



## Association Policy 210 Collection Procedure

This Policy supersedes all other Policy 210s effective 5/24/2022

### **Reason for Procedure:**

A uniform and systematic procedure for the collection of unpaid assessments in a timely manner is in the best interests of the Hidden Springs Town Association ("HSTA"). The Town Council of HSTA ("Board") has concluded that the HSTA's interests are best served by establishing a relationship with a collections attorney to minimize the HSTA's loss of assessment revenue. **PLEASE READ THE ENTIRE POLICY** as legal fees charged to your HOA account to recover delinquent assessments may total hundreds of dollars or more, depending on the time spent by attorneys to recover money owed.

### **Applicable Definitions:**

1. "Declaration" is the Master Declaration of Covenants, Conditions and Restrictions for Hidden Springs Planned Rural Community, as amended;
2. "Bylaws" is Bylaws as incorporated in Articles 3, 7 and 8 of the Declaration, as amended;
3. "Assessments," as used in this Policy resolution, includes all amounts validly assessed against a Lot or Unit Owner ("Owner") pursuant to the Declaration, the HSTA's Bylaws, Rules and Regulations, including HSTA Policies 100 and 200 or any Board Resolution, including, but not limited to, common expenses, interest, fees, special assessments including all attorney fees and all collection costs; and
4. "Attorney" shall mean the lawyer or law firm representing the HSTA, which is presently Smith Knowles, P.C.

### **Governing Laws:**

Article 3, Section 3.1.7.4 of the Declaration allows the HSTA to adopt rules and enforce compliance with the Declaration, Bylaws, and administrative rules and regulations; Article 3, Section 3.1.7.3, Article 4, Sections 4.1.1 and 4.2.1 and Article 5, Section 5.1.1 of the Declaration authorize the Board to enforce provisions of the Declaration, Bylaws and Rules and Regulations, including action to collect unpaid assessments; Article 4, Section 4.1.6 of the Declaration authorizes the Board to establish late charges; Article 4, Section 4.1.5 of the Declaration authorizes the Board to issue a limited assessment against any homeowners for costs incurred in having homeowner fulfill obligations of the Declaration; Article 4, Sections 4.1.1.1, 4.2.2.1 and 4.2.2.2 of the Declaration provide that all assessments, together with interest, attorney fees and costs of collection shall be a continuing lien upon the unit against which each such assessment is made; Article 4, Sections 4.1.6 and 4.2.3 of the Declaration authorize the Board, on behalf of the HSTA, to bring suit to foreclose the lien against the unit and Article 4, Section 4.2.1 of the Declaration authorizes the Board to bring an action to obtain a money judgment against an Owner for damages and for unpaid assessments; and Article 4, Sections 4.1.1.1, 4.1.6, 4.2.1 and 4.2.2.1 of the Declaration provide that Owners shall be obligated to pay reasonable fees and costs, including, but not limited to, attorney fees incurred in connection with efforts to collect delinquent and unpaid assessments, regardless of whether suit or action is commenced, and to enforce the provisions of the Declaration, Bylaws and rules and regulations.

### **Standard Collection Process:**

1. Town Manager may engage in informal reminders and communications regarding assessments prior to referral to Attorney.
2. All late assessments shall accrue interest and fees as provided in Assessment Procedure, Policy 200.
3. All costs, fees and collections expenses shall be limited assessments pursuant to Article 4, Section 4.1.5 of the Declaration;

