

**POLICY OF
CREEKSIDE I HOMEOWNERS' ASSOCIATION
REGARDING POLICY AND PROCEDURES FOR COLLECTION OF UNPAID
ASSESSMENTS**

SUBJECT: Adoption of a policy and procedure regarding the collection of unpaid assessments.

PURPOSE: To provide notice of the Association's adoption of a uniform and systematic procedure to collect assessments and other charges of the Association.

AUTHORITY: The Declaration, Articles of Incorporation and Bylaws of the Association and Colorado law.

**EFFECTIVE
DATE:**

RESOLUTION: The Association hereby adopts the following policy:

It is in the best interest of the Association to refer delinquent accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue. The Board of Directors has retained an attorney with experience in representing homeowner associations in collections and other matters. The Association hereby gives notice of its adoption of the following policies and procedures for the collection of assessments and other charges of the Association:

1. Due Dates. Installments of the annual assessment as determined by the Association and as allowed for in the Declaration shall be due and payable on the date(s) established by the Board of Directors. Assessments or other charges not paid in full to the Association on or before the due date shall be considered past due and delinquent. Assessments or other charges not paid in full to the Association within 90 days of the due date shall incur late fees and interest as provided below. In the event notice of acceleration is given to delinquent Owner(s), the Owner(s) of the lot shall also be charged any costs incurred by the Association in giving notice of such acceleration.
2. Receipt Date. The Association shall post payments on the day that the payment is received in the Association's office.

3. Late Charges on Delinquent Installments. The Association shall impose on a monthly basis a late charge in the amount of \$10.00 for each Owner who fails to pay his/her installment of the annual assessment within 90 days of the due date. The Association shall impose interest at the rate of 12% per annum on the amount owed for each Owner who fails to pay his/her installment of the annual assessment within 90 days of the due date. This late charge and interest shall be a "common expense" for each delinquent Owner.
4. Personal Obligation for Late Charges and Interest. The late charge and interest shall be the personal obligation of the Owner(s) of the lot for which such assessment or installment is unpaid. All late charges and interest shall be due and payable immediately, without notice, in the manner provided by the Declaration (and as set forth herein) for payment of assessments.
5. Return Check Charges. In addition to any and all charges imposed under the Declaration, Articles of Incorporation and Bylaws, the Rules and Regulations of the Association or this Resolution, a return check fee, not to exceed \$20.00, shall be assessed against an Owner in the event any check or other instrument attributable to or payable for the benefit of such Owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to insufficient funds. This returned check charge shall be a "common expense" for each Owner who tenders payment by check or other instrument which is not honored by the bank upon which it is drawn. Such return check charge shall be due and payable immediately, upon demand. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. Returned check charges shall be the obligation of the Owner(s) of the lot for which payment was tendered to the Association. Returned check charges shall become effective on any instrument tendered to the Association for payment of sums due under the Declaration, Articles, Bylaws, Rules and Regulations or this Resolution after the date adopted as shown above. If two or more of an Owner's checks are returned unpaid by the bank within any (fiscal) year, the Association may require that all of the Owner's future payments, for a period of one (1) year, be made by certified check or money order. This return check charge shall be in addition to any late fees or interest incurred by an Owner. Any returned check shall cause an account to be past due if full payment of the installment of the annual assessment is not timely made within 90 days of the due date.

6. Service Fees. In the event the Association incurs any type of service fee, regardless of what it is called, for the handling and processing of delinquent accounts on a per account basis, such fees will be the responsibility of the Owner as such fee would not be incurred but for the delinquency of the Owner.

7. Payment Plan. Any Owner who becomes delinquent in payment of assessments and has not previously been referred to the Association's attorney or collection agency for collection action for that delinquency, may enter into a payment plan with the Association, which plan shall be for a term of up to 6 months or such other term as may be approved by the Board of Directors. Such payment plan shall be offered to each owner prior to the Association referring any account to an attorney or collection agency for collection action. In the event the Owner defaults or otherwise does not comply with the terms and conditions of the payment plan, including the payment of ongoing assessments of the association, the Association may, without additional notice, refer the delinquent account to an attorney or collection agency for collection action or may take such other action as it deems appropriate in relation to the delinquency.

8. Attorney Fees on Delinquent Accounts. As an additional expense permitted under the Declaration and by Colorado law, the Association shall be entitled to recover its reasonable attorney fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent Owner. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred, upon demand.

9. Application of Payments. All sums collected on a delinquent account shall be remitted to the Association's attorney until the account is brought current. All payments received on account of any Owner or the Owner's property (hereinafter collectively "Owner"), shall be applied in the following manner: first to the payment of any and all legal fees and costs (including attorney fees), then to expenses of enforcement and collection, late charges, interest, returned check charges, lien fees, and other costs owing or incurred with respect to such Owner pursuant to the Declaration, Articles, Bylaws, Rules and Regulations, or this Resolution, prior to application of the payment to any special or regular assessments due or to become due with respect to such Owner.

10. Collection Process.

(a) After an installment of an annual assessment or other charges due to the Association becomes more than 90 days delinquent, the Association shall send a written notice (“First Notice”) of non-payment, amount past due, notice that late fees and interest have accrued, and request for immediate payment. The Association’s notice, at a minimum shall include the following:

(i) The total amount due to the Association along with an accounting of how the total amount was determined.

(ii) Whether the Owner may enter into a payment plan and instructions for contacting the Association to arrange for and enter into a plan.

(iii) A name and contact information for an individual the owner may contact to request a copy of the Owner’s ledger in order to verify the amount of the debt.

