf of the Owners, shall have the power to bid on the lot at any foreclosure sale or to acquire, hold, lease, mortgage or convey the same.

### **Attorneys' Fees & Costs:**

(a) Right to Fees & Costs: In the event an Owner defaults or breaches the governing documents, the association may hire or pay someone else to help enforce the governing documents, in which case the owner shall pay the associations fees and costs so incurred, including without limitation reasonable attorneys' fees, legal expenses and costs, whether or not there is a lawsuit, including attorneys' fees and legal expenses incurred in representing the associations interests as a creditor in any bankruptcy proceedings (including efforts to modify or vacate any automatic stay or injunction) or appeals brought by or on behalf of the owner, and for any and all post-judgment collection services and proceedings which may occur.

"Costs" and attorneys' fees, as used in this entire paragraph, shall include without limitation all fees and costs incurred regarding time and charges for consultations with attorneys, the preparation of legal and other documents, filing fees, costs of serving (legal messenger) all pleadings and documents, photocopying, postage and printing costs/expenses, depositions (including court reporters fees and transcription costs), conducting discovery, expert witness fees and costs, fees for consultants with expertise regarding the subject matter of any issues arising between the parties, and any and all other preparation of the case while litigation is pending, for trial, and for appeals.

(b) Post-Judgment Fees & Costs: Regarding post-judgment collection services and proceedings, after award or judgment is entered the association shall be fully entitled to recover against the owner any and all future costs (as set forth above), attorneys' fees, and all other expenses which may be incurred in collecting upon and/or enforcing the award or judgment, including without limitation bond costs, sheriff's fees, filing and/or court fees, and all time reasonably spent by attorneys on behalf of the association in handling and pursuing collection/enforcement of the award or judgment. The association shall be entitled to provisions in any such award or judgment which set forth the within collection or enforcement rights to future costs and fees. However, the lack of any such provisions in an award or judgment given or taken hereunder shall not in any way affect the applicability of these provisions.

It is agreed that the association incurring attorneys' fees and/or costs in collecting upon or enforcing any such award or judgment may reduce those fees and costs to an additional part of the existing judgment or award by ex parte submitting a motion and affidavit to the ex parte department of the applicable court, regarding attorneys' fees and costs incurred in the collection process, and obtaining an order awarding such fees and costs to the association as an additional part of the existing judgment or award.