

RESOLUTION 20_03_13
OF
HIGHLANDS RANCH COMMUNITY ASSOCIATION, INC. REGARDING
COLLECTION POLICY

SUBJECT: Adoption of a revised Collection Policy in accordance with C.R.S. § 38-33.3-209.5, superseding the policy approved by Resolution 19-07-01.

PURPOSE: To provide notice of the Association's adoption of a revised uniform and systematic procedure to collect assessments that includes additional notice of late accounts for impacted owners.

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

EFFECTIVE DATE: March 23, 2020

RESOLUTION:

WHEREAS, the Board of Directors determined the need to update the Association's Collection Policy previously adopted by Resolution 19-07-01, effective August 20, 2019.

NOW THEREFORE, BE IT RESOLVED, the Board of Directors takes the following action:

1. The Collection Policy attached to this Resolution as Exhibit A is adopted as the Association's Collection Policy, superseding it its entirety the Collection Policy previously adopted by Resolution 19-07-01, effective August 20, 2019.
2. Except as expressly amended by this Resolution, the governing documents of the Association remain unchanged.

PRESIDENT'S CERTIFICATION:

The undersigned, being the President of Highlands Ranch Community Association, Inc., a Colorado nonprofit corporation, certifies that the foregoing Resolution was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on March 23, 2020 and in witness thereof, the undersigned has subscribed his/her name.

**Highlands Ranch Community
Association, Inc.,**
a Colorado nonprofit corporation

By: 
Its: President

**HIGHLANDS RANCH COMMUNITY ASSOCIATION, INC.
COLLECTION POLICY**

Adopted March 23, 2020

The following procedures have been adopted by Highlands Ranch Community Association, Inc. ("Association) pursuant to C.R.S. 38-33.3-209.5, at a regular meeting of the Board of Directors.

Purpose: To establish a uniform and systematic procedure for collecting assessments and other charges of the Association, thus ensuring the financial well-being of the Association.

Collection Philosophy: All Members are obligated by the Community Declaration for Highlands Ranch Community Association, Inc. ("Declaration") to pay all dues and assessments in a timely manner. Failure to do so jeopardizes the Association's ability to pay its bills. Failure of members to pay assessments in a timely manner is also unfair to other members who do. Accordingly, the Association, acting through the Board of Directors, must take steps to ensure timely payment of assessments.

NOW, THEREFORE, IT IS 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 annual Common Assessments based solely on AFCAs ("Administrative Function Common Assessments") that do not include RFCAs ("Recreation Function Common Assessments") shall be due and payable on the first (1st) day of each January. Common Assessments including both AFCAs and RFCAs shall be due and payable in equal installments due on the first (1st) day of each January, April, July and October. Special assessments, individual purpose assessments and reimbursement assessments may be assessed or made from time to time by the Association in accordance with the Declaration and are due and payable as determined by the Board. All assessments or other charges not paid to the Association when due shall be considered past due and delinquent.
2. Late Fees and Interest/Finance Charges. The Association shall be entitled to impose a late fee of thirty-five dollars (\$35.00) on any quarterly installment of Common Assessments that include both AFCA and RFCA, or any other charge not received within thirty (30) days of its due date except as provided herein. The Association shall be entitled to impose a late fee of thirteen dollars (\$13.00) on any annual installment that is AFCA only not received within thirty (30) days of its due date. Any Common Assessment or installment of any assessment which is not received within thirty (30) days after the date of any notice of default given to the owner and prior to the recording of a lien, shall bear interest/finance charges at the rate of eight (8%) percent per annum from the date any lien is recorded. All such fees and interest shall be due and payable immediately, without notice, in the manner provided for payment of assessments.
3. Acceleration. If any assessment or any installment thereof is not received within thirty (30) days after its due date, the Association may cause the balance of the assessment or the installments of

the assessments for the then current calendar year to become immediately due and payable at the option of the Board of Directors in accordance with Section 8.35 of the Declaration.

4. Return Check Charges. A twenty-dollar (\$20.00) fee shall be assessed against an owner in the event any check or other instrument attributable to or payable for the benefits 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. 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 of the unit for which payment was tendered to the Association. If two or more of an owner's checks are returned unpaid by the bank within any twelve (12) month period, 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.
5. Attorneys' Fees and Collection Costs on Delinquent Accounts. The Association shall be entitled to recover from an owner its reasonable attorneys' fees and collection costs, including any costs of collection charged by the Association's management company, incurred in the collection of assessments or other charges due, whether or not a lawsuit had been initiated against the owner. The Association shall be entitled to recover its post-judgement and appellate attorneys' fees and costs incurred from the owner.
6. No Offsets. No owner may be exempt from liability for payment of any assessment or other charge for any reason, including but not limited to, the abandonment of the unit against which the assessment or charge is made. All assessments shall be payable in the amounts specified and not offsets or reduction shall be permitted for any reason including, without limitation, any claim that the Association or Board of Directors is not properly exercising its duties and powers under the Declaration.
7. Application of Payments Made to the Association. The Association reserves the right to apply all payments received on account of any owner first to the payment of any and all legal fees and costs (including attorneys' fees), then to costs and expenses of enforcement and collection, late charges, interest, returned check charges, lien fees, and other costs owing or incurred with respect to such owner, and any remaining amounts shall be applied to the assessments or other charges due with respect to such owner. The Association has the discretion to return any payment containing a restrictive endorsement or directing application of payments contrary to this provision. For purposes of collecting an outstanding judgement, the Association may, but shall not be required to, first apply payments received following entry of a judgement towards post-judgement attorneys' fees and costs and/or assessments and other charges coming due following the entry of the judgement.
8. Offer of Payment Plan. Subject to the following requirements and conditions, prior to turning an account over to a collection agency or attorney for collections, the Association shall offer a payment plan to any owner and make a good faith effort to coordinate a payment plan with the owner:
 - a. The payment plan must allow the owner the right to pay off the delinquency in equal installments over a period of at least six (6) months;
 - b. No payment plan need be offered if the owner does not occupy the unit and has acquired the unit as a result of:

