

## **Emerald Bay Homeowners Association Budget Policy and Guidelines**

The Board of Directors of the Emerald Bay Homeowners Association is tasked by the Covenants and Bylaws with preparation of an Annual Budget to itemize the common expenses of the Association and to make an appropriately proportioned allocation to the property owners.

In accordance with Bylaws Article 5.16 the Board has established this document to provide for and establish a policy and process to be used in preparation of the Annual Budget.

Nothing in this Budget Policy and Guidelines document shall be deemed restrictive to the prerogatives of the Board of Directors insofar as their actions are within parameters of the Bylaws and Covenants.

The Board of Directors will take discussion of and establish the Annual Budget for the coming year, typically at the December Board meeting or at a special meeting called for that purpose. The Annual Budget for the coming year must be established before invoices for Annual Assessments are sent to Members of the Association.

1. The Board will evaluate Financial Needs for the community based on expenses the previous year.
2. The Board will determine or estimate the total Funds Available at the end of the current year, after all outstanding expenses have been satisfied.
3. The Board will evaluate and estimate an amount, called a Contingency Fund, that might be required to meet some unforeseen or catastrophic need in the community. In the past, this amount has been deemed to be equal to that sum which would cover one year's budget. The Board will make a decision on the amount to be maintained in this Contingency Fund each year during the Budget Process, and provide an explanation of the basis of their decision to Members of the Association at the Annual Meeting.
  - a. In the event that the amount of this Contingency Fund, as established above, is greater than the total funds available at the end of the current year, the difference will be added to the estimated financial needs for annual expenses in the coming year so that the Contingency Fund will be brought up to the desired amount at the end of the coming year.
  - b. In the event that this Contingency Fund, as established above, is less than the total funds available at the end of the current year, the difference will be subtracted from the estimated financial needs for annual expenses in the coming year so that the Contingency Fund will kept at the desired amount
4. Individual Annual Assessments will be determined by adding the amount of the Contingency Fund to the Financial Needs for the Budget year, and dividing by the number of Members of the Association.

### Definitions of terms:

Financial Needs – the amount needed to satisfy all expenses of the Association

Funds Available – the amount of treasury surplus after all expenses have been met

Contingency Fund – an amount over and above Financial Needs that might be required to meet any unforeseen expenses of the Association

Annual Budget – a summary of a) expected cost of operation of the business of the Association and b) expected income to the Association based on Annual Assessments

Approved and published by the Board of Directors in session on July 18, 2016.

Emerald Bay Homeowners Association

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References extracted from the Emerald Bay Homeowners' Association Bylaws and Covenants

**Covenants Article 5.01 Creation of the Lien and Personal Obligation of Assessments.** Each Owner by acceptance of a deed conveying a Lot, whether or not it shall be so expressed in any such deed or other conveyance, shall be deemed to covenant and agree to all of the terms and provisions of these covenants and pay to the Developer or Association annual assessments and special assessments for the purposes set forth in this Article, such assessments to be fixed, established and collected from time to time as hereinafter provided. The Owner of each Lot shall be personally liable, such liability to be joint and several if there are two or more Owners, to the Developer or Association for the payment of all assessments, whether annual or special, which may be levied while such party or parties are Owners of a Lot. The annual and special assessments, together with such interest thereon and costs of collection therefor as hereinafter provided, shall be a charge and continuing lien on the Lot and all of the improvements thereon against which each such assessment is made. Unpaid assessments shall bear interest from due date to date of payment at the rate set by the Developer or Board, and said rate can be changed from time to time so that the rate is reasonably related to the economic situation. In the event that two or more Lots are combined into a single Lot by an Owner, the assessments will continue to be based upon the number of original Lots purchased. In the event three or more Lots are combined into two or more Lots by an Owner, the assessments will continue to be based upon the number of original Lots, and if any original Lot is subdivided, the assessment on such original Lot shall be prorated between the Owners based upon the square footage owned by each Owner.

