

Lake Holiday

Lake Holiday Country Club, Inc. Delinquent Assessment and Bad Debt Write Off Policies and Procedures Resolution 2009-10

Replaces, Rescinds, and Consolidates Resolutions 2009-04, 2008-08, 2008-02 (Delinquent Assessment Payments and Bad Debt Write Off Policy) and 2007-02 (Delinquency Collection Procedures)

The Deed of Dedication recorded in Deed Book 368, at page 463 (the "Section One Deed of Dedication"); the Deed of Dedication recorded in Deed Book 823, at Page 11 (the "Section 1B Deed of Dedication"); the Deed of Dedication recorded in Deed Book 376, at page 190 (the "Section Two Deed of Dedication"); the Deed of Dedication recorded in Deed Book 380, at Page 44 (the "Section 3-A and Section 4-A Deed of Dedication"); the Deed of Dedication recorded in Deed Book 385, at Page 111 (the "Section 5-A and Section 6-A Deed of Dedication"); the Deed of Dedication recorded in Deed Book 414, at page 112 (the "Section 8-A Deed of Dedication"); the Deed of Dedication recorded in Deed Book 414, at page 148 (the "Section 6-B Deed of Dedication"); the Deed of Dedication recorded in Deed Book 434, at Page 163 (the "Section 10 Deed of Dedication"); the Amended and Restated Declaration for Lake Holiday Section 10 recorded as Instrument No. 060013564 (the "Section 10 Declaration"); the Deed of Dedication recorded in Deed Book 434, at Page 231 (the "Section 11 Deed of Dedication"); the Amended and Restated Declaration for Lake Holiday Section 11 recorded as Instrument No. 060013565 (the "Section 11 Declaration"); the Deed of Dedication recorded in Deed Book 410, at Page 243 (the "Section 9 Deed of Dedication"); the Amended and Restated Declaration for Lake Holiday Section 9 recorded as Instrument No. 060013563 (the "Section 9 Declaration"); the Deed of Dedication recorded in Deed Book 410, at Page 266 (the "Section 12 Deed of Dedication"); the Amended and Restated Declaration for Lake Holiday Section 12 recorded as Instrument No. 060013566 (the "Section 12 Declaration"); the Deed of Dedication recorded in Deed Book 440, at page 839 (the "Section 7 Deed of Dedication"); the Amended and Restated Declaration for Lake Holiday Section 7 recorded as Instrument No. 060013566 (the "Section 7 Declaration"); the Deed of Dedication recorded in Deed Book 440, at Page 854 (the "Section 5C Deed of Dedication"); the Amended and Restated Declaration for Lake Holiday Section 5C recorded as Instrument No. 060013562 (the "Section 5C Declaration"); the Deed of Dedication recorded in Deed Book 440, at Page 867 (the "Section 5B Deed of Dedication"); the Amended and Restated Declaration for Lake Holiday Section 5B recorded as Instrument No. 060013562 (the "Section 5B Declaration"), the Declaration recorded in Deed Book 750, at Page 0637 (the "Section 1A Declaration"); the Declaration recorded in Deed Book 750, at page 0657 (the "Section 4B Declaration") and the Declaration recorded in Deed Book 880, at Page 0487 (the "Section 1-B


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Addition Declaration") are all recorded in the public land records of Frederick County of Virginia and shall be collectively known as the Deeds of Dedication and Declarations; and

WHEREAS, the Deeds of Dedication and Declarations of Lake Holiday Country Club, Inc., the Amended Articles of Incorporation of Lake Holiday Country Club, Inc., (the "Articles of Incorporation") and the Amended Bylaws of Lake Holiday Country Club, Inc. (the "Bylaws"), together known as the Governing Documents, provide that the Lots are subject to the Governing Documents and the rules and regulations of Lake Holiday Country Club, Inc. (the "Association"); and

