

# THE ONE PEARL HOMEOWNER'S ASSOCIATION, INC.

## COLLECTION POLICY

Adopted February 12, 2009

The following resolution has been adopted by One Pearl Homeowner's Association, Inc. (the "Association") pursuant to Colorado law, at a regular meeting of the Board of Directors.

### RECITALS

- A. The Association is charged with certain responsibilities regarding the care, maintenance and service of certain portions of the units and common elements.
- B. The Association must have the financial means to discharge its responsibilities.
- C. The Board of Directors has a responsibility to pursue collection of assessments and other charges from Owners pursuant to One Pearl Homeowner's Association's Declaration ("Declaration") and the By Laws of the Association.
- D. The Board of Directors of the Association desires to adopt a uniform and systematic procedure to collect assessments and other charges of the Association.
- E. The Board of Directors believes that 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.

NOW, THEREFORE, BE IT RESOLVED that the Association does hereby adopt the following procedures and policies for the collection of assessments and other charges of the Association:

1. Due Dates. The monthly installments of the annual assessment as determined by the Association and as allowed for in the Declaration shall be due and payable on the 1<sup>st</sup> day of each month. Assessments or other charges not paid in full to the Association within 20 days of the due date shall be considered past due and delinquent. Assessments or other charges not paid in full to the Association within 20 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 unit shall also be charged any costs incurred by the Association in giving notice of such acceleration.
2. Receipt Date. The Association shall post payments within 3 days of receipt in the Association's offices.
3. Late Charges on Delinquent Installments. The Association shall impose on a monthly basis a \$25 late charge for each Owner who fails to timely pay his/her monthly

installment of the annual assessment within 20 days of the due date. This late charge shall be a “common expense” for each delinquent Owner. The Association shall impose interest from date due at the rate of 18% per annum on the amount owed for each owner who fails to timely pay their monthly installments of the annual assessment within 121 days of the due date.

4. Personal Obligation For Late Charges. The late charge shall be the personal obligation of the Owner(s) of the unit for which such assessment or installment is unpaid. All late charges 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 \$25 fee or other amount deemed appropriate by the Board of Directors 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 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 unit 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 monthly installment of the annual assessment is not timely made within 20 days of the due date.
6. 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.
7. 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 to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late charges, 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.

8. Collection Process.

- a. After an installment of an annual assessment or other charges due to the Association becomes more than 20 days delinquent, the manager is directed to send a written notice (“First Notice”) of non-payment, amount past due, notice that interest and late fees have accrued and request for immediate payment
- b. After an installment of an annual assessment or other charges due to the Association become more than 50 days delinquent, the manager is directed to send a second written (“Second Notice”) of non-payment, amount past due, notice that interest and late fees have accrued, and request for immediate payment.
- c. After an installment of an annual assessment or other charges due to the Association become more than 80 days delinquent, the manager is directed to send a third written notice (“Third Notice”) of non-payment, amount past due, notice that interest and late fees have accrued, notice of intent to file a lien and request for immediate payment.
- d. After an installment of an annual assessment or other charges due to the Association becomes more than 110 days delinquent, the Manager is directed to file lien and turn the account over to the Association’s attorneys for collection. Upon receiving the delinquent account, the Association’s attorneys shall 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’s may file a summons and complaint with the court of jurisdiction. 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.
- e. In addition to the steps outlined above, the Association may also elect to suspend the voting rights of any Owner whose account is past due at the time of such voting.

1. Acceleration and Deceleration of Assessments. The Board reserves the right to accelerate and call due the entire unpaid annual assessment on any delinquent account. Such acceleration shall result in the entire annual assessment being due to the Association immediately. The Board also reserves the right to decelerate any accelerated assessment. [This is document specific.]

2. Collection Procedures/Time Frames. The following time frames shall be followed for use in the collection of monthly installments of the annual assessment and other charges.

Due date (date payment due)	<u>1st</u> day of the month due
Past due date (date payment is late If not received on or before that date).	<u>21<sup>st</sup></u> day after due date
First Notice (notice that late charges And interest have accrued).	<u>21</u> days after due date
Second Notice (notice that late charges And interest have accrued, request for Immediate payment).	<u>51</u> days after due date
Third Notice (notice that late charges And interest have accrued, notice of Intent to file lien)	<u>81</u> days after due date
Delinquent account turned over to Association's attorney; Lien filed; Demand letter sent to Owner.	<u>111</u> days after due date

The attorney is to consult with the Association at all times, to determine if payment has been arranged or what collection procedures are appropriate.

3. 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 \$25 fee. However, if the account has been turned over to the Association's attorney, such request shall be handled through the attorney.
4. 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 unit within the Association, the Manager shall advise the Association's attorney of the same and turn the account over to the Association's attorney.
5. Use of Certified Mail/Regular Mail. In the event the Association shall cause a collection or demand letter or notices to be sent to a delinquent Owner by regular mail, the Association may also cause, but shall not be required to send, an additional copy of that letter or notice by certified mail.

6. Referral of Delinquent Accounts to Attorneys. Upon referral to the Association's attorneys, the attorneys 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. The attorney is authorized to take whatever action is necessary, in consultation with the President of the Board of Directors, believed 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;
  - c. Filing necessary claims, documents, and motions in bankruptcy court in order to protect the Association's interests;
  - d. File 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.

Upon referral of any matter to the Association's attorney, the Manager, acting on behalf of the Association, shall pay the Association's attorneys their usual and customary charges as well as any costs incurred by the attorney on the Association's behalf, promptly upon receipt of the monthly invoice from the attorney.

7. 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.
8. Judicial Foreclosure. The Association may choose to foreclose on its lien in lieu of or in addition to suing an Owner in county court 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.
9. 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.
10. Notification to and Communication with Owners. The Association shall, upon request, provide all Owners with a copy of this Resolution which shall become effective upon its adoption. All communication with a delinquent Owner shall be handled through the Association's attorney once a matter has been referred to the attorney. Neither the Manager nor any member of the Board of Directors shall 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.

11. Ongoing Evaluation. Nothing in this Resolution shall require the Association to take specific actions other than to notify the Owners of the adoption of these policies and procedures. Once an Owner's account is turned over to the Association's attorney, all communication regarding the account must be made through the attorney. However, the Association has the option and right to continue to evaluate each delinquency on a case by case basis.
12. Defenses. Failure of the Association to comply with any provision in this Collection Policy shall not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this Collection Policy.
13. Amendment. This Collection Policy may be amended from time to time by the Board of Directors.

ONE PEARL HOMEOWNER'S ASSOCIATION, INC.


By:


Its: President

 Travis Mutha

ATTEST:

By:  Glen Papantonio Its: Vice President

By:  Hai Nguyen Its: Treasurer

By:  Justin Beck Its: Secretary