

**BELLAIRE WEST COMMUNITY IMPROVEMENT ASSOCIATION
SECOND UPDATED COLLECTION POLICY AND PAYMENT PLAN
GUIDELINES**

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

WHEREAS, the property encumbered by the Second Updated Collection Policy and Payment Plan Guidelines (the "Guidelines") is that property initially restricted by the Declaration of Covenants, Conditions and Restrictions recorded under Harris County Clerk's File No. X834620 and Film Code No. 590-33-2817 and dated August 10, 2004 in the Official Public Records of Real Property of Harris County, Texas, covering the Bellaire West Subdivision, as same has been or may be amended or supplemented from time to time ("Declaration"), and any other subdivisions which may have been or may be subsequently annexed thereto and made subject to the authority of the Bellaire West Community Improvement Association (the "Association"); and

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 schedule for certain assessments; and

WHEREAS, the Board has determined that it is in the best interest of the Association to amend the Assessment Collection Policy previously adopted on November 29, 2011 and recorded by the Association on December 13, 2011 under County Clerk's File No. 20110519208 in the Real Property Records of Harris County, Texas; and the Updated Collection Policy and Payment Plan Guidelines previously adopted on May 20, 2019 and recorded by the Association on May 28, 2019 under County Clerk's File No. 2019221075; and

WHEREAS, this Dedicatory Instrument represents Restrictive Covenants as those terms are defined by Texas Property Code Section 202.001, et. seq, and the Association shall have and may exercise discretionary authority with respect to these Restrictive Covenants.

NOW, THEREFORE, BE IT RESOLVED THAT the Association does hereby adopt these Second Updated Collection Policy and Payment Plan Guidelines, which shall run with the land and be binding on all owners and lots within the subdivision. These Guidelines replace any previously recorded or implemented guidelines that address the subjects contained herein. Except as affected by Section 209.0062 and/or by this Policy, all other provisions contained in the Declaration or any other dedicatory instruments of the Association shall remain in full force and effect.

RP-2019-489134

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

The Board shall fix the amount of the annual assessment against each lot for the following year before the 30th day of November in each 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 may be sent to every owner subject to the assessment. An owner may not escape liability or be entitled to a deferral of interest, late charges, 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 (5) days after written notice has been received.

3. DUE DATE

All assessments are due and payable on the first day of January each year or as determined by a majority of the Board for that assessment year. If any assessment due to the Association is not paid on the date when due, then such assessment shall become delinquent. Charges disputed by an owner are considered delinquent until such time as they are paid in full.

4. LATE CHARGE

If the assessment is not paid within thirty (30) days after the due date, the assessment shall be considered late and a late charge in the amount of \$25.00 will be levied against the account.

5. INTEREST

If the assessment is not paid within thirty (30) days after the due date, the assessment shall bear interest from the due date at the rate of ten percent (10%) per annum from the date originally due until paid in full.

6. PARTIAL PAYMENTS

The Association will not accept partial payments without an established and agreed upon payment plan is on file with the Association.

6. DELINQUENCY NOTIFICATION

The Association may cause to be sent, but is not required to send, the following notification(s) to delinquent owners:

a. **PAST DUE NOTICE**: In the event that an assessment account 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, late charges, interest and other amounts due. The Managing Agent is authorized to send the owner a Past Due Notice on a bimonthly basis until the account balance is less than \$50.00. The Past Due Notice shall apprise the owner they may enter into an approved payment plan in accordance with Section 209.0062 of the Texas Property Code (“Section 209.0062”). A processing fee of \$5.00 shall be added to the delinquent account for each Past Due Notice mailed.

b. **FINAL NOTICE**: In the event there is an assessment account balance over \$400.00 or an owner defaults on a Payment Plan, a Final Notice may be sent via verified mail to each delinquent owner. A processing fee of \$15.00 plus the cost of postage shall be added to the delinquent account for each verified Final Notice mailed. The Final Notice will set forth the following information and the result of failure to pay, including an explanation of:

1. **AMOUNTS DUE**: All delinquent assessments, interest, late charges, and other amounts due;

2. **HEARING**: Owners may, at the Board’s sole and absolute discretion, be given notice and opportunity for a hearing before the Board. A hearing may be granted if a written request for a hearing is received by the Association not more than thirty (30) days from the date of the Final Notice. A request for a hearing will not halt further collection procedures;

3. **COMMON AREA RIGHTS SUSPENSION**: If a hearing is not requested within thirty (30) days from receipt of the Final Notice, the owner’s use of recreational facilities and common properties may be suspended;

4. **MILITARY NOTICE**: If the owner is serving on active military duty, the owner may have special rights or relief related to the enforcement action under federal law, including the Servicemembers Civil Relief Act;

5. **SECTION 209.0062**: The Final Notice shall apprise the owner they may enter into an approved payment plan, if available, in accordance with Section 209.0062.

c. **NOTICE OF TURNOVER TO COLLECTION AGENT/ATTORNEY**: If payment is not made within thirty (30) days from receipt of the Final Notice, member privileges may be suspended, 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 to the owner’s assessment account. An owner may not be charged fees of a collection agent (as defined in Property Code -- §209.0064) or legal counsel unless the Association first provides written notice to the owner by verified mail 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.

