

**DEANE GARDENHOME ASSOCIATION
DELINQUENCY & COLLECTION POLICY
ADOPTED JUNE 11, 2014
REVISED NOVEMBER 20, 2017**

Prompt payment of assessments by all owners is critical to the financial health of the Association and to the enhancement of the property values of our homes. Under the Declaration of Covenants, Conditions and Restrictions (CC&Rs) and the California Civil Code, the Board of Directors is obligated to enforce the members' obligation to pay assessments.

The policies and practices outlined herein have been adopted by the Board to ensure a prompt and fair collection of delinquent assessments. These policies and procedures 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.

Therefore, pursuant to the CC&Rs and California Civil Code, the DEANE GARDENHOME ASSOCIATION Delinquency & Collection practices and policies, are as follows:

1. Owner's Obligation to Pay Assessments

Assessments, late charges, interest and collection costs, including any attorneys' fees, are the personal obligation of the owner of the property at the time the assessment or other sums are imposed (Civil Code Section 1367.1(a)).

It is the owner's responsibility to pay any and all assessments by the due date, regardless of whether an invoice or statement is received.

2. Regular Annual Assessments

An invoice for the regular annual assessment will be mailed to the billing address of record no later than 30 days preceding the assessment due date. Annual assessments are **DUE JANUARY 1** of each year. A \$20 discount may be taken off the regular assessment for payments paid in full and postmarked by January 15th. Payments postmarked between January 16 and January 30th will be the full amount of \$400. Payments postmarked after January 30 will accrue late fees of \$10 per month for every month delinquent.

The annual assessment may also be paid in four (4) equal installments. The 5% discount does not apply to payments made in installments. Quarterly payments must be postmarked by the 5th day after the beginning of each quarter: January 5, April 5, July 5, October 5. If any quarterly payment is paid after these dates, a late fee of \$10 charge will accrue for every month that the payment is delinquent and the full assessment will then become immediately due and payable.

3. Other Assessments

Other assessments, including special assessments for capital improvements or reimbursement assessments are due and payable on the date specified by the Board on the Notice of Assessment, which date will not be less than thirty (30) days after the date of notice of the assessment.

4. Late Fees

A late fee of ten dollars (\$10) will be automatically imposed on the first of the month of any payment that is not postmarked or received prior to fifteen (15) calendar days from the due date.

For each month the account remains unpaid, or the owner is not on an approved payment plan, the late fee of late fee of ten dollars (\$10) will be assessed on the 1st of each month until the account is brought current.

5. Interest

Interest, at the rate of ten percent (10 %) per annum, may also be assessed against any outstanding balance, including delinquent assessments, late charges and cost of collection, which may include attorneys' fees.

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.

6. Returned Check Fees

An owner will be charged a ten dollar (\$10.00) fee for any returned check unpaid by the owner's bank.

7. Notification of Delinquency

Past Due Statement

Any owner with an overdue balance (including a late fee of ten dollars) will be sent Past Due statements to the billing address of record. Overdue balances are due and payable in full. The Association is not required to accept partial payments once the account becomes delinquent.

Declaration of Default Letter

A Declaration of Default letter will be mailed to the billing address of record by certified and first class mail in the event an assessment is not paid in full within nine (9) months after the account becomes delinquent. An owner will be charged a (\$10.00) fee for the Declaration of Default letter.

8. Referring Account for Collection

When a balance due is equal to or greater than 2 times the current annual assessment amount, regardless of how, the Association may turn the collection process over to a collection service to start proceedings for placing a lien on the property in default.

Demand for Payment Letter

Prior to referring an account for collection, a final attempt to get the property owner to bring the account current will be made by mailing a certified, signature required letter to the last known mailing address that includes:

1. A Demand for Payment letter that details the amount due, an option of going on a payment plan, and the deadline after which the account is turned over to a collection agency
2. Current Balance Due statement
3. Estimate of costs incurred in collecting the delinquent assessment(s)

An owner will be charged a (\$10.00) fee for issuing the Demand for Payment letter.

The Association will **only** accept payment in full, or an agreed upon payment plan to stop collection action. The Association is not required to accept any partial or installment payments. However, if the Association accepts a payment plan, the terms shall be stated in writing and signed by the owner, and the allocation of payments made may be modified.

9. Pre-Lien Letter

Accounts with a balance due equal to or greater than nine hundred dollars (\$900.00), regardless of how, shall be subject to a property lien. The Association or its designee, in the event the account is turned over to a collection service, will send a Pre-Lien Letter to the owner as required by California Civil Code 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. Charges associated with the preparation of the pre-lien letter will be considered a "cost of collection" and may be charged to the owner.

