

III. ASSESSMENT COLLECTION POLICY

1. Owner Responsibility.

- a. Assessments are vital to fund the operations of the Association. The Association has adopted this rule (the "Rule") to promote and protect its financial strength for the benefit of all Owners. Owners are responsible for paying Assessments as provided in the Association's Governing Documents which include the Association's recorded Covenants, its Articles of Incorporation, its Bylaws and its Rules (collectively "Association's Governing Documents") as amended. In addition, Owners have a statutory duty to pay under certain provisions of the Colorado Common Interest Ownership Act ("CCIOA"); and they have a duty to read, understand and comply with the Association's Governing Documents and the applicable provisions of the CCIOA.
- b. Owners are responsible for contacting the Association and for making payments of Assessments within thirty (30) days after receiving their annual dues' billing to avoid late fees or charges. Owners must notify the Association in writing of any change in their mailing address or status within fifteen (15) days of such change. The Association shall not be liable for any errors or omissions in any billing address or payment statement to the Owner.
- c. Checks containing a restrictive endorsement on the back may, at the option of the Association, either be:
 - i. returned to the Owner and the amount tendered shall be considered unpaid; or
 - ii. deposited without waiving any of the rights and remedies of the Association to unpaid sums, whether or not the restrictive endorsement is crossed out.

2. Due Date, Interest and Late Charges.

- a. The Association's Annual Common Expense Assessment shall be due and payable within thirty (30) days after receipt of billing, and special Assessments, fines, fees and other charges shall be due on the date specified in any notice thereof.

- b. Any payment which is not received by the day after such payment is due shall be considered past due and delinquent and will be charged a late fee/administration fee to compensate the Association for the processing of a delinquent payment, which fee shall be owed by the Owner for each month such Assessment is not paid.
- c. In addition to the late fee, the Association shall be entitled to recover any and all costs of collection, including reasonable attorney's fees, as well as interest allowed by the Association's Governing Documents or any statute or law. The current interest rate for delinquent sums is set by the Association's governing documents at fifteen percent (15%) per annum.

3. **Returned Checks.**

- a. The Association will impose an administrative **fee (currently \$25.00)** for all returned checks.
- b. If notice of a returned check, draft or money order is sent as provided in C.R.S. 13-21-109 and the total amount due as set forth in the notice is not paid within 15 days after such notice is given, the Owner who provided the returned check shall be liable to the Association for collection of three times the face amount of the check, but not less than \$100.00, and any expenses of collecting such sums.

4. **Payment Plan.**

- a. The Association is not a lender, and failure to pay Assessments imposes financial burdens on the other Owners. A payment plan may only be considered for circumstances required by law or statute, or hardship conditions that justify some sort of temporary accommodation.
- b. Any request for a payment plan must be made by an Owner in writing and delivered to the Association's Registered Agent (currently see **Exhibit XII**). The name of that agent and the Registered Address (currently see **Exhibit XII**) can also be found at the Colorado Secretary of State website.
- c. Any payment plan must be a legally binding contract, and the plan must require the Owner to pay all delinquent sums, including late fees, interest, attorney fees and other costs. The

payment plan must require that the Owner must keep all monthly payments current and must pay off the entire delinquent amount in six (6) equal monthly installments, unless a longer time period is agreed to by the Board, in writing, for extraordinary circumstances.

- d. Nothing in this Rule prohibits the Association, or a holder or assignee of the Association's debt from pursuing legal action against an Owner if the Owner fails to comply with the terms of his or her payment plan. An Owner's failure to remit payment of an agreed-upon installment, or to remain current with regular Assessments as they come due during the repayment period, constitutes a failure to comply with the terms of his or her payment plan.
- e. The Association is not obligated to negotiate a payment plan with an Owner who has previously entered into a payment plan. In such cases, the Board shall have complete discretion as to payment plans, except as otherwise required by future changes to the Colorado statute.
- f. No payment plan is available if the Owner does not occupy the property and has acquired the property as a result of: (1) a default of a security interest encumbering the property; or (2) foreclosure of the Association's lien.