WHEREAS, Article V, Section (a) of the Articles of Incorporation provide that every Owner of a Lot subject to the Declarations and Deeds of Dedication, by the acceptance of their deeds, agrees to and does become a Member of the Association; and

WHEREAS, the Deeds of Dedication and Declaration, Article V, Section (a) of the Article of Incorporation, Article VII, Section 1 (b) and Article VII, Section 2(e) of the Bylaws create an Annual Assessments or charges and Special Assessments or Additional Assessments obligation for an Owner; and

WHEREAS, the Governing Documents and rules and regulations provide that the Board of Directors (the "Board"), is empowered to implement procedures for collection of the assessments from the Owners; and

WHEREAS, the Article VII, Section 1 of the Bylaws empowers the Board to establish the due dates for the payment of the Annual Assessments or charges and Special Assessments or Additional Assessments; and

WHEREAS, pursuant to the Governing Documents and rules and regulations, the Board has determined that Annual Assessments or charges are due monthly on the first day of the month in equal installments (the "Due Date"), and if not paid within thirty days of the Due Date, the Owner shall be considered delinquent, accrue a late charge and any other costs of collection in the amount established by the Board; and

WHEREAS, the Board is authorized in those Sections of the Association subject to an Amended and Restated Declaration to assess interest from the Due Date at the rate of six percent (6%) per annum until paid if an installment of the Annual Assessment or charges or Special Assessment or Additional Assessment is not received within thirty days of the Due Date; and

WHEREAS, Article IV and Article VI of the Articles of Incorporation and Article

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VII, Section 1 of the Bylaws provide that the Association shall have all of the powers conferred by the Virginia Property Owners' Association Act (the "POAA"), the Virginia Nonstock Corporation Act and the Governing Documents and may delegate any such powers to a General Manager unless expressly reserved to the Board; and

WHEREAS, Deeds of Dedication and Declarations and Section 55-513 and Section 55-515 of the POAA provide that a delinquent Owner shall be responsible for the costs of collection, including court costs, and reasonable attorneys' fees; and

WHEREAS, Article VI of the Articles of Incorporation and Article III of the Bylaws and Section 55-513 of the POAA permit the Association or General Manager to suspend the delinquent Owner's voting rights or use of the Common Area and recreational facilities; and

WHEREAS, Article IV, Section (c) and Article VII, Section 2 (e) of the Bylaws and Section 55-516 of the POAA permit the Association to enforce a memorandum of lien for unpaid homeowner association assessments by foreclosure; and

WHEREAS, Section 55-514 of the POAA authorizes the Board to levy an Additional Assessment; and

WHEREAS, there is a need to establish orderly procedures for the billing and collection of Annual Assessments or charges and Special Assessments or Additional Assessments;

WHEREAS, certain LHCC Property Owners have failed to pay past assessments and have delinquent accounts, and the LHCC Board intends to establish a clear and uniform policy and procedures regarding the handling and collection of all such present and future delinquent accounts;

NOW THEREFORE, it is hereby RESOLVED THAT the Board duly adopts the following policies and procedures for all unpaid assessments due Lake Holiday Country Club, Inc., excepting those debts resulting from unpaid charges to Lake Holiday Estates Utility Company.

I. Routine Collections

- A. The amount of the Annual Assessments shall be established by the Board and collected monthly, in equal installments, with payment due on the first day of each month (the "Due Date"). The fiscal year of the Association shall be the twelve month period beginning January 1 and ending December 31.

Bradley G. Jones
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- B. Non-receipt of a payment coupon, coupon books, notices, or other such documents relating to the payment of Annual Assessments or charges and Special Assessments or Additional Assessments shall not excuse an Owner from the obligation to pay. No Owner may exempt himself for liability for Annual Assessments or charges and Special Assessments or Additional Assessments by abandoning any Lot or by the abandonment of the use and enjoyment of the Common Area.
- C. Non-resident Owners must provide the Board with a telephone number and address, in writing, where the Owner can be contacted. Otherwise, all notices shall be sent to the Lot address.

