

# ASSESSMENT COLLECTION POLICY

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## SUN CITY SHADOW HILLS COMMUNITY ASSOCIATION

Adopted \_\_\_\_\_

The Sun City Shadow Hills Community Association (“Association”) is responsible for managing and operating the common areas within the Association’s development, and for discharging the Association’s duties as specified in its governing documents and applicable law. The prompt payment of assessments by all owners is critical to the financial health and viability of the Association, as well as to preserving and promoting property values. The Association’s Board of Directors takes very seriously its obligation under the Association’s Declaration of Covenants, Conditions, and Restrictions (“Declaration”) and the California Civil Code to enforce the owners’ obligation to pay assessments. Therefore, pursuant to the Declaration and [Civil Code § 5310\(a\)](#), the following are the Association’s policies and practices in enforcing lien rights or other legal remedies for the default in the payment of assessments. The policies and practices outlined below shall remain in effect until such time as they may be changed, modified, or amended by a duly adopted resolution of the Board of Directors.

1. Assessments, late charges, interest and collection costs, including any attorney’s fees, are the personal obligation of the owner of the property at the time the assessment or other sums are levied. ([Civ. Code § 5650\(a\)](#).)
2. Regular monthly assessments are due and payable on the first (1<sup>st</sup>) day of each month. A courtesy billing statement is sent each month to the billing address on record with the Association. **However, it is the owner of record's responsibility to pay each assessment in full each month regardless of whether a statement is received.**
3. Each regular monthly assessment which is not paid within fifteen (15) days after it is due shall be deemed delinquent. All other assessments, including special assessments, are due and payable on the date specified by the Board on the Notice of Assessment, and shall be delinquent if not paid within thirty (30) days after the due date. An assessment is considered paid the day payment is received by the Association or its designated agent; postmarks are not considered.
4. Owners may submit secondary addresses to the Association for the purpose of delivery of collection notices, pursuant to [Civil Code Section 5260\(b\)](#).
5. Any payments made shall be first applied to assessments owed, and only after the assessments owed are paid in full, shall such payments be applied to late charges, interest, and collection expenses, including attorneys’ fees, unless the owner and the Association enter into an agreement providing for payments to be applied in a different manner. ([Civ. Code § 5655\(a\)](#).)
6. Assessments which are delinquent shall be subject to a late charge not to exceed ten percent (10%) of the delinquent assessment or ten dollars (\$10), whichever is greater. ([Civ. Code § 5650\(b\)](#).)
7. Interest charge at the rate of 12% per annum will be assessed against any outstanding balance including delinquent assessments, late charges, and cost of collection, which may include attorneys’ fees. Such interest charges shall accrue thirty (30) days after the assessment becomes due and shall continue to be assessed each month until the account is brought current. ([Civ. Code § 5650\(b\)](#).)

8. If a special assessment is payable in installments and an installment payment is delinquent for more than thirty (30) days, all installments will be accelerated and the entire unpaid balance of the special assessment shall become immediately due and payable. The remaining balance shall be subject to a late charge and interest as provided above.
9. If an assessment is not received within thirty (30) days after the assessment becomes due, the Association or its designee, will send a pre-lien letter to the owner as required by [Civil Code § 5660](#) by certified and first class mail, to the owner's mailing address of record advising of the delinquent status of the account, impending collection action and the owner's right to request that the Association participate in some form of internal dispute resolution process ("IDR"). The owner will be charged a fee for the pre-lien letter. Notwithstanding the provisions of this paragraph, the Association may (i) send a pre-lien letter to a delinquent owner at any time when there is an open escrow involving the owner's Unit/Lot, and/or (ii) issue a pre-lien letter immediately if any special assessment becomes delinquent.
10. If an owner fails to pay the amounts set forth in the pre-lien letter and fails to request IDR within thirty (30) days of the pre-lien letter, the Board will authorize its collection agent to record a "Notice of Delinquent Assessment" (an "Assessment Lien") against the owner's property for the amount of any delinquent assessments, late charges, interest and /or costs of collection, including attorneys' fees. The owner will be charged for the fees and costs of preparing and recording the Assessment Lien. The Assessment Lien may be enforced in any manner permitted by law, including, without limitation, judicial or non-judicial foreclosure. ([Civ. Code § 5700\(a\)](#).)
11. Prior to the release of any Assessment Lien, or dismissal of any legal action, all assessments, late charges, interest, and costs of collection, including attorney's fees, must be paid in full to the Association.
12. Pursuant to the Association's Declaration and Bylaws, the Board may suspend the membership rights and privileges of an owner during the period of time such owner is delinquent in the payment of assessments, as well as the collection costs, late charges, interest and attorney's fees imposed in connection with the assessment delinquency. Such suspension shall be imposed following the applicable notice and hearing requirements under California law.
13. If a check is returned for insufficient funds, the owner will be charged a \$25.00 fee for the first check and a \$35.00 fee for each subsequent check returned for insufficient funds. Post-dated checks will not be accepted. The mailing address for the overnight payment of assessments is:

**Sun City Shadow Hills Community Association**

c/o Desert Resort Management  
42-635 Melanie Place, Ste 103  
Palm Desert, CA 92211

Please note that should an account be referred to a collection service, the collection service will provide the proper address for the overnight payment of assessments and sums toward the delinquent amount then in collection.

