

# Owl Creek Homes Association, Inc.

a Colorado nonprofit corporation

## POLICY FOR THE COLLECTION OF ASSESSMENTS

Owl Creek Homes Association, Inc. (the "Association"), through its Executive Board (the "Board") and in accordance with the powers set forth in the Declaration for Owl Creek Homes (recorded December 5, 1996 with the Pitkin County Clerk & Recorder at Reception No. 399737), the Supplemental Declaration to the Declaration for Owl Creek Homes recorded June 17, 1997 at Reception No. 405476), and together with the Bylaws for Owl Creek Homes Association, Inc. and with the Colorado Common Interest Ownership Act (§ 38-33.3-101 C.R.S., *et seq*), hereby adopts the following Policy for the Collection of Assessments (this "Policy"). This Policy shall supersede and replace any assessment collection policies previously adopted by the Association. In accordance with the Declaration, this Policy shall govern the collection of Assessments by the Association. All capitalized terms used but not defined herein shall have the meaning set forth for such term in the Declaration.

1. Regular Payment of Assessments. Assessment payments are due on the first day of January (25%), April (25%), July (25%) and October (25%). Any Assessment payment not received within 30 days after such payment is due shall accrue interest as described herein.

2. Interest on Delinquent Assessments. Interest of one and one-half percent (1.5%) per month (18% per annum) will accrue on any delinquent Assessments.

3. Collection Costs. An Owner who is delinquent in the payment of Assessments shall be responsible for all collection costs associated with the Association's collection of delinquent and unpaid Assessments including administrative charges, attorneys' fees, late fees interest charges and all other expenses related to collection (collectively, the "Collection Costs"). Any Association lien for delinquent Assessments shall include the collection costs associated with such delinquent amounts. A \$500 administrative charge for the 1st lien and \$100 per lien update thereafter, may be assessed the Owner at the time of filing/recording the lien in order to cover the Association's collection costs.

4. Application of Payments. Any payments received by the Association shall be applied first to any fees and costs owed on the account, then to lien, service and late fees owed on the account, then to interest charges on the account, and last to payment of outstanding principal Assessment amounts owed beginning with the oldest outstanding assessments due. In accordance with the Declaration, failure to pay assessments may also result in the Board electing to accelerate the installment obligation of any regular assessment.

5. Payment Plan. Any Owner who becomes delinquent in payment of assessments, or other fees and charges owed to the Association, after January 1, 2015, and whose account is not currently with the Association's attorney or a collection agency for collection action on January 1, 2015, may enter into a payment plan with the Association, which plan shall be for a term of at least six (6) months or such longer term as may be approved by the Executive Board. 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. The Owner may contact the Association's manager and/or bookkeeper during regular business hours in order to request a copy of the Owner's account ledger: Mike George at (970) 923-3232, ext. 4959.

6. Collection Procedures/Time Frames. The following time frames shall be used in the collection of monthly installments of the annual assessment and other charges:

- Due Date (date payment due): 1<sup>st</sup> day of the month due;
- Past Due Date (date payment is late if not received on or before that date, interest and late fees added): 30<sup>th</sup> day of the month;
- First Notice: Any time following 15 days after due date (the notice shall include the disclosures required by C.R.S. 38-33.3-209.5(5)(e), the availability and terms of a payment plan, and the amount of the assessment that is due, including late charges and interest);
- Second Notice (notice that late charges and interest have accrued): Any time after 45 days after due date;
- Notice of Intent to Lien: Any time following 60 days after due date;
- Third Notice (notice that late charges and interest have accrued): Any time following 70 days after due date;
- Delinquent account turned over to Association's attorney; Lien filed; Demand letter sent to Owner: Any time following 90 days after due date.

7. Acceleration and Deceleration of Assessments. The Board reserves the right to accelerate and call due the entire unpaid annual assessment on any delinquent account including such assessments that may become due during the pendency of a payment plan as described above. Such acceleration shall result in the entire unpaid annual assessment being due to the Association immediately. The Board also reserves the right to decelerate any accelerated assessment.

8. 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 (6) months of common expenses assessments. Such foreclosure shall be approved by a resolution of the Executive Board of the Association.

9. Assessment Lien. In accordance with Colorado law, the Association shall have a lien against a Unit for any unpaid Assessments by the Owner of such Unit. In addition, the Association may also record a statement of lien against a Unit at any time any assessment, fee or charge is overdue; provided, however, the Association's failure to record a statement of lien shall not affect the Association's Assessment lien, or otherwise waive any rights of the Association with respect to such delinquent Assessments (in accordance with state law). The Board may from time to time vary from the requirements set forth in this policy if the Board

determines in its sole discretion that such variance is reasonable under the circumstances. Any variance granted will not be considered to be a waiver of this policy.

10. Suspension of Voting Rights. The voting rights in the Association of any Owner more than one month delinquent in assessments shall be suspended until such a time as the Owner's account is brought current. In addition, the ability to serve on the Board and/or Board Committees shall be suspended until such time as the Owner's account is brought current, unless an alternative arrangement has been agreed to by the Board.

11. Association Rights. Subject to Section 5 & 6, above, and at any time after Assessments are delinquent, the Executive Board may initiate a foreclosure action, lawsuit against the delinquent Owner, or take any other collection action permitted by this Policy, the Declaration and/or applicable laws.

12. Assessment Security Deposit. In the event Assessments are delinquent for more than three (3) months, the Board may, in its sole discretion, require that such delinquent Owner repay the outstanding Assessments owed, plus an amount equal to the estimated Assessments for the remaining period of the fiscal year during which the delinquency occurred (such additional amount referred to herein as an "Assessment Security Deposit"). The Association shall hold the Assessment Security Deposit in an interest bearing account and shall have the right, but not the obligation, to draw upon such account from time to time to recover any delinquent Assessments. The Assessment Security Deposit shall not be deemed a pre-payment of Assessments and the Association shall be entitled to pursue any and all collection rights with regard to delinquent Assessments, regardless of whether the Association has received an Assessment Security deposit from such delinquent Owner.

13. Acceptance of Terms. Each Owner, by purchasing a Unit, shall be deemed to have agreed to the terms and conditions of this Policy and this policy shall apply to all Owners regardless of when such Owners purchased a Unit.

14. Resolution of Disputes. Any disputes regarding assessments shall be resolved by the Executive Board in a hearing open to members of the Association.

15. Severability. If any provision of the Policy is deemed to be invalid or unenforceable or is prohibited by applicable laws, this Policy shall be considered divisible as to such provision and such a provision shall be deemed inoperative. The remaining provisions of the Policy shall be valid and binding and the like effect as though such provision were not included.

Adopted on \_\_\_\_\_, 2015, by the Executive Board of Owl Creek Homes Association, Inc. to be effective \_\_\_\_\_, 2015.