4. If any assessment remains unpaid by an Owner for more than thirty (30) days from the due date for its payment, the Board and/or the hired management company shall send a notice to the Owner indicating the amount due, including notice of the late fees and interest, and demand for immediate payment thereof.
5. Once an Owner is delinquent for \$600 or more in assessments (special assessments, fees or interest) a lien will be placed on the Owner's property, at Owner's expense. Owner will be given prompt written notice of the lien.
6. Any assessment that remains unpaid by the Owner for more than thirty (30) days from date notice of lien or is not subject to a written payment plan will be referred for collection to the HSTA's attorney ("Attorney"). In consultation with the Attorney, the Board may utilize its reasonable judgment and discretion in entering into payments plans, negotiating and resolving debts, and determining when further legal action is advisable.
7. Once an account has been referred it is managed by Attorneys. This means there is no direct communication between HSTA, its representatives and the Owner shall occur regarding Assessments.
8. Attorney will send a written demand for payment and any notice as required by the federal Fair Debt Collection Practices Act, if applicable.
  - a) The demand amount will include all collection costs to date, including attorney's fees and the cost of preparing and recording the lien if applicable, and any notice required by law.
  - b) The demand for payment will notify the Owner of the Owner's liability for payment of charges imposed by Attorney to cover fees and costs associated with all collection efforts.
9. HSTA or its agent will inform Attorneys of newly accrued assessments or special or limited assessments on any referred account which Attorneys will be responsible for including in the collection process.
10. If any assessment remains unpaid by the Owner thirty (30) days after the date of Attorney's demand, Attorney shall send Owner a ten (10) day demand letter for payment notifying the Owner that if full payment is not received within ten (10) days of the date of the letter the HSTA intends to file suit to either obtain a money judgment or foreclose on the lien. The ten-day demand will include the updated amount owing, including all collection costs to date.
11. Thereafter, if any Assessment remains unpaid by the Owner, that Attorney may provide: (1) additional notices, including posting an owner's property with notice; (2) engage in further communications with the owner subject to FDCPA requirements (if applicable); (3) negotiate and enter into payment plans with owner (the Attorney shall be authorized to enter into a written payment plans with an owner if the terms include payment of the full amount owing to the Client within six (6) months. Payment plans and/or settlement options outside of these parameters will be presented to the Board or the Board's agent for approval.); (4) commence suit for money judgment and/or foreclosure; (5) pursue foreclosure proceedings and (6) other collection efforts allowed by law and/or the Declaration.
12. Following resolution of the collection matter, either through payment in full, legal enforcement, foreclosure, exhaustion of all legal remedies or Attorneys determination that an account is uncollectible, Attorneys, in writing, shall return accounts to HSTA control.

**Applicable Interest Rates and Late Fees:**

Are established by HSTA Policy 200. (As of 5/24/22).

- If a quarterly assessment is not received on or before the 10th day of the quarter Jan 10, April 10, July 10, Oct 10), a late charge equal to ten percent (10%) of the delinquent assessment.
- In addition, assessments delinquent for 20 days or more are subject to 18% annual interest applied to the unpaid balance(s) pursuant to Master Declaration and CC&R paragraph 4.1.6.

**Assessment of Costs and Fees:**

Each assessment, special assessment, limited assessment, cost and fee, all legal fees and costs incurred in the collection of a delinquent account shall be assessed against the delinquent Owner and shall be charged and collected as an additional assessment as provided in the Bylaws and the Declaration. **PLEASE NOTE:** Legal fees charged to your HOA account to recover delinquent assessments may total hundreds of dollars or more, depending on the time spent by attorneys to recover money owed.

**All Discussions Regarding Accounts Referred to Attorneys Require Attorney Participation:**

Once an account related to a lot has been referred to Attorney, all contacts and contracts about payments related to the lot or with the delinquent Owner regarding the delinquent assessment and additional assessments on the delinquent lot shall be through Attorney.

Neither the Board, the hired management company, the Town Manager, nor any other agents of HSTA, will discuss the collection of the account or any payments directly with the Owner after it has been turned over to Attorney unless one of the Attorneys is present or has consented to the contact and contract. Any payments made directly to HSTA or its management company will be forwarded to Attorneys.

**Limited Power of Attorney:**

The HSTA hereby grants to Attorney its limited power of attorney to endorse for deposit checks made payable to the HSTA (or its agent management company, if any) in satisfaction of accounts sent to Attorney for collection. Attorney shall deposit all payments in its trust account. All amounts collected shall be disbursed by Attorney according to the provisions of the HSTA and Attorney representation agreement.

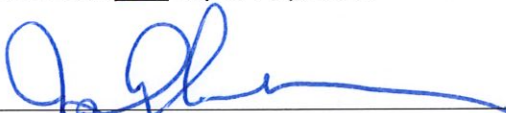
**No Waiver:**


Nothing in this Resolution precludes the Board from taking any action related to unpaid assessments permitted by the HSTA's governing documents or applicable law, including, but not limited to, adopting or enforcing rules regarding the termination of utility services paid for out of assessments of the HSTA and access to and use of recreational and service facilities available to Owners and, after giving notice and an opportunity to be heard, terminate the rights of any Owners to receive such benefits or services until the correction of any violation covered by such rule has occurred.

**Publication:**

A copy of this resolution shall be sent to all Owners at their last known address, and maintained online with the other Hidden Springs policy documents.

DATED this 24 day of May, 2022.

  
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John Ahrens, President, Hidden Springs Town Council

  
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Garry Stanislaw, Secretary, Hidden Springs Town Council