

# **SAMPLE RESERVE POLICY**

**BASED ON A DOCUMENT PREPARED BY:**

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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. Bank accounts for those reserve components designated as "non capital" in nature shall be maintained separately from those reserve components designated as "capital" in nature.

7. 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 Non-Capital Reserve Accounts - Generally consisting of one or more bank accounts for non-capital reserve items such as painting, contingency, termite, tree trimming, and any other items that are non-capital in nature.
- 3) The association will establish one or more Capital Replacement Fund (Reserve) Accounts - Generally consisting of a series of bank or investment accounts. These accounts should only contain funds for items that are capital in nature as defined by the IRS.
- 4) 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 by two separate checks to:
  - a) the capital replacement fund account[s]
  - b) the non-capital replacement fund account[s]
- 5) Replacement fund expenditures will be paid directly from the replacement fund bank accounts. If for any reason replacement fund type expenditures are instead paid from the operating account, they should immediately be reimbursed for the exact amount from the replacement fund account[s].
- 6) Regardless of provisions in the California Civil Code allowing inter-fund loans and transfers, **the association will refrain from making inter-fund (replacement fund to operating) loans or transfers. If** inter-fund transactions occur, they will be **fully documented** in the minutes and by note documents with specific repayment terms.

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

BY: \_\_\_\_\_  
President

ATTESTED: \_\_\_\_\_  
Secretary