**Bylaws Article 5.07.H.** Any other materials, supplies, labor, services, maintenance, repairs, structural alterations, insurance, taxes or assessments that the Board is required to secure or pay for pursuant to the terms of the Declaration, these Bylaws or any Rules or Regulations promulgated hereunder or which, in its opinion, shall be necessary or advisable for the operation of the Common Properties or for the enforcement of the Declaration, these Bylaws or the Rules or Regulations.

The Board shall have the exclusive right to contract for all goods, services, including security personnel, and insurance, payment for which is to be made a Common Expense. The provision shall not be construed to prohibit the Board from delegating such authority to the Manager as it deems proper.

**Bylaws Article 5.16 Rules and Regulations.** The Board shall have the power and right to adopt and amend rules and regulations for the purpose of governing the details of the operation and use of the Property and setting forth restrictions on, and requirements respecting the use and maintenance of the Property. Copies of the Rules and Regulations shall be furnished to each Member prior to the time the same shall become effective.

**Bylaws Article 6.02 Annual Meeting.** There shall be an annual meeting of the Association on the first Monday of February at 6:00 P.M. at such reasonable place or other time (but not more than sixty (60) days before or after such date) as may be designated by written notice by the Board delivered to the Members not less than fifteen (15) days prior to the date fixed for said meeting. At or prior to the annual meeting, the Board shall furnish to the members: (1) A budget for the coming fiscal year that shall itemize the estimated Common Expenses of the coming fiscal year with the estimated allocation thereof to each Member; and (2) a statement of the Common Expenses itemizing receipts and disbursements for the previous and, if then available, for the current fiscal year, together with the allocation thereof to each Member. Within ten (10) days after the annual meeting, the budget statement shall be delivered to the Members who were not present at the annual meeting if not previously provided. The Developer, or its successors or assigns, shall have the right to approve or

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disapprove the budget for the coming year for a period of ten (10) years after the date on which the first Board is elected to succeed the Developer pursuant to Section 5.02 hereof.

**Example One** illustrating use of the Budget Process:

1. The Board finds that expenses for the current year will be \$90,000 at year end. The Board then estimates that the expenses for the Budget year will be \$95,000.
2. The Board determines that after all expenses for the current year are paid, there will be \$40,000 left in the treasury (Funds Available).
3. The Board considers how much should be maintained in the Contingency Fund and determines that amount should be brought to \$60,000 from the \$40,000 left in the treasury at year end.
4. The Board establishes Annual Assessments based on Budget expenses of \$95,000 plus the \$20,000 required to bring the Contingency Fund to \$60,000, a total of \$115,000.

**Example Two** illustrating use of the Budget Process:

1. The Board finds that expenses for the current year will be \$90,000 at year end. The Board then estimates that the expenses for the Budget year will be \$95,000.
2. The Board determines that after all expenses for the current year are paid, there will be \$70,000 left in the treasury (Funds Available).
3. The Board considers how much should be maintained in the Contingency Fund and determines that amount should be reduced to \$60,000 from the \$70,000 left in the treasury at year end.
4. The Board establishes Annual Assessments based on Budget expenses of \$95,000 minus the \$10,000 required to reduce the Contingency Fund to \$60,000, a total of \$85,000.

### **Notes from the Secretary:**

- The Board is responsible to develop a budget and set dues for the coming year (Bylaws 6.02).
- This needs to be done before the end of the current year, since dues are to be invoiced on or about 1 January (Covenants 5.07)
- Likewise, the Board is responsible to present the budget to the Membership at or before the Annual meeting of the Association (Bylaws 6.02).
- Bylaws Article 6.02 does not indicate a requirement for approval of the Budget by Members of the Association at the Annual Meeting. The Board of Directors "shall furnish to the members: (1) a budget for the coming fiscal year... and (2) a statement of the Common Expenses... for the previous fiscal year..." As further evidence, note that dues are assessed and due prior to the Annual meeting.
- The Annual Meeting is to be held each year within 60 days of the first Monday in February (Bylaws 6.02).