5. **Notice of Delinquent Assessments.**

- a. The Association may send the Owner a notice of delinquency and may charge for any notices sent to the Owners in connection with such delinquent Assessments, but the Owners are responsible for ensuring that their payments are timely and fully made, regardless of whether notice is sent.
- b. Before the Association turns over a delinquent account of an Owner to a collection agency or refers it to an attorney for legal action, the Association shall, to the extent required by statute or law, send the Owner a notice of delinquency specifying:
 - i. the total amount due, with an accounting of how the total was determined, which may be shown by enclosing a copy of that Owner's ledger;

- ii. that an opportunity to enter into a payment plan may exist in accordance with Section 4 of this Rule, in which case the Owner, if eligible, must contact the Association's Registered Agent, in writing at the Registered Address, to request a payment plan.
- iii. that the name and contact information for the individual whom the Owner may contact to request a copy of the Owner's ledger in order to verify the amount of the debt is the Association's Registered Agent at the Registered Address described above; and
- iv. that action is required to cure the delinquency, and that failure to do so within thirty (30) days may result in the Owner's delinquent account being turned over to a collection agency, a lawsuit being filed against the Owner, the filing foreclosure of a lien against the Owner's property, or other remedies available under Colorado law.

6. **Payment Priority.**

Regardless of inscriptions or notations on the front or back of the check, all payments shall be applied to outstanding balances in the following order of priority:

- a. interest;
- b. late charges;
- c. attorney fees and costs;
- d. returned check charges; and
- e. unpaid Assessments, regular or special, beginning with the oldest unpaid assessment.

7. **Remedies for Collection of Delinquent Assessments.**

- a. The Association may exercise any and all rights and remedies available under the Association's Governing Documents, or under Colorado law, including without limitation, the Owner's delinquent account being turned over to a collection agency, a lawsuit being filed against the Owner, the filing and foreclosure

of a lien against the Owner's property, or other remedies available under Colorado law.

- b. To the fullest extent permitted by the Association's Governing Documents and/or Colorado statutes, the Association may also deny rights to use Association facilities, voting rights, or other rights in the Association (including but not limited to inspection of records) until all Assessments and other sums are paid in full. In order to be an "Owner in good standing" for purposes of this Rule, and to obtain a release of liens, restoration of voting or other rights, or to terminate litigation, the delinquent Owner must make payment in full of all Assessments and other sums, including sums which arise after the collection process or after the Owner delivers a payment to the Association.
- c. To the fullest extent permitted by the Association's Governing Documents and/or Colorado statutes, the Association may (but shall not be required) proceed by filing litigation against any Owner who has not paid his assessment and, without affecting that remedy, may also file a lien against the delinquent property.

8. **Association's Collection Action through its Attorneys.**

- a. After a delinquent account has been referred to the Association's attorney, all communication with the delinquent Owner shall be handled through the Association's attorney. No member of the Board of Directors has any authority to discuss the collection of the account directly with an Owner after it has been turned over to the Association's attorney unless the attorney is present or has consented to the contact. However, the Association has the option and right to continue to evaluate each delinquency on a case by case basis.
- b. Once accounts are turned over to the Association's attorney, Owners shall make payment to the Association at the address of the Association's attorney, and the Association shall be entitled to collect interest at the rate set forth in this Rule, from the due date of such payments, as well as reasonable attorney fees, court costs, and all other expenses of collection on said delinquent payment. The reasonable attorney fees incurred by the Association shall be due and payable from the delinquent Owner on the date(s) when such expense(s) are incurred by the Association.