14. The Association has selected Alterra Assessment Recovery, LLC ("Alterra") as its collection agent and foreclosure trustee for delinquent accounts that have been referred by the Association to Alterra for collection.

15. An owner is entitled to inspect the Association's accounting books and records to verify the amounts owed pursuant to [Civil Code § 5205](#).
16. In the event it is determined that the owner has paid the assessments on time, the owner will not be liable to pay the charges, interest and costs of collection.
17. Any owner who is unable to pay assessments will be entitled to make a written request for a payment plan to be considered by the Board of Directors. An owner may also make a written request to meet with the Board in executive session to discuss a payment plan. If the owner requests to meet with the Board to discuss a payment plan within fifteen (15) days of receiving the pre-lien letter, then the Board shall meet with the owner within forty-five (45) days of the postmark on the owner's request, unless there is no regularly scheduled board meeting within that period, in which case the board may designate a committee of one or more members to meet with the owner. The Board will consider payment plan requests on a case-by-case basis and is under no obligation to grant payment plan requests.
18. An owner is entitled to dispute the assessment debt by submitting a written request for dispute resolution to the association pursuant to the association's "meet and confer" program required in Article 2 (commencing with [Section 5900](#)) of Chapter 10.
19. Prior to initiating foreclosure against the owner's separate interest, the owner is entitled to submit a written request for alternative dispute resolution with a neutral third party pursuant to Article 3 (commencing with [Section 5925](#)) of Chapter 10, except that binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.
20. Statements mailed from the Association's management company are a courtesy and MAY NOT REFLECT the collection costs, attorneys' fees or other charges, or payments received by the collection service.
21. In general, the Association's Board intends to take whatever actions are authorized by law and the Association's governing documents to collect assessments. If the Board elects to use practices, procedures or notices which exceed those required by law or under the governing documents, it does so without waiving the Association's right to exercise collection remedies to the fullest extent permissible. Any additional notices or time periods the Association might use are extended solely as a courtesy. No owner shall be entitled to expect longer time limits or notices other than those which are required by law or the governing documents. Billing statements are a courtesy. Owners are responsible for making payments on time, whether or not a statement is received.

# NOTICE OF COLLECTION PROCEDURE

(Civil Code § 5730)

SUN CITY SHADOW HILLS COMMUNITY ASSOCIATION

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**IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION.**

## NOTICE ASSESSMENTS AND FORECLOSURE

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

### ASSESSMENTS AND FORECLOSURE

Assessments become delinquent 15 days after they are due, unless the governing documents provide for a longer time. The failure to pay association assessments may result in the loss of an owner's property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure, or without court action, often referred to as nonjudicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or nonjudicial foreclosure to enforce that lien if the amount of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest, and costs of collection, is less than one thousand eight hundred dollars (\$1,800). For delinquent assessments or dues in excess of one thousand eight hundred dollars (\$1,800) or more than 12 months delinquent, an association may use judicial or nonjudicial foreclosure subject to the conditions set forth in Article 3 (commencing with [Section 5700](#)) of Chapter 8 of Part 5 of Division 4 of the Civil Code. When using judicial or nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (Sections [5700](#) through [5720](#) of the Civil Code, inclusive)

In a judicial or nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common area damaged by a member or a member's guests, if the governing documents provide for this. ([Section 5725](#) of the Civil Code)

The association must comply with the requirements of Article 2 (commencing with [Section 5650](#)) of Chapter 8 of Part 5 of Division 4 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. ([Section 5675](#) of the Civil Code)

At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail, including a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an

itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. ([Section 5660](#) of the Civil Code)

If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. ([Section 5685](#) of the Civil Code)

The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

## **PAYMENTS**

When an owner makes a payment, the owner may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments. ([Section 5655](#) of the Civil Code)

An owner may, but is not obligated to, pay under protest any disputed charge or sum levied by the association, including, but not limited to, an assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise.

An owner may dispute an assessment debt by submitting a written request for dispute resolution to the association as set forth in Article 2 (commencing with [Section 5900](#)) of Chapter 10 of Part 5 of Division 4 of the Civil Code. In addition, an association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 3 (commencing with [Section 5925](#)) of Chapter 10 of Part 5 of Division 4 of the Civil Code, if so requested by the owner. Binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time. ([Section 5685](#) of the Civil Code)

## **MEETINGS AND PAYMENT PLANS**

An owner of a separate interest that is not a time-share interest may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exists. ([Section 5665](#) of the Civil Code)

The board must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. ([Section 5665](#) of the Civil Code)