II. Remedies for Nonpayment of Assessments

- A. Late Charge. If Annual Assessments or charges and any Special Assessments or Additional Assessments are not paid within thirty (30) days of the Due Date, the account shall be considered delinquent and a late charge of \$5.00, any other costs of collection and interest from the Due Date at the rate of six percent (6%) per annum, where applicable, shall be automatically imposed on the account by the General Manager.
- B. Reminder Notice. If payment is not received by the General Manager within 37 days of the Due Date, a Reminder Notice shall be sent by regular first class mail by the General Manager to the delinquent Owner (1) demanding payment of the assessment and late fee, (2) stating that the General Manager intends to accelerate the remaining installments and file a memorandum of lien for unpaid Annual Assessments or charges and any Special Assessments or Additional Assessments and (3) stating that the Annual Assessments or charges or Special Assessments or Additional Assessments will be automatically due and payable in full if not paid in full within 60 days of the Due Date. Acceleration of payments resulting from nonpayment will not be reflected in the Association's financial statements. The memorandum of lien must be filed within twelve months of the due date of the assessment. Liens must be filed each subsequent year to reflect additional nonpayment for that year.
- C. Final Notice. If payment is not received by the General Manager within 60 days of the Due Date, a Final Notice of Intent shall be sent by regular first class mail by the General Manager to the delinquent Owner stating that (1) the remaining monthly installments of the Annual Assessments or

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charges or for the entire term of the Special Assessment or Additional Assessment have been accelerated in full, (2) the General Manager is directed by the board (by this Resolution) to file a memorandum of lien (for account balances of \$50 or greater), verified by the oath of the President of the Board of Directors, for unpaid Annual Assessments or charges and any Special Assessments or Additional Assessments, (3) the Owners shall be responsible for any attorney fees incurred by the Association for collection services (4) subject to a Board hearing, should the Owner choose to request such the Owner is no longer a member in good standing and cannot vote or use the Association amenities and cannot be a member of any committee or task force of the Association and (5) the Owner's name as an ineligible member may be published from time to time without further warning. The General Manager shall, expeditiously thereafter (approximately ten days after this mailing), file such a lien at the Frederick County Land Records Office and also send a notice to the Property Owner that a real estate lien has been filed against their property. The lien may also be reported by legal counsel to credit bureaus. An updated second lien shall be filed annually for delinquent accounts aging at least 12 months.

- D. Returned Check Charge. If the Association receives a check from an Owner which fails to clear the Owner's personal banking account, the Association shall charge the Owner a returned check charge of \$35.00 or the maximum amount permitted by law, whichever is the lesser. If the Association receives from any Owner, in any fiscal year, one or more returned checks for payment of Annual Assessments or charges or Special Assessments or Additional Assessments, the General Manager may require all future payments to be made by certified funds or cashier's check for the remainder of the fiscal year.
- E. Referral to Legal Counsel. Periodically, selected members of the Board, to include the Treasurer, along with the General Manager, shall review the Association's records of delinquency. Such members shall select accounts to refer to legal counsel in accordance with criteria approved by the Board.
- F. Personal Judgment and Foreclosure. LHCC may file a suit for personal judgment against the delinquent property owner for collection of any unpaid assessments, interest, delinquent fees, and collection costs, including attorney's fees. LHCC may commence collection upon the judgment by garnishment of wages, garnishment of bank accounts,

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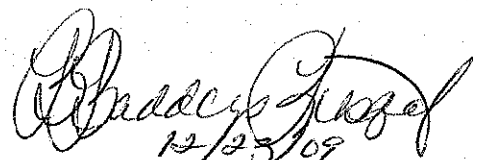
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attachment of property owner's personal property, or by any lawful means. If authorized by the Board, LHCC may also undertake foreclosure proceedings on the property to which the unpaid debt corresponds.