- c. LIEN: Additionally, any such unpaid assessments or fines, together with all expenses of collection and attorney's fees, shall be a continuing lien upon the Lot against which such fine was made. The Board may enforce such lien by recording with the Clerk of the County a statement of lien with respect to said Lot, setting forth such information as the Board may deem appropriate. Said lien shall run with the land and shall additionally secure all assessments or fines and expenses that become due after its recording. Said lien may be foreclosed by the Board in the manner provided for foreclosures of mortgages under the laws and statutes of the State of Colorado. All rights and remedies of the Association are cumulative, and foreclosure of the lien shall not prevent a lawsuit against the Owner personally liable therefore whether taken before, after or during such foreclosure. Said lien may be released by recording an appropriate document executed by an officer or agent of the Association. Said lien is in addition to any statutory lien allowed by the Association by law. Said lien shall be superior and prior to any homestead rights or similar exemption now or hereafter provided under state or federal law to the Owner, whose acceptance of the deed to a Lot shall constitute a waiver of such homestead or other rights.
- d. PROTECTION OF LENDERS: The lien for any fine provided for herein shall be subordinate to the lien of the First Mortgage recorded before the delinquent fine was due. Sale or transfer of any Lot shall not affect the lien for said fine except that sale or transfer or any Lot pursuant to foreclosure of any such First Mortgage, or any proceeding in lieu thereof, including deed in lieu of foreclosure, shall extinguish the lien of any fine which became due prior to any acquisition of title to such Lot by the First Mortgage pursuant to any such sale or transfer, or foreclosure, of any proceeding in lieu thereof including, without limitation, any deed in lieu of foreclosure. No such sale, transfer, foreclosure, or any above-described proceeding in lieu thereof, shall relieve any Lot from liability for any fine becoming due after such acquisition of title, nor from the lien thereof, nor from the personal liability of the Owner of such Lot for fines due during the period of his ownership.

9. **Bankruptcy of Owner.**

- a. The filing of a bankruptcy action does not terminate the Association's right to collect Assessments, because:
 - i. the Association has an Assessment lien claim against the property for all past Assessments; and
 - ii. the Owner will remain personally liable for all post-bankruptcy filing Assessments, so long as they retain title to the property.
- b. Based on the above, when the Association learns that a bankruptcy action has been filed, the accounting for that property shall thereafter be based upon the filing date of that bankruptcy action (the "Petition Date"), and the Association should create two separate ledgers for the property showing Assessments owed prior to the Petition Date and after the Petition Date.

10. **Proof of Payments.**

- a. Since the records of the Association are kept in the ordinary course of business and the Association relies upon same on the behalf of all Owners, there is a presumption that those records are correct and that the Assessment is valid if there is no written dispute received by the Association within thirty (30) days after the mailing of a billing statement.
- b. An Owner who wishes to dispute the amount or the validity of any Assessment charged to his/her property must submit a statement within thirty (30) days after the mailing of a billing statement that describes all disputed monthly payments and can request information from (or request a hearing before) the Board, but must put that request in writing in accordance with this Rule.
- c. The Board may require that the Owner deliver documentation, such as cancelled checks or bank statements, to support the Owner's claims.
- d. All payments made to settle a dispute and ALL correspondence regarding payment disputes must be sent by certified mail to the Association's Registered Agent at the Registered Address. If

payment or correspondence is delivered by any other method, the Owner using that non-authorized method assumes the risk that the payment and any communication sent by that method will not be received by the Association.

11. **Certificate of Status of Assessments.**

Upon receipt of the written request described below, and the advance payment of the fee described below, the Association should furnish to an Owner or such Owner's designee a written statement setting forth the amount of unpaid Assessments currently levied against the Owner's property upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt, to the Association's Registered Agent at the Registered Address described above. The statement should be delivered within fourteen (14) calendar days after actual receipt of the request. The request must include payment of the Association's fee for such statements, which can be found at the Association's website, and will include the fees of the Association's attorney, if the account is delinquent and has been referred for collection. Failure to pay any delinquent Assessments or sums (including the fee), or to comply with any conditions stated in the statement should render the statement null and void. Any such statement shall be without warranty or liability to the Association.

12. **General.**

- a. Nothing in this Rule requires the Board to take specific actions at a specific time. The Board has the option and right to continue to evaluate each delinquency on a case-by-case basis. The Board may modify the procedures contained herein as the Board shall determine appropriate under the particular circumstances.
- b. Failure of the Association to strictly comply with any provision of this Rule shall not be deemed a waiver of the Association's right to require strict compliance by the Owner and shall not be deemed a defense to payment of Assessments fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this Rule nor be asserted as a claim against the Association.
- c. This Rule shall be effective as provided below, at which time it shall replace and supersede any prior rule or policy regarding Assessments, collections, liens and legal remedies; provided, however, that the Board may in its discretion suspend the

effective date of any provision of this Rule for any collection actions filed or taken prior to January 2, 2014. This Rule may be amended by the Board in the future.

- d. If any portion or provision of this Rule is found to be invalid, the remaining provisions shall continue in full force and effect.

Adopted by the Board, this 4th day of August, 2018, effective immediately.