

# **THE GABLES OF JACKSONVILLE OWNERS ASSOCIATION DELINQUENT ASSESSMENT COLLECTION POLICY**

**Introduction:** Property owners' associations derive their basic legal authority for their existence, activities, and actions from North Carolina state statutes (laws) and certain legal documents:

Articles of Incorporation;  
Declaration of Covenants, Conditions and Restrictions;  
By-Laws; and  
Rules & Regulations.

1. Articles of Incorporation: These bring the corporation into existence, define the basic purpose and powers of the corporation, and identify the initial Board of Directors.

2. Declaration of Restrictive Covenants: The underlying documents of the property owners Association, apart from state law, are the declarations also referred to as Restrictive Covenants, Restrictions, or Covenants. Declarations are the constitutional law of the Association. The Declarations define the limits and inclusions of ownership for the owners and the Association. As a legal entity the Association is better prepared to pursue certain business needs, such as entering contracts, raising funds, filing liens and collecting fees in a foreclosure. The Declarations contain definitions of the physical elements of the property, the method for determining the share of interest in the common area for each property owner, a list of the responsibilities for the Association and individual owners and permitted uses of common areas and individual condominium units, townhomes or lots, set out the responsibilities for care of the Association and the common areas, and provide restrictions on the use or enjoyment of individual condominium units, townhomes or lots in the Association and common areas.

3. By-Laws: The Declarations form the constitutional foundation of the Association and the By-laws define the laws and operating procedures of the Association. By-laws detail the framework for governing the Association that is authorized in the Declarations. The By-laws address the Association's structure, the Board, the officers, definition of a quorum, ability to enter into contracts, and other procedural matters. By-laws provide reliable guidance for Board members at meetings as to requirements of membership meetings, voting rights of property owners, procedures for electing the Board of Directors, procedures for the Board of Directors to elect officers, and general powers and duties of the board.

4. Rules & Regulations: Rules and Regulations are the operational and behavioral laws that apply directly to Association residents and attempt to clearly state acceptable and unacceptable conduct for all members, their guests, visitors and renters. While we recognize that Rules and Regulations cause conflicts between the Board and the owner(s) since they may provide restrictions regarding noise, pets, use of the property or common areas, and fining procedures, good rules serve the interests of the entire Association and protect the common areas and individual condominium units, townhomes or lots.

## **Records and Collection Policy**

1. It is the fiduciary responsibility of the Board of Directors to collect all assessments for the maintenance and replacement of common area property and other association expenses in a timely fashion. The Association is entitled to recover assessments, reasonable collection costs, reasonable attorney's fees, late fees and interest.

1.1 Within thirty (30) days after adoption of any proposed budget for the planned community, the Board of Directors shall provide to all the lot owners a summary of the budget and a notice of the meeting to consider ratification of the budget, including a statement that the budget may be ratified without a quorum. The Board of Directors shall set a date for a meeting of the lot owners to consider ratification of the budget, such meeting to be held not less than ten (10) nor more than sixty (60) days after mailing of the summary and notice. There shall be no requirement that a quorum be present at the meeting. The budget is ratified unless at that meeting a majority of all the lot owners in the association or any larger vote specified in the declaration rejects the budget. In the event the proposed budget is rejected, the periodic budget last ratified by the lot owners shall be continued until such time as the lot owners ratify a subsequent budget proposed by the Board of Directors.

2. Assessments are due on January 1<sup>st</sup> of every year and are delinquent if not received by the close of business on January 31<sup>st</sup> of every year. Each payment from an owner shall be applied first to the principal sum owed, then, in descending order, to interest, late and collection expenses, unless an alternate agreement is entered into between the Association and the owner. A late charge shall be assessed in an amount not to exceed the greater of twenty dollars (\$20.00) per month or ten percent (10%) of any assessment installment unpaid. All balances due as of 5:30 p.m. on the 30<sup>th</sup> day of the month will be subject to interest of 18% per annum. All such amounts must be paid in full and the Association shall not be required to accept partial payments absent a written agreement.

3. On or about the 90<sup>th</sup> day after a payment is due, a "30-Day Pre-Lien Notice" will be prepared and sent, by regular mail, to the delinquent record owner(s) at the owners' lot/home address in the subdivision and the last mailing address provided to the Association by the owner. If the delinquent record owner(s) have provided a written notice of a secondary address, all notices shall be sent to that address also. Such notice will include an itemized statement of the total amounts delinquent, including but not limited to, assessments, late charges, interest and costs of collection, if any. At any time, the owner is entitled to ask to meet with the Board or Board representative.

4. On or about the 30<sup>th</sup> day after the 30-Day Pre-Lien Notice is sent, the Association may record a lien on the property to secure the debt. The decision to record a lien shall be made by the Board of Directors, approved by a majority vote in an open meeting. The Board shall record the vote in the minutes of that meeting referring to the property by parcel number, and not name of the owner. Likewise, the decision to file in small claims shall be made by the Board and not the Association's agent.

5. If all sums secured by the lien are not paid in full within thirty (30) days after recordation, the Board may initiate an action to collect the sums owed. All resulting collection fees and costs will be added to the total delinquent amount as allowed by law. At some point in time prior to initiating collection procedures, the Board shall offer the owner and, if so requested by the owner, participate in discussions to allow the payment of the outstanding balance in installments. Payment plans may incorporate any assessments that accrue during the payment plan period, however they shall not impede an 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 is in compliance 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 from the time prior to entering into the payment plan.

6. All charges assessed to the assessment account must be paid in full as a condition to curing and releasing a recorded Lien and other documents of foreclosure. The Association is not required to accept any partial or installment payments, except with execution of a mutually agreeable payment agreement. Arrangements for such an agreement must be made with the Board or Board representative.

7. The mailing address for overnight payment of assessments is:

The Gables of Jacksonville Owners Association  
C/O Advantage Gold Realty  
301-C Western Blvd. Suite C  
Jacksonville, NC 28546

8. An owner of a separate interest has the right to inspect the association's financial books and records to verify the delinquency, per laws related to inspection of HOA records. All financial and other records shall be made reasonably available for examination by any lot owner and the lot owner's authorized agents. The association, upon written request, will furnish to a lot owner or the lot owner's authorized agents a statement setting forth the amount of unpaid assessments and other charges against a lot. The statement shall be furnished within ten (10) business days after receipt of the request and is binding on the association, the Board of Directors, and every lot owner.

9. The Association will keep as permanent records minutes of all meetings of its members and board of directors, a record of all actions taken by the members or directors without a meeting, and a record of all actions taken by committees of the board of directors in place of the board of directors on behalf of the corporation. A member is entitled to inspect and copy, at a reasonable time and location specified by the corporation, any of the records of the corporation if the member gives the corporation written notice of his demand at least five business days before the date on which the member wishes to inspect and copy.

10. Except where prohibited by law, the Board of Directors of the Association may revise this policy, either generally or on a case-by-case basis, if it finds good cause to do so. To the extent there are any general discretionary changes (rather than compliance related to the law or governing documents), the Board shall circulate the policy to owners at least thirty (30) days before the meeting at which the revisions will be considered.

THE GABLES OF JACKSONVILLE OWNERS ASSOCIATION, INC.