- G. Method of Crediting Payments. After an account becomes delinquent, payment received from an Owner will be credited to the account pursuant to generally accepted accounting principles and in accordance with the Owner's instructions. If the owner provides no instructions regarding application of payment, the payment will be applied to the oldest unpaid debt.

III. Suspension of Privileges

- A. Voting and Elections. Suspension of the right to vote is not addressed by the POAA. Article VI of the Articles of Incorporation and Article III of the Bylaws provide that an Owner may not vote if an assessment against the Lot remains unpaid. Article II, Section 10 of the Bylaws provides that Eligible and Good Standing Members are those Members that have paid all dues, assessments and other charges owed to the Association. Voting rights shall be automatically suspended when an Owner's account is past due by thirty (30) days. Suspension of the right to vote does not require notice and a hearing.
- B. Suspension of Use of Facilities and Services. Once an account is unpaid for sixty (60) days, the responsible Owner shall no longer be a Member in good standing of the Association, according to the POAA. Such Owner shall not be entitled to any of the rights and privileges of membership, including the right to general access to, and use of, the Common Area, recreational facilities or services of the Association and including the right to serve on the Board or membership on any committee or task force of the Association. Suspension, pursuant to this Paragraph B, is subject to the notice and hearing provisions of the POAA, as follows:
1. Before any suspension, the Owner shall be given an opportunity to be heard, to present witnesses and to be represented by counsel before the Board or other tribunal specified in the POAA and rules and regulations of the Association.
 2. Notice of the right to a hearing shall be mailed by certified mail, return receipt requested to the Owner at the address of


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record with the Association. Notice of the right to a hearing shall be included within the Final Notice.

3. The Notice of the right to a hearing shall contain a description of the amount of the unpaid assessments and/or the provisions of the Governing Documents and rules and regulations of the Association alleged to have violated.
 4. The Board decision shall be hand delivered or mailed by certified mail, return receipt requested, to the Owner at the address of record with the Association within seven (7) days of the hearing.
 5. The Owner has the right to such a hearing but automatically waives that right if he/she does not request such a hearing within fourteen (14) days of the notice of right to a hearing (Final Notice) which is sent to the Owner after the account is unpaid for sixty (60) days.
- C. Notwithstanding Paragraphs A and B of this Section III, a delinquent Member shall be regarded as in good standing, shall be permitted to vote in all elections and referenda and shall be permitted access to all Association amenities and services if the Member has entered into a Payment Plan in accordance with Section IV below and that Payment Plan is current.

IV. Payment Plans

- A. Property Owners with delinquent accounts may, upon written request, be granted a payment plan subject to the following terms:
1. Immediate payment of not less than ten per cent (10%) of the total outstanding balance.
 2. Remaining balance shall be repaid as follows: amounts of less than \$1,000.00 shall be paid over a period of not more than twelve (12) months; account amounts of \$1,000.00 or more shall be paid during a period of no longer than twenty four (24) months.
 3. All present and future assessments must be kept current.

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- B. All payment plans shall be based on delinquencies calculated to include the sum of all past due assessment amounts, fees, penalties, and LHEUC charges plus interest, Late Charge, and collection costs, including attorney's fees.
- C. Any failure to comply with the terms of the payment plan shall result in the termination of the payment plan and the pursuit of all legal remedies pursuant to the provisions of this Resolution, the Articles of Incorporation, the Bylaws, the Deeds of Dedication, and the Virginia Property Owners' Association Act.
- D. Any request to waive a delinquent fee or to adjust any assessment amount due must be approved by the Board unless the amount in questions is judged to be an accounting error in which case the LHCC General Manager may correct such an account.
- E. A Payment Plan must be in writing and must be signed by all Owners of the property.

