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New Castle Recorder MISC

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Prepared By: 1880 SUPERFINE LANE  
CONDOMINIUM COUNCIL

Return To: 1880 SUPERFINE LANE  
c/o Goldsborough Realty  
2115 Concord Pike, Ste 204  
Wilmington, DE 19803

## FIRST AMENDMENT TO CODE OF REGULATIONS FOR

1880 Superfine Lane Condominium Association

### COLLECTION POLICY

Prompt payment of assessments by every Member is critical to the Association's ability to provide necessary services, and prompt collection of assessments is among the Council's most important responsibilities. This Collection Policy is intended to insure the timely payment of assessments for the benefit of all Members of the Association.

WHEREAS, the Council of 1880 Superfine Lane Condominium Association, (hereinafter referred to as "1880 Superfine Lane") pursuant to **Section 6.B of the Code of Regulations** for 1880 Superfine Lane establish, the following means and methods to collect assessments; and

WHEREAS, the Council has determined in order to uniformly and effectively enforce the payment of assessments and collection of past due assessments, it is appropriate and proper for a policy and procedure to be adopted regarding the collection of assessments;

NOW, THEREFORE, IT IS RESOLVED that the following revised Policy and Procedures are hereby adopted by the Council:

#### ASSESSMENTS

##### **I. Yearly Assessments.**

1.1. Each year the Council shall establish the annual common expense assessment for each unit. The Council directs that the annual common expense assessment for each unit may be paid in monthly installments ("Monthly Installments"). In the event a unit owner(s) fails to pay each monthly installment timely, at the discretion of council the installments may be accelerated for the balance of the fiscal year.

## **2. Assessment(s) Due Date.**

2.1. It is the owner of record's responsibility to pay each monthly installment in full every month. Non-receipt of an invoice, statement, payment book or coupon shall in no way relieve the Property Owner(s) of the obligation to pay the amount due, nor shall it relieve the Property Owner(s) from being charged late fees or interest on past due balances.

2.2. Monthly Installments are due and payable in advance of the month on the first day of each month and are considered delinquent at midnight on the 15th of the month, if not received in full, by the Association. Payments received on the 16th are late.

2.3. All other assessments and/or charge backs, including common or special assessments, are due on the date(s) specified or upon imposition and each payment or installment thereof, shall be delinquent if not received by the Association within fifteen (15) days after it is due.

## **3. Partial Payments.**

3.1. The Association is not required to accept any partial or unauthorized installment payments, except with execution of a mutually agreeable payment plan. Partial payments accepted are credited as specified in Paragraph 5.1 below. However, until the account is paid in full, the account will be considered delinquent, and the association retains the right to take action against the Property Owner(s) to obtain full payment and to continue to assess late fees, interest and costs of collection.

## **4. Late Fees and Returned Payments.**

4.1. Any assessment payment or installment, whether pertaining to annual, special, or default assessments that is delinquent shall bear a late charge of \$25.00 in addition to 18 % interest per annum. A late charge will not be imposed more than once per month.

4.2. Any Electronic Fund Payment returned as "non-negotiable" or check returned by the bank for insufficient funds, stop payment or any other reasons is subject to a charge back to the unit of the amount of the check, a returned payment/check charge of \$35.00, and any bank fees charged to the Association. The Association Treasurer may require cash or certified funds from any unit owner whose personal check has not been honored by his bank, which requirement may in the Treasurer's discretion remain in effect for up to six months following receipt of the first bad check, and for up to twelve months for subsequent bad checks. If the account has been turned over to the Association's Agent for collection and a check is returned, the account will be assessed whatever administrative fees the Agent charges.

## **5. Application of Payments.**

5.1. All payments received by the Association, regardless of the amount paid, will be applied to the oldest open account balances, and, all payments will be applied to any fines, late fees, interest charges, or any other special assessments first, unless otherwise specified by written agreement.

## **6. Disputes.**

6.1. If Members have a question or concern about their account, any late charge or other charge, the Association or its agent will do its best to attempt to answer the question or resolve the concern. However if members dispute the account balance or offer a payment plan to pay delinquent assessments, they must do so in writing.

6.2. An owner has the right to inspect the association's financial books and records to verify the delinquency, per the bylaws related to inspection of the records.

6.3. If it is determined that the owner has paid the assessments timely, the owner will not be liable to pay the charges, interests, and costs of collection associated with collection of those assessments.

6.4. Every unit owner against whom legal action is taken to collect an assessment or enforce any covenant, condition, obligation, or restriction shall, if judgment is rendered against him, be liable for all court costs and 'reasonable attorney's' fee, the same as if such court costs and fee were part of the original amount due. The Council shall have the right to settle any claim against a unit owner, occupant, or other person or legal entity for such amount and on such terms as the Council believes to be in the project's best interests.

