

## **DAKOTA WEST HOMEOWNERS ASSOCIATION COLLECTION OF UNPAID ASSESSMENTS POLICY**

**Policy.** This Policy supersedes all Collection Policies previously adopted by Dakota West Homeowners Association. It is vital to the effective administration of the Association that assessments and other charges be paid by Members in a timely manner. While a certain amount of bad debt is expected in any business, the Association must collect certain unpaid assessments to continue to serve the community well and efficiently. To perform these duties the Board needs to remain flexible in its approach to account for the unique facts and circumstances surrounding each delinquent payment.

### **Procedure:**

**Assessment Due Dates:** Assessments levied pursuant to the annual budget are due as determined by the Board of Directors and those due dates will be conveyed to homeowners via written statement of account. Assessments not paid within thirty (30) days after that due date will be considered past due and penalties will be assessed as below. Special and other types of assessments not levied pursuant to the annual budget are due as and when determined by the Board under the provisions of the Declaration.

**"Past Due" Assessments.** Any assessments not paid on or before March 1<sup>st</sup> of each year shall bear interest from the due date at a rate of 18% percent per annum. The fees charged will become due the date the assessment became due. These fees shall be added to the total delinquent amount and shall become a charge upon the land as provided in the Declaration.

**Suspension of Voting Rights.** The Association has the right to suspend the voting rights of a Member during any period when any assessment against a Member's Lot remains unpaid for thirty days or longer.

**Non-Sufficient Funds.** If an Owner should pay the Association by check and such check is returned because of the Owner's insufficient funds, the Owner shall, in addition to the amount owed and any late charges and interest, owe the Association all bank fees at the current rate to process the NSF and cure the default together with all other and further amounts due the Association under the provisions of Colorado Law, including without limitation C.R.S. § 13-21-109 [See C.R.S. §13-21-109]

**Payment Plans.** Except as provided here, the Association will make a good faith effort to coordinate with an Owner who has unpaid assessments to set up a payment plan with the following minimum terms: repayment of all unpaid assessments, late fees, interest, and other charges, costs, and expenses (including attorney fees) that may be included with any assessment as provided in C.R.S. §38-33.3-316.3, over a period of no fewer than six (6) months in equal installments. During the term of any repayment plan entered under this policy, the Owner shall keep current on all assessments that may come due. The Association has no obligation to coordinate a payment plan with an Owner that does not occupy their unit and acquired their unit either through default in a security interest encumbering the Unit, or foreclosure of the Association's assessment liens. Additionally, the Association has no obligation to coordinate a payment plan with an Owner with whom it has previously entered a payment plan under this policy, regardless of the outcome. [See C.R.S. §38-33.3-316.3 and C.R.S. §38-33.3-209.5]

**Application of Payments on Delinquent Accounts.** Payments made against balances owed on delinquent accounts shall be applied first to penalty fees, returned check fees, and other costs and expenses that may become a charge upon the land under the terms of the Declaration, and then to unpaid assessments beginning with the amounts left unpaid the longest and continuing in chronological order.

**Available Legal Remedies.** Subject to the provisions of this policy, the Association, acting through the Board, may initiate collection proceedings of any kind at any time after any assessment payment becomes past due, as defined above. The Board, in its sole discretion considering the relevant facts and circumstances may choose to bring an action at law against the Owner personally obligated to pay the same. In addition to the remedies described in this policy, the Board may pursue collection of unpaid assessments by any means authorized under Colorado law, as the same may exist from time to time.

**Collection Agencies/Lawyers.** Once an assessment has become past due, the Association may refer the past due assessments to a collection agency or lawyer for collection. The delinquent Owner will be liable for any fees or other expenses associated with referring the matter for collection. Such expenses will be added to all delinquent amounts and will become a charge upon the land, as provided in the Declaration. At least 30 days prior to referring the matter to a collection agency or lawyer, however, the Association shall first provide the involved Owner with a notice of delinquency, describing the amount due, indicating whether the owner is eligible for a payment plan under this policy and providing contact information for purposes of setting up such a plan, stating the name of the person from whom the Owner may obtain a copy of the ledger or other accounting statement indicating the amount due, and providing that a failure to act in response to the notice within 30 days may result in referral of the matter to a collections agency or a lawyer for collection, foreclosure of the Association's assessment lien or the pursuit of other remedies provided by law.

**ii. Lien.** No action shall be brought to foreclose an Assessment lien or to proceed under the power of sale provided in Article IV; less than thirty (30) days after the date a notice of claim of lien is deposited in the United States mail, certified or registered, postage prepaid, to the Owner of said Lot, and a copy thereof is recorded by the Association in the office of the County Recorder in the county the property is located.

Adopted on \_\_\_\_\_

Alice Peterson <sup>Date</sup> 8/29/18  
Board member Date

Neil Johnson <sup>Vice president</sup> 8/28/18  
Board member <sup>Member</sup> Date

Carol M. Ryan <sup>Secretary</sup> 8/24/18  
Board member Date