V. Bad Debt Write Off Policy

- A. Review of Accounts Receivable. The accounts receivable status for Lake Holiday shall be reviewed not less often than annually with the objective of declaring certain accounts as Bad Debt and removing these sums from the assets of Lake Holiday. Generally this review will be held in December and the resultant bad debt declared at the end of that month.
- B. Criteria for Write Off. Accounts receivable relating to unpaid assessments (including annual assessments, special assessments and assessments for violations) for which the collection procedures herein have been followed, the account remains unpaid, and one or more of the following seven criteria is/are met are candidates for declaration as Bad Debt. Responsibility for declaring Bad Debt rests with the Board of Directors based on recommendations from the General Manager and the Treasurer.
 - 1. The debtor cannot be located, nor can any of the debtor's assets be located.
 - 2. The debtor has not securable assets and there is not expectation they will have any in the future.
 - 3. The debt is disputed and Lake Holiday Country Club has

Handwritten signature: J. B. Badder, Jr.
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insufficient documentation to pursue collection efforts.

4. The debt is discharged in bankruptcy or foreclosure.
 5. The debtor has died and there is no known estate or guarantor.
 6. It is determined by both the Lake Holiday General Manager and the Treasurer that it is not cost effective to continue collection efforts.
 7. The account is aging more than three years and exceeds the three year limit provided by the Fair Debt Act for collections and there is not currently a judgment issued by a court for recovery of the debt.
- C. Written-off bad debt will continue to be carried on an individual Owner's account as a sub account. Collection efforts by the Association may continue on written-off amounts even though the amount is no longer reflected on the Association financial records.

VI. Direction to Publish

- A. The Board directs that this Resolution shall be reasonably published or distributed to the Owners of the Association.

End of Resolution Language_____

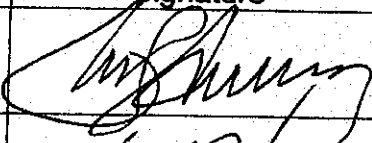
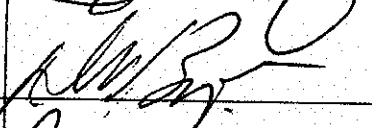
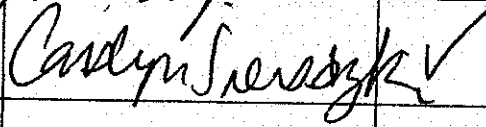
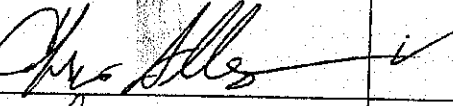
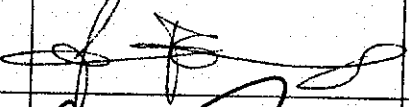
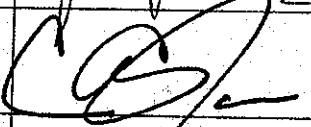
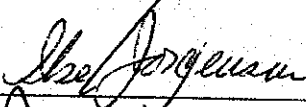
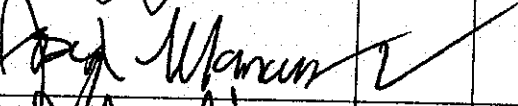
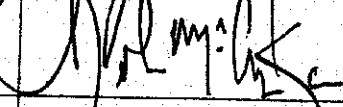
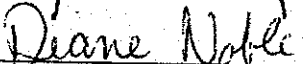
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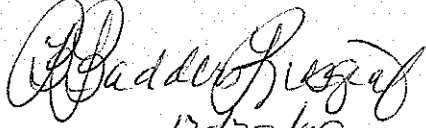
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Lake Holiday Country Club, Inc.

Resolution 2009-10

This Agreement was duly executed by the Board of Directors on this
December 22 day of _____, 2009.

Name	Signature	Yes	No	Abstain	Absent
Mike Sweeney		✓			
Dave Buermeyer		✓			
Carolyn Sieradzki		✓			
Brenda Badders-Riesgraf					✓
Chris Allison		✓			
Juan Hernandez		✓			
Charles James		✓			
Ilse Jorgensen		✓			
Joseph Marcus		✓			
John McClurken		✓			
Diane Noble		✓			


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