7. REFERRAL OF ACCOUNT TO ASSOCIATION'S 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 lien, 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 Texas Property Code, 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.

8. 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.

9. REQUIRED ACTION

Nothing contained herein, not otherwise required by the Declaration or by law, 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

All assessments are due in full. Once a payment plan has been established, an owner may make a partial payment towards a delinquent account. Unless a payment plan has been established and agreed upon, the Association may reject all partial payments. The Association hereby establishes a Payment Plan schedule by which an owner may make partial payments to the Association for delinquent regular or special assessments, or 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. The acceptable term for a Payment Plan is three (3) to six (6) months;
- b. An owner, upon written request, may request a longer period of time;
- c. The Association is not required to offer another Payment Plan during the two (2) years following an owner's default under a previous Payment Plan;

d. The Association is not required to allow a Payment Plan for any amount that extends more than six (6) months from the date of the owner's request for a payment plan.

e. The Association is not required to make a Payment Plan available to an owner after the period for cure described in Article I, Section 6(c)(3) expires.

f. The Association is not required to allow an owner to enter into a Payment Plan more than once in any twelve (12) month period.

g. A reasonable fee shall be added to the delinquent account for the cost associated with setting up the payment plan. For the term of the payment plan, a reasonable monthly processing fee shall be added to the delinquent account to defer the costs association with monitoring and administering the payment plan.

h. All costs and fees incurred by, charged to or paid by the Association for processing a delinquent account shall be added to the delinquent account and paid by the owner.

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; and
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(6)(b). Any payment(s) received by the Association after such default of a Payment Plan 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; and
7. Fines

As to each category identified in this subsection (b), payment shall be applied to the most-aged charge first. The acceptance of a partial payment on an owner's account does not constitute a waiver of the Association's right to collect the full outstanding balance due on said owner's account.

3. PAYMENTS RETURNED NON-SUFFICIENT FUNDS

An owner will be assessed a service charge for any check that is returned or Automatic Clearing House (ACH) debit that is not paid for any reason, including but not limited to Non-Sufficient Funds (NSF) or stop payment order. The amount of the service charge assessed will be the customary amount charged. The Association may require payment in the form of a cashier's check or money order to replace a NSF check. The Association may immediately require all future payments to be paid in the form of certified funds upon receipt of an NSF check.

CERTIFICATION

I, the undersigned, being the President of the Bellaire West Community Improvement Association, hereby certify that the foregoing and attached was adopted by at least a majority of the Bellaire West Community Improvement Association's Board of Directors.

Approved and adopted by the Board of Directors on the 21st day of October, 2019.

Laurence Sheer

President of Bellaire West
Community Improvement Association

STATE OF TEXAS §
 §
COUNTY OF HARRIS §

Before me, the undersigned authority, on this day personally appeared Laurence Sheer President of Bellaire West Community Improvement Association, a Texas corporation, known to me to be the person and officer whose name is subscribed to the foregoing instrument and acknowledged to me that he/she had executed the same as the act of said corporation for the purpose and consideration therein expressed, and in the capacity therein stated.

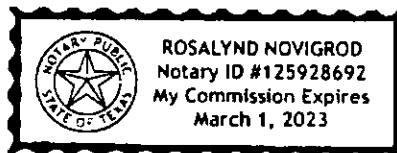
Given under my hand and seal of office this 21st day of October, 2019.

Rosalynd Novigrod

Notary Public, State of Texas

RECORDED BY:

ISG | SEARS
BENNETT
& GERDES, LLP
6548 GREATWOOD PKWY.
SUGAR LAND, TEXAS 77479



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HARRIS COUNTY
DIANE TRAUTMAN
COUNTY CLERK
Fees \$36.00

RECORDERS MEMORANDUM

This instrument was received and recorded electronically and any blackouts, additions or changes were present at the time the instrument was filed and recorded.

Any provision herein which restricts the sale, rental, or use of the described real property because of color or race is invalid and unenforceable under federal law.

THE STATE OF TEXAS
COUNTY OF HARRIS

I hereby certify that this instrument was FILED in File Number Sequence on the date and at the time stamped hereon by me; and was duly RECORDED in the Official Public Records of Real Property of Harris County, Texas.



Diane Trautman

COUNTY CLERK
HARRIS COUNTY, TEXAS

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