## **DELINQUENT ASSESSMENTS**

### **7. Payment Plan Requests.**

7.1. Any owner may make a formal written request to the Council for a payment plan to satisfy a delinquent assessment. Each request is handled on a case-by-case basis. The Council is under no obligation to grant payment plan requests.

7.2. All payment plans shall be in writing and include:

7.2.1. 18 percent (18%) per annum interest as a minimum

7.2.2. a rent assignment

7.2.3. any assessments that accrue during the payment plan period

7.2.4. a provision that any discount provided therein shall be void for default

7.2.5. a confession of judgment

7.3. Payment plans shall not impede the association's ability to record a lien to secure payment of delinquent assessments. Additional late fees shall not accrue during the payment plan period if the owner complies with the terms of the payment plan. In the event of a default on any payment plan, the association may resume its efforts to collect the delinquent assessments due immediately.

### **8. THIRTY (30) DAYS PAST DUE.**

8.1. Accounts that are fifteen (15) days past due may be sent a courtesy reminder. Late fees and interest shall be due on all such amounts, once due and unpaid for thirty (30) days, at the rate of eighteen percent (18%) per annum. Any overdue account may be reported to credit-reporting bureaus.

### **9. SIXTY (60) DAYS PAST DUE.**

9.1. If any portion of any assessment, late charge, interest or cost of collection remains unpaid sixty (60) days after the original due date thereof, a "Delinquent Payment Notice" will be prepared and sent by certified mail to the record owner(s). Any time after the

Delinquent Payment Notice is sent, the Association may record a lien on the property to secure the debt and/or file an action with the court to collect the sums due. All costs of mailings, filing, releases, court costs and/or collection will be added to the unit owner account.

9.2. So long as any general or special assessment is due and unpaid, Council shall have the right to suspend any centrally supplied utility, service or privilege for the unit subject to such assessment. No such suspension shall reduce the affected unit's liability for common expenses during the time of such suspension or thereafter.

9.3. Suspension of unit privileges will include but not be limited to:

9.3.1. Serving on 1880 Superfine Lane Council for a period of one (1) year.

9.3.2. Paying Common Assessment Monthly. Aggregate total due for the rest of the fiscal year may be declared due and payable immediately.

9.3.3. Any unit declared delinquent for 60 days cannot be leased or sold without written permission from Council.

## **10. NINETY (90) DAYS PAST DUE.**

10.1. If payment of the entire balance due is not received within ninety (90) days, the Association, in its sole discretion, may without further advance notice turn the account over to an attorney, a collection service provider ("Collection Agent"), sell and transfer the account or may handle the collection itself. A lien will be prepared and recorded with the New Castle County Recorder of Deeds as to the delinquent property and the owner(s) thereof.

10.2. If the delinquent account is turned over to an attorney or Collection Agent, the Member shall be notified by certified mail and all further communications and/or payments must be made directly to that attorney or Collection Agent. Delays and additional charges may be incurred if payments are directed elsewhere. This requirement will continue until the entire balance due has been received by the attorney or Collection Agent.

10.3. Prior to recordation of the release of any lien, documents of foreclosure or dismissal of any legal action, all assessments, late charges, interest, and costs of collection, including attorneys' fees, must be paid in full to the Association.

10.4. Suspension of unit privileges will include but not be limited to:

10.4.1. Unit vehicles will not be allowed on the 1880 Superfine Lane property. Violators will be towed without notice at the vehicle owner's expense.

## **BANKRUPTCIES, FORECLOSURES AND SHERIFF SALES**

### **11. Bankruptcies and Foreclosures.**

11.1. Upon receipt of any notice of a bankruptcy filing by an Owner, or upon receipt of a notice of a foreclosure by any holder of an encumbrance against any unit within the Association, the management company shall notify the Association and the Association's attorney of the same and turn the account over to the Association's attorney, if appropriate.

**12. Judicial Foreclosure.**

12.1. The Association may choose to foreclose on its lien in lieu of or in addition to suing an Owner for a money judgment. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or if other circumstances favor such action.

**13. Sheriff Sale of Unit.**

13.1. The previous unit owner(s) after a sheriff sale shall be personally liable for any unpaid assessments that are not paid from the proceeds of the sheriff sale. The association may handle the outstanding balance as may be determined by the Council. The new unit owner (Buyer) shall abide by the associations governing documents. Members and former Members remain personally liable for unpaid assessments, charges and deficiency balances that accrue during their ownership of the property, and the Association may proceed against those individuals by any method legally available.

**14. Association Purchase of Unit.**

14.1. The Association shall have the right as according to state law to purchase the unit at any sale including the foreclosure of the Association's lien.