(iv) A statement indicating that action is required to cure the delinquency and that failure to do so within thirty days may result in the Owner’s delinquency account being turned over to an attorney, a collection agency, the filing of a lawsuit against the Owner, appointment of a receiver, the filing and foreclosure of a lien against the Owner’s property, or other remedies available under Colorado Law including revoking the owners right to vote if permitted in the Bylaws or Declaration.

(b) After an installment of an annual assessment or other charges due to the Association becomes more than 120 days delinquent, the Association shall send a written notice (“Second Notice”) of non-payment, amount past due, notice that late fees and interest have accrued and request for immediate payment.

(c) After an installment of an annual assessment or other charges due to the Association becomes more than 150 days delinquent, the Association shall send a written notice (“Third Notice”) of non-payment, amount past due, notice

that late fees and interest have accrued, notice of intent to file lien, and request for immediate payment.

(d) After an installment of an annual assessment or other charges due to the Association becomes more than 180 days delinquent, a lien may be filed and the Association may turn the account over to the Association’s attorney for collection. Upon receiving the delinquent account, the Association’s attorneys may send a letter to the delinquent Owner demanding immediate payment for past due assessments or other charges due. Upon further review, the Association’s attorney may file a lawsuit. If a judgment or decree is obtained, including without limitation a foreclosure action, such judgment or decree shall include reasonable attorney’s fees together with the cost of the action and any applicable interest and late fees.

11. Collection Procedures/Time Frames. The following time frames shall be followed for use in the collection of installment(s) of the annual assessment and other charges.

First Notice (notice that late charges and interest have accrued, required disclosures of the Association and the availability of a payment plan if applicable)	Any time after 90 days after due date
Second Notice (Notice that late charges and interest have accrued)	Any time after 120 days after due date
Third Notice (notice that late charges and interest have accrued, notice of intent to file lien)	Any time after 150 days after due date
Delinquent account may be turned over to Association’s attorney; Demand letter sent to Owner; Lien filed.	Any time after 180 days after due date

The attorney is to consult with the Association as necessary to determine if payment has been arranged or what collection procedures are appropriate.

12. Certificate of Status of Assessment. The Association shall furnish to an Owner or such Owner’s designee upon written

request, first class postage prepaid, return receipt, to the Association's agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's property for a reasonable fee, which may be included in the transfer fee charged by the Association's management company. However, if the account has been turned over to the Association's attorney, such request may be handled through the attorney.

13. Bankruptcies and Foreclosures. Upon receipt of any notice of a bankruptcy filing by an Owner, or upon receipt of a notice of a foreclosure by any holder of an encumbrance against any lot within the Association, the Board shall notify the Association's attorney of the same and turn the account over to the Association's attorney, if appropriate.

14. Referral of Delinquent Accounts to Attorneys. Upon referral to the Association's attorney, the attorney shall take all appropriate action to collect the accounts referred. After an account has been referred to an attorney, the account shall remain with the attorney until the account is settled, has a zero balance or is written off. Except as otherwise provided herein, the attorney, in consultation with the Board, is authorized to take whatever action is necessary and determined to be in the best interests of the Association, including, but not limited to:

- (a) Filing of a suit against the delinquent Owner for a money judgment;
- (b) Instituting a judicial foreclosure action of the Association's lien, upon approval by the Association's Board of Directors;
- (c) Filing necessary claims, documents, and motions in bankruptcy court in order to protect the Association's interests; and
- (d) Filing a court action seeking appointment of a receiver.

All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney.

15. Appointment of a Receiver. The Association may seek the appointment of a receiver if an Owner becomes delinquent in the payment of assessments pursuant to the Declaration and Colorado

law. A receiver is a disinterested person, appointed by the court, who manages the rental of the property, collects the rent and disburses the rents according to the court's order. The purpose of a receivership for the Association is to obtain payment of current assessments, reduce past due assessments and prevent the waste and deterioration of the property.

16. Judicial Foreclosure. The Association may choose to foreclose on its lien in lieu of or in addition to suing an Owner for a money judgment. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or other circumstances favor such action. The Association shall consider individually each recommendation for a foreclosure and may only approve a foreclosure action after the delinquency equals or exceeds six months of common expenses assessments based on a periodic budget adopted by the Association. Such foreclosure shall be approved by resolution of the Board.

17. Waivers. The Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association shall determine appropriate under the circumstances.

18. Communication with Owners. All communication with a delinquent Owner shall be handled through the Association's attorney once a matter has been referred to the attorney. The Board of Directors shall not 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.

19. Communication by Owners. Owners may communicate with the Association in any manner they choose including email, text, fax, phone, or in writing, when available. However, in doing so, the Owner acknowledges that the Association and/or its agents may communicate via the same method unless otherwise advised.

20. Defenses. Failure of the Association to comply with any provision in this Policy shall not be deemed a defense to payment of assessment fees or other charges, late charges, interest, return check charges, attorney fees and/or costs as described and imposed by this Policy.

21. Definitions. Unless otherwise defined in this Policy, initially capitalized or terms defined in the Declaration shall have the same meaning herein.

22. Supplement to Law. The provisions of this Policy shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.

23. Deviations. The Board may deviate from the procedures set forth in this Policy if in its sole discretion such deviation is reasonable under the circumstances.

24. Amendment. This Policy may be amended from time to time by the Board of Directors.

**PRESIDENT'S
CERTIFICATION:**

The undersigned, being the President of the Association, certifies the foregoing Policy was adopted by the Board of Directors of the Association on _____ and in witness thereof, the undersigned has subscribed his/her name.

**CREEKSIDE I HOMEOWNERS'
ASSOCIATION**, a Colorado nonprofit
corporation

President