

Policy Resolution #6-20 Collection Procedures

West Hill Estates Homeowners Association (WHEHOA)

Interpretation of Bylaws, CC&Rs and Policy Resolutions Pertaining to Collection Procedures

WHEREAS, Article 2, Section 2.2(b) and (c) of the West Hill Estates Homeowners Association Bylaws states, in part:

“Powers. The Association has such powers and duties as may be granted to it by the Act, including each of the powers set forth in ORS 94.630, as the statute may be amended to expand the scope of association duties and powers, together with such additional powers and duties afforded by the Declaration, the Articles of Incorporation, these Bylaws and the Oregon Nonprofit Corporation Act, including the following: (12) From time to time adopt, modify, or revoke such Policies and Procedures governing the conduct of persons and the operation and use of the Lots, the Common Maintenance Area or any Common Property as the Board of Directors may deem necessary or appropriate in order to assure the peaceful and orderly use and enjoyment of the Property; (13) Enforcement by legal means of the provisions of the Declaration, these Bylaws and any Policies and Procedures adopted thereunder.

Governance: The affairs of the Association shall be governed by the Board of Directors as provided in these Bylaws. Owners have no authority to act on behalf of the Association and may take action with respect to affairs of the Association as specifically provided under the Declaration, these Bylaws, or the Act.”

WHEREAS, Article 2 of Articles of Incorporation of West Hill Estates Homeowners’ Association An Oregon Non-Profit Corporation filed with the Oregon Secretary of State on February 22, 1995, states in part:

“The purposes for which said corporation is organized are: To promote the health, safety and welfare of residents within the boundaries of WEST HILL ESTATES SUBDIVISION, and for this purpose . . . to fix assessments (or charges) to be levied against the property; to enforce any and all covenants, conditions and restrictions, and agreements applicable to the property; . . . and insofar as permitted by law, do any other things that, in the opinion of the Board of Directors, shall promote the common benefit and enjoyment of the residents of the properties.”

IT IS RESOLVED, the Policy Resolution #6-20 Collection Procedures be and hereby is adopted, ratified and confirmed:

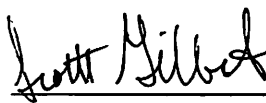
The Board of Directors hereby adopts Policy Resolution #6-20 Collection Procedures, attached hereto as Exhibit A and by this reference incorporated herein.

The Board of Directors also repeals West Hill Estates Homeowners Association Policy Resolution #16-18 Collection of Debts Owed by Homeowners adopted on June 28, 2018.

Duly adopted at a meeting of the Board of Directors of the West Hill Estates Homeowners Association held February 20, 2020. The Policy will be effective February 20, 2020.

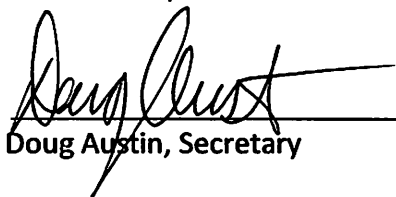
Board of Directors 2019-2020	Vote
Scott Gilbert, President	Yes
Tom Gwynn, Vice President	Yes
Lorna O'Guinn, Treasurer	Yes
Doug Austin, Secretary	Yes
Sami Wright, member at large	Yes
Gudrun Hoobler, member at large	Yes
Steve Masten, member at large	Yes

ATTEST:



Scott Gilbert, President

February 20, 2020
_____ (date)



Doug Austin, Secretary

February 20, 2020
_____ (date)

Exhibit A:**Policy Resolution #6-20 Collection Procedures**

Interpretation of Bylaws, CC&Rs and Policy Resolutions Pertaining to Collection Procedures

BACKGROUND AND PURPOSE (Bylaws Section 2.2, 7.6, 10.1, 10.3)

The Board of Directors has the responsibility to collect assessments in arrears and Rules Enforcement Fines owed by Association homeowners. Collection efforts may include, but are not limited to filing of liens on property, small claims court filings, action for garnishment of wages, and use of professional collection agencies. Initiation of collection action against a homeowner requires approval of the Board of Directors. The following rules and procedures are adopted to outline uniform application of the collection procedures approved by the Board of Directors.

LIENS

The Association Treasurer is responsible for the lien filing process. When approved, liens are filed on property owned by homeowners in arrears of assessment payments and/or delinquent in Rules Violation Fines of \$300 or more. The notarized signature of the Association President and Secretary must attest to all liens. Liens remain in effect for six years at which time they require re-filing.

- a. **Assessment Lien Procedure:** Oregon Liens are filed for a specific amount owed at the time of filing including any administrative fees. Bylaw Section 10.3 (b) states *“At any time any assessment (of any type provided for by the Declaration or Bylaws) or installment thereof is delinquent, the Association . . . may file a notice of lien . . . against the Lot in respect to which the delinquency pertains.”* It also states *“The provisions regarding the attachment, notice, recordation and duration of liens established on real property under ORS Statutes 94.709 to 94.716, as the same may be amended, shall apply to the Association’s lien.”*
- b. **Notice of Claim of Lien:** In order to preserve our right to subsequently foreclose liens, if necessary, all liens filed for unpaid assessments shall include the following statement from ORS Statute 94.709 Liens against lots, Section (2)(e): *“If the owner of the subject property thereafter fails to pay any assessments when due, as long as the original or any subsequent unpaid assessment remains unpaid, the unpaid amount of assessments automatically continue to accumulate with interest without the necessity of further recording.”*
- c. **Effect of Collection Actions:** Oregon Statute 94.709 allows action to collect the amount due through a money judgement without negating the lien. Any amount collected reduces the total owed on the lien at the time it is settled.
- d. **Rules Violation Fine Lien Procedure:** Rules Violation Fines are considered assessments under Bylaws Section 10.3(c), so the procedures are the same as with any other assessment lien.
- e. **Filing of a Lien:** The Board will consider filing a lien under the following circumstances, but is not required to do so:
 - i. Assessment and late fees are in arrears at least \$300 or,
 - ii. Rules Violation Fines owed are at least \$300.
- f. **Foreclosure on property with liens:** The amounts of a lien are a personal debt of the property owner and foreclosure action does not relieve the individual of the debt.

Collection action to recover any portion of a lien not satisfied by a foreclosure sale may be authorized by the Board.

SMALL CLAIMS

The Association will not normally pursue filing in small claims court due to the limited chance of successful recovery of awards without further litigation or collection action. The Board may authorize use of small claims court when circumstances indicate the homeowner may not demand a jury trial and will pay any award without further collection action. When used, small claims court action may be taken in lieu of filing a lien or other collection action.

GARNISHMENT OF WAGES

If the homeowner is employed and owes assessment and late charges of \$300 or more, or Rules Violation Fines of \$300 or more, the Board may pursue garnishment action. This action may be taken whether or not a lien has been filed.

DEBT COLLECTION

The Board may authorize collection actions by a reputable professional collections firm or attorney if a homeowner owes assessments, late fees and interest of \$300 or more or Rules Violation Fines of \$300 or more. The collection action recovery amount will include all administrative fees associated with the collection action. This action may be taken whether or not a lien has been filed.

*Certified True Copy
Doug Austin
WHEHOA Secretary*