

SAMPLE RESERVE POLICY

BASED ON A DOCUMENT PREPARED BY:

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FOR CALIFORNIA CLIENTS

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RESOLUTION

ADOPTION OF RESERVE STUDY (EXAMPLE)

WHEREAS, Article _____ of the Declaration of Conditions, Covenants, and Restrictions charges the Association with certain community service responsibilities; and

WHEREAS, there is a need to provide a sound financial plan for the delivery of such services; and

WHEREAS, it is the intent of the board of directors to adopt an annual budget as its financial plan for the fiscal year ending _____;

WHEREAS, the Association has caused to be prepared a reserve study or update thereof which indicates an annual assessment for reserves that is incorporated into the Associations annual budget, it is

RESOLVED THAT:

1. The treasurer of the Association shall transfer all monies and property presently held in reserve to a savings account[s] to be held, invested, and expended by the Board of Directors for the repair and replacement of the common areas.
2. The board may authorize expenditures which result in an increase in the amount budgeted, provided such increase is not greater than _____ percent of the original budget.
3. Proposed increases in expenditures from the amount budgeted for a category greater than _____ percent but less than \$ _____ shall require board approval.
4. Proposed increases in expenditures from the amount budgeted for a category greater than \$ _____ shall require amendment of this Budget Resolution.

This resolution is adopted and made a part of the minutes of the meeting of _____.

BY: _____
President

ATTESTED: _____
Secretary

Note that the allocation for reserves within the annual budget must agree to the required annual contribution per the reserve study. Failure to have these amount agree seriously weakens the association's evidence when trying to document its intent on tax matters, as the documents contradict each other.

PERMANENT RESOLUTION

GENERAL REPLACEMENT FUND POLICIES (EXAMPLE)

WHEREAS, Article ____ of the Declaration of Conditions, Covenants, and Restrictions charges the Association with certain community service responsibilities; states that the assessments shall be sufficient to, among other things, establish and maintain adequate repair and replacement reserves; and

WHEREAS, there is a need to provide a sound financial plan for the delivery of such services; and

WHEREAS, among the expenses of the Association, are all expenses for the administration, maintenance, repair and replacement of the common areas and facilities, which are to be set aside and held in "reserve" to be subsequently expended for the replacement of the common facilities and improvements due to their damage, exhaustion, or obsolescence; and

WHEREAS, the members of the Association wish to avoid any adverse federal income tax consequences upon the contribution of their annual assessments to the capital of the association, particularly the portion to be set aside and held in reserve for repair and replacement of improvements to the common areas; and

WHEREAS, in Internal Revenue Code (IRC) Section 118, the Internal Revenue Service indicated that amounts paid to a corporation as a conduit, agent, or trustee and with the prior understanding that such amounts are to be expended and applied for a specific capital purpose; and

WHEREAS, the Board, in order to satisfy the criteria of IRC Code Section 118 and Revenue Ruling 74-563, 75-370 and 75-371, wishes to formally segregate all portions of the annual assessments thus set aside and held in reserve, as well as such portion of any future annual assessments, and to hold and expend such sums solely and specifically in pursuance of the objects and purposes set forth in the Declarations, Articles, and By-laws of the Association.

WHEREAS, the Board wishes to formally segregate each year a portion of the assessments, to be set aside in a separate interest-bearing account and held in reserve, to hold and expend such funds solely and specifically as set forth herein;

RESOLVED THAT:

1. A reserve fund for major repair and capital replacements shall be established.
2. The Association shall cause a reserve study to be prepared at least ee years, in accordance with the provisions of California Civil Code Section 1365.5
3. The Association shall update the reserve study every _____ year(s).
4. The Association shall annually make all reserve disclosures necessary to its members as required by Governing Documents and State Code. The owners shall be advised that henceforth the portion of the annual assessment to be held in reserve will be transferred, held, and expended pursuant to the terms of this resolution, a copy of which shall be on file at the offices of the association for inspection by any owner.
5. The treasurer of the Association shall transfer all monies and property presently held in reserve to account[s] to be held, invested, and expended by the Board of Directors for the repair and replacement of improvements to the common areas. These accounts shall be maintained separately from the operating accounts of the Association.
6. The authorized signatories for the reserve account shall be the any two directors, or one director and an officer who is not a director. The signatures of two persons are required to make withdrawals from this account.

8. Reserve amounts shall be maintained in accordance with the Association's Reserve Study, which shall cover all real property, furniture, fixtures and equipment owned or maintained by the Association.
9. Withdrawals from the Repair and Replacement Reserve may only be used for restoration, repair and replacement of existing capital improvements, not for new facilities or additions or improvements to existing facilities or property.
10. The Association's financial records (general ledger and financial statements) shall reflect the segregation of cash account referred to in item 4 above. The financial records shall also separately account for members equity from operating activity and members equity from replacement (reserve) activity in accordance with California Civil Statutes and the recommendations of the American Institute of CPA's Audit and Accounting Guide for Common Interest Realty Associations.

This resolution is adopted and made a part of the minutes of the meeting of _____.

11. The Association's reserve study, in order to be prepared on a consistent basis, shall contain assets meeting all of the following four-part National Reserve Study Standards criteria:
 - a) Assets that are Common Area maintenance responsibility and
 - b) Assets that limited Useful Life and
 - c) Assets that have a predictable remaining useful life and
 - d) Assets that are above the following minimum threshold cost: _____
12. Association common area components shall be maintained in accordance with the association's maintenance plan.
13. The reserve study financial projection shall include provisions for:
 - a) investment earnings
 - b) inflation
 - c) income taxes

BY: _____
President

ATTESTED: _____
Secretary

PERMANENT RESOLUTION

CASH MANAGEMENT POLICIES (EXAMPLE)

WHEREAS, the members of the Association wish to avoid any adverse federal income tax consequences upon the contribution of their annual assessments to the capital of the association, particularly the portion to be set aside and held in reserve for repair and replacement of improvements to the common areas; and

WHEREAS, in Internal Revenue Code (IRC) Section 118, the Internal Revenue Service indicated that amounts paid to a corporation as a conduit, agent, or trustee and with the prior understanding that such amounts are to be expended and applied for a specific capital purpose; and

WHEREAS, the Board, in order to satisfy the criteria of IRC Code Section 118 and Revenue Ruling 74-563, 75-370 and 75-371, wishes to formally segregate all portions of the annual assessments thus set aside and held in reserve, as well as such portion of any future annual assessments, and to hold and expend such sums solely and specifically in pursuance of the objects and purposes set forth in the Declarations, Articles, and By-laws of the Association.

RESOLVED THAT:

- 1) The association will establish one or more Operating Bank Accounts - Generally consisting of a checking account, and one or more savings accounts.
- 2) The association will establish one or more Reserve Accounts - Generally consisting of a series of bank or investment accounts.
- 3) Member assessments received will be deposited into the association's operating account[s], then the reserves portion of the dues income will be immediately (within 1-2 weeks) transferred to the Reserve account(s)
- 4) When Reserve expenditures are paid from the Operating account, they should immediately (within the same accounting period) be reimbursed for the exact amount from the Reserve fund account[s].
- 6) Regardless of provisions in the California Civil Code allowing inter-fund loans and temporary transfers, **the association will refrain from making inter-fund** (replacement fund to operating) **loans or temporary transfers**. If such inter-fund transactions occur, they will be **fully documented** in the minutes and by documents outlining specific repayment terms.

This resolution is adopted and made a part of the minutes of the meeting of _____.

BY: _____
President

ATTESTED: _____
Secretary