

**RESOLUTION**  
**of the**  
**MANAGEMENT COMMITTEE**  
**of**  
**LAKE WALLKILL COMMUNITY, INC.**

**WHEREAS**, Article II of the By-Laws as amended through December 2000, recites the purposes and objectives for which the Lake Wallkill Community, Inc. ("Lake Wallkill") was formed which, among other things, is to acquire, hold, own and provide for the care, maintenance and control of the common properties of the Lake Wallkill community; and

**WHEREAS**, Article VII, Section 10 of the By-Laws, provides that the Management Committee is the legislative and policy making body of Lake Wallkill; and

**WHEREAS**, Article III, Section 1 of the By-Laws provides that membership in Lake Wallkill is automatically granted and the obligation to pay dues and assessments are effective upon legal conveyance of title to a property within the Lake Wallkill community; and

**WHEREAS**, Article VI, Section 1 of the By-Laws provides that all property owners within Lake Wallkill share equally in the expense for maintaining the community; and

**WHEREAS**, certain legal cases have confirmed the right of lake associations, with similar circumstances as Lake Wallkill, to compel payment of a fair share of the expenses to maintain the common property from each property owner including the following cases:

- Island Improvement Association of Upper Greenwood Lake v. Ford, 155 N.J. Super 571 (App. Div. 1978), a non-profit voluntary lake association maintained the roads in Upper Greenwood Lake and brought a class action suit against all owners of residential property in the area to compel these owners to contribute to the road maintenance. The court held that the individual owners of the residential properties who used the roads were obligated to contribute to the repair and maintenance of those roads, stating that "with the benefit ought to come the burden."
- Lake Lookover Property Association v. Olsen, 791A.2<sup>nd</sup> 270 (2002) 348 NJ Super 53 – Established the requirement of all property owners to pay to maintain easements, in this case, the repair of the dam.
- Unfair Share Lake Arrowhead 2010 Inc. v. Lake Arrowhead Club Inc (2013) Docket No. MRS-C-43-11 – The court found that the Association, which was created in 1927, was obligated to maintain roads, parks, a clubhouse, tennis courts, and other property. The Association had the right to impose assessments on all homes in the community even if those property owners chose not to use the facilities.
- Highland Lakes Country Club and Community Association v. Franzino 186 N.J. 119 (2006) the court held a purchaser of property in a homeowners association is liable for the unpaid charges of the prior owner, even if the property is acquired pursuant to a foreclosure (as opposed to a condominium association, which can only collect six months in arrears); and,

**WHEREAS**, the Management Committee has taken action previously to encourage payment including the creation of a payment plan process and, in 2013, a program to provide discounts, these programs had limited success and additional action is required to compel payment; and,

**WHEREAS**, the Management Committee has an interest in clarifying the Policy Statement adopted September 2004 as it relates to this Collections Policy and Procedure; and,

**WHEREAS**, the Management Committee has determined that as a result of a member's failure to pay their dues and assessments, the present and future fiscal well-being of Lake Wallkill may be put in jeopardy and for the benefit of the community at large a collections policy and procedure should be established; and

**WHEREAS**, the Management Committee, upon the advice of counsel, has determined that it is in the best interests of Lake Wallkill, and the entire Lake Wallkill community that this Resolution be made to define the Collections Policy and Procedure so as to avoid any confusion and to ensure the economic well-being of Lake Wallkill; and

**NOW, THEREFORE, BE IT RESOLVED** by the Management Committee that proposed Collections Policy and Procedure be and hereby is established as follows:

1. Dues are due and payable annually on March 1. Special assessments are periodically made, with an associated payment date.
2. If payment is not received in full on any dues or assessments by the last day of the month during which same is due, the property account shall be considered delinquent and be sent a reminder notice providing a 30 day grace period to bring the account into compliance. Alternatively, a member may make payment plan arrangements to bring an account into compliance.
3. If payment is not received in full or a payment plan established by the conclusion of the 30 day grace period, a list of all delinquent accounts will be prepared. The Management Committee shall set a minimum arrears amount and all accounts over this minimum shall be designated for collections and turned over to our attorney. For 2014 the minimum amount shall be set at \$1,150.00.
4. Each consecutive month, a review of all accounts will be performed and any account that has exceeded the minimum collections amount will be sent a letter advising a 30 day grace period for bringing their account into compliance or it will be turned over to our attorney for collections. Similarly, for accounts on a pay plan, they will be reviewed monthly for compliance to the terms of the pay plan, any pay plan that is breached will be sent a letter advising a 30 day notice to bring the account into compliance or it will, likewise, be turned over to our attorney for collection.
5. Late fees continue to accrue after the collection process has been initiated. Updated account information will be sent to the attorney on a monthly basis.
6. To avoid legal expense to Lake Wallkill and the burden of collection expenses on dues paying members, the attorney shall apply a collection fee of 30% on all accounts turned over for collection. This collection fee becomes the responsibility of the delinquent property owner. Once an account is turned over to the attorney, the fee is immediately applied and all communications related to the account and collections are between the property owner and the attorney.

7. The attorney is authorized to contact delinquent property owners and implement collections procedures up to and including filing of claim of liens and/or filing a claim for collection. Once a lien is filed or a judgment of collection is secured, further actions to compel payment including but not limited to wage garnishment, bank levy, car levy or foreclosure action will be the responsibility of the Management Committee to review and approve prior to action by the attorney.
8. The Management Committee clarifies the policy statement of September 2004 as part of this resolution. The signing of a "Covenant of Deeds" in and of itself files a lien on the property and puts on record the requirement for dues payments to Lake Wallkill in the chain of title. The Management Committee recognizes that while it has the right to foreclose, the economics are not typically favorable and only as a last resort will Lake Wallkill pursue this remedy to protect the financial interests of the community.
9. Amounts recovered by the attorney through the collections process will be remitted to Lake Wallkill and applied to the delinquent account. Reinstating membership privileges will be discussed and agreed with the attorney based on payment and or pay plans arranged with the attorney and property owner through the collections process.
10. Lake Wallkill reserves all rights against delinquent members and may take any and all action against such delinquent member, including, but not limited to, suspension of privileges for use of Lake Wallkill's properties and services.
11. Upon complete payment of all delinquent dues and assessments, accrued late payment charges and/or other charges, including but not limited to attorneys fees and cost of collection, a Discharge of Lien will be prepared, in the event that a lien has been filed.

**ADOPTED** this 22<sup>nd</sup> day of March, 2014 by the Management Committee of Lake Wallkill Community, Inc., in the presence of a quorum.



Eleanor McLean, Secretary