**MEMBER ADDRESS**

**15. Member Information.**

15.1. The Covenants, Conditions and Restrictions require that the Association communicate with each of its Members on several occasions each year. In order to meet these communication requirements the Association maintains a register that contains the names, addresses and telephone numbers of all its Members.

15.1.1 It is the duty of each Member to maintain their current information within the Association register. The Association will mail any required communication to the address that appears in this register and will assume that the address is the most current one. If a Member gives no address or if the address in the register is the wrong address, the communication shall be deemed to have been given to the Owner if sent by first class mail addressed to the Unit associated with such Member's ownership.

15.2 Changes of Member's register information including name changes are required to be in writing with proof attached and can be mailed or hand delivered to the Association or the Association's property management company.

15.3 If an Owner's assessment billing or other Association correspondence is returned to the Association or the property management company by the Post Office because the Owner has moved and not notified the Association and/or Billing Department, a re-processing fee of \$25.00 will be posted to the Owner's account as a re-processing fee.

**PRIVACY**

**16. Non-Disclosure.**

16.1 The association shall not intentionally post or publish in any newsletter nor discuss in open session or disclose to other members or the public account balances or the terms

of payment plans of the owners. All such discussions by the Council shall be held in executive session.

16.2 The record in the minutes of the meeting shall refer to the property by parcel number only, not name of owner or unit number.

16.3 It shall not be a violation of this section to post or publish, or discuss in open session or disclose to other members or the public the aggregate of the total delinquent accounts. Nor shall it be a violation to make available the delinquent list with all amounts upon an inspection request.

## **GENERAL**

### **17. Non-binding on Association.**

17.1. 1880 Superfine Lane shall not be required to take each or any of the steps set forth herein, and its failure to take any of these steps, and/or to follow each step as prescribed herein, shall not be deemed a violation that would alleviate a homeowner's obligations under the Association documents or be a waiver by 1880 Superfine Lane of any of its rights pursuant to the Association documents or state law.

### **18. Exemptions.**

18.1. The Council may grant special exceptions to this policy in the event of temporary hardship for a Unit Owner. However, an Owner wishing to request such an exception must appear in person before the Council or make a written request if bed bound. The Council is not obligated to approve such a request.

### **19. No Liability.**

19.1. No member of the Council, the Manager, or any Owner shall be liable to any other Owner for the failure to enforce any of these Policy and Procedures, at any time.

### **20. Non-exclusive Remedies.**

20.1. All remedies set forth herein are cumulative and non-exclusive.

### **21. Defenses.**

21.1. Failure of the Association, the Property Manager, or designated agent to comply with any provision in this policy shall not be deemed a defense to payment or waiver of assessment fees or other charges, late charges, return check charges, attorney fees, privilege penalties, and/or costs as described and imposed by this policy.

### **22. Legal Advice.**

22.1. At anytime, the Council may seek legal advice related to enforcement of assessment collections, and is entitled to follow the advice of legal counsel, even if it deviates from the above processes. Nothing in this collection policy shall limit the Association's right to proceed in any lawful manner to collect any delinquent sums owed to the Association.

### **23. Headings, Titles and Captions.**

23.1. Headings, titles and captions are provided herein for convenience only.

**24. Use of Singular and Plural.**

24.1 The use of the singular herein shall include the plural and the use of the plural herein shall include the singular.

**25. Revisions.**

25.1. The Council of the Association may revise this policy, either generally or on a case-by-case basis, if it finds good cause to do so.

This revised Collection Policy and Procedures was passed and adopted on the 5<sup>th</sup> day of JUNE, 2012 at the regular 1880 Superfine Lane Condominium Meeting of Council.

Witness:

1880 Superfine Lane Condominium Council

[Signature]  
[Signature]  
[Signature]  
[Signature]

By: [Signature]  
Richard Wertz - President

By: [Signature]  
Stephen Balchek - Vice President

By: [Signature]  
Peter Somma - Treasurer

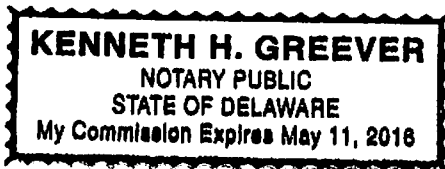
By: [Signature]  
Alyce Duffy - Secretary

STATE OF DELAWARE }  
NEW CASTLE COUNTY }

SS.

BE IT REMEMBERED that on this 5<sup>th</sup> day of JUNE, A.D. 2012, personally came before me, the Subscriber, a Notary Public for the State and County aforesaid, the Members of the 1880 Superfine Lane Condominium Council, known to me personally to be such, and acknowledged this Indenture to be their act and deed of said Council and that the signatures affixed are those of the Council Members in their own proper handwriting.

GIVEN under my hand and seal of Office, the day and year aforesaid.



[Signature]  
Kenneth H. Greever - Notary Public