Notwithstanding this provision, the Association reserves its right to issue a Pre-Lien Letter following delinquency but before balance due is equal to or greater than 2 times the current annual assessment as referenced above, when (1) there is an open escrow involving the owner's lot; or (2) if a Special Assessment becomes delinquent.

10. Recording of the Lien

If an owner fails to pay the amounts set forth in the pre-lien letter within thirty (30) days of the date of that letter, the Association will authorize the service for collection to record a lien for the amount of any delinquent assessments, late charges, interest and/or costs of collection, including attorneys' fees against the owner's property. The owner will be charged for the fees and costs of preparing and recording the lien. Thirty (30) days following recordation of the lien, the lien may be enforced in any manner permitted by law, including, without limitation, judicial or non-judicial foreclosure.

11. Enforcing of the Lien

Once the lien has been recorded, the Association, or its designee, may enforce the lien thirty (30) days after recordation of the lien and may foreclose the lien by non-judicial foreclosure sale when either,

(a) the delinquent assessment amount totals One Thousand, Eight Hundred Dollars (\$1,800.00) or more, excluding accelerated assessments and specified late charges and fees;

or

(b) the assessments are delinquent for more than twelve (12) months.

Owners could lose ownership of the subject property if a foreclosure action is completed and may also be responsible for significant additional fees and costs if a foreclosure action is commenced.

The decision to foreclose on a lien must be made by a majority of the Board of Directors in an Executive Session meeting and the Board of Directors must record their votes in the minutes of the next open meeting of the Board.

The Board must maintain the confidentiality of the delinquent owner(s) by identifying the matter in the minutes by only the parcel number of the owner's property.

12. Release of Lien

Prior to the release of any lien, or dismissal of any legal action, all assessments, late charges, interest, and costs of collection, including attorneys' fees, must be paid in full to the Association.

13. Owner's Right to Inspect Accounting

Pursuant to Corporations Code Section 8333, an owner is entitled to inspect the Association's accounting books and records to verify the amounts owed

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, interests, and costs of collection associated with collection of those assessments.

14. Owner's Right to Dispute Resolution

Prior to initiating any foreclosure sale on a recorded lien, the Association shall offer delinquent homeowners the option of participating in Internal Dispute Resolution (IDR) or Alternative Dispute Resolution (ADR).

Pursuant to Civil Code Section 1363.810 *et seq.*, an owner has the right to dispute the assessment debt by submitting a written request for dispute resolution to the management Company for delivery to the Association.

Pursuant to Civil Code Section 1369.510 *et seq.*, an owner has the right to request alternative dispute resolution with a neutral third party before the Association may initiate foreclosure against the owner's separate interest, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

15. Request for a payment plan

Any owner who is unable to pay assessments may request the Association to consider a payment plan. An owner may also request to meet with the Board in executive session to discuss a payment plan if the payment plan request is mailed within fifteen (15) days of the postmark date of the pre-lien Letter.

Any owner who is unable to pay assessments will be entitled to make a written request for a payment plan for consideration by the Board of Directors. An owner may also request to meet with the Board in executive session

to discuss a payment plan if the payment plan request is mailed within fifteen (15) days of the postmark date of the pre-lien Letter.

The Board will consider payment plan requests on a case-by-case basis and is under no obligation to grant payment plan requests. Payment plans shall not interfere with the Association's ability to record a lien on an owner's separate interest to secure payment for the owner's delinquent assessments.

If the Board authorizes a payment plan, it may incorporate payment of ongoing assessments that accrue during the payment plan period. The Board shall make a best effort to devise a payment plan that does not exceed twelve (12) months of payments.

If a payment plan is approved, additional late fees from the homeowner will not accrue while the owner remains current under the terms of the payment plan. If the owner breaches an approved payment plan, the Association may resume its collection action from the time the payment plan was approved.

An owner will be charged a ten dollar (\$10.00) fee each month for administrating the payment plan until the balance is paid in full.

16. How Payments Are Applied

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, if any, including attorneys' fees, unless the owner and the Association enter into an agreement providing for payments to be applied in a different manner.

17. No Offset

There is no right of offset. An owner may not withhold assessments owed to the Association on the alleged grounds that the owner is entitled to recover money or damages from the Association for some other obligation.

18. All charges and fees referenced herein are subject to change upon thirty (30) days' prior written notice.

19. The mailing address for payments of assessments by overnight delivery is:

Deane Gardenhome Association
C/O Richard Boerner, DG Treasurer
9442 Hazelbrook
Huntington Beach, CA 92646

Please note that should an account be referred to a collection service, the collection service will provide the new address for overnight payments.

Board of Directors
Deane Gardenhome Association