- i. a default of a security interest encumbering the unit; or
 - ii. foreclosure of the Association's lien;
 - c. The Association is not required to offer a payment plan or negotiation such a plan with an owner who has previously entered into a payment plan with the Association;
 - d. The owner's failure to remit payment of an agreed-upon installment, or to remain current with regular assessments as they come due during the period of the payment plan, constitutes a failure to comply with the terms of the payment plan.
 - e. The Association may pursue legal action against the owner if the owner fails to comply with the terms of the payment plan.
- 9. First Notice of Delinquency. After an installment of an assessment or other charge becomes thirty (30) days delinquent, and before the Association turns the delinquent account over to a collection agency or refers it to the Association's attorneys for legal action, the Association shall cause a Notice of Delinquency to be sent to the owner who is delinquent in payment ("First Notice"). The First Notice shall specify the following:
 - a. the total amount due;
 - b. contact information for payments;
 - c. of any late fee and/or finance charge that has been assessed to the account;
 - d. that the owner's recreation center access has been suspended until the delinquency has been cured; and
 - e. that failure to cure the delinquency within fifteen (15) days may result in further actions by the Association.
- 10. Second Notice of Delinquency. After the deadline set forth in the First Notice expires, and before the Association turns the delinquent account over to a collection agency or refers it to the Association's attorneys for legal action, the Association shall cause a Second Notice of Delinquency to be sent to the owner who is delinquent in payment ("Second Notice"). The Second Notice shall specify the following:
 - a. the total amount due; with an accounting of how the amount was determined;
 - b. whether an opportunity to enter into a payment plan exists and the instructions for contacting the Association or its manager to enter into such a payment plan;
 - c. the name and contact information for the person the owner may contact to request a copy of the owner's ledger in order to verify the amount owed;
 - d. that action is required to cure the delinquency and the specific action required to cure the delinquency;
 - e. that failure to cure the delinquency within thirty (30) days may result in acceleration of the balance of the Assessment or the installments of the Assessment for the then calendar year, the delinquent account being turned over to a collection agency or the Association's attorney, a lawsuit being filed against the owner, the filing and foreclosure of a lien against the owner's unit, or other remedies available under Colorado law; and
 - f. of any right to cure the default after acceleration and of any right to bring a court action to assert the nonexistence of a default or any other defense of the Member.
- 11. Additional Notices of Delinquency. The Association may, but shall not be required to, send additional notices to the owner, either before or after the First and Second Notices of Delinquency

set forth above, for as long as amounts remain past due on the owner's account. However, the Association is only required to send one First and Second Notice of Delinquency provided for in Paragraphs 9 and 10 of this policy.

12. **Notices.** Any notices shall be mailed to the owner via U.S. regular mail at the unit address unless the owner has given notice, in writing, to the Association of an alternate address. The Association may, but shall not be required to, send notices via certified mail. If an owner had provided written notification to the Association of a valid email address, the Association may, but shall not be required to, also send notices to the owner via email transmission.

13. **Liens.** If payment in full of any assessment or other charge is not received by the deadline stated in the Second Notice of Delinquency, the Association may cause a notice of lien to be filed against the unit. The lien shall include assessments, fees, charges, late charges, attorneys' fees, fines, interest and other charges pursuant to C.R.S. 38-33.3-316(1).

14. **Referral of Delinquent Accounts to Attorneys.** After the deadline stated in the Second Notice of Delinquency has expired, the Association may, but shall not be required to refer delinquent account over to a collection agency or refer it to the Association's attorney for legal action. Upon referral to the 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. All communications and payments must come through the attorneys' office after the account has been referred to the attorney. All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney. The attorneys shall be entitled to exercise all available remedies to collect the amounts due, including judicial foreclosure and appointment of a receiver of the owner's property.

Collection Timeframe Chart	
AFCA and RFCA Due Date	1st day of each January, April, July and October.
AFCA only	1st day of each January.
AFCA and RFCA Past Due and Delinquent	2nd day of each January, April, July and October.
AFCA only	2nd day of each January.
First Notice of Delinquency	Any time after 30 days from the Due Date.
Late Fee Assessed	\$35.00 on any assessment or other charge not received within thirty (30) days of its Due Date. \$13.00 on an AFCA only assessment.
Interest/Finance Charges Assessed	8% per annum from the date any lien is recorded.
Second Notice of Delinquency	Any time after the expiration of the First Notice of Delinquency.
Delinquent account turned over to a collection agency or referred to the Association's attorneys for legal action.	Any time after the expiration of the Second Notice of Delinquency.

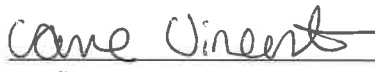
15. Foreclosure of Liens. Notwithstanding any provision of this policy to the contrary, the Association may only foreclose its lien if:
- a. The balance of the assessments and charges secured by the lien equals or exceeds six (6) months' worth of regular assessments based on the periodic budget adopted by the Association; and
 - b. The Board of Directors has formally resolved, by a recorded vote, to authorize the filing of a legal action against the specific unit on an individual basis.
16. Waivers. Nothing in this policy shall require the Association to take a specific action(s) other than to notify owners of the adoption of this policy. The failure to provide notice to an owner in accordance with the provisions of this policy, with the exception of the offer of a payment plan if applicable, shall not constitute a defense or condition precedent to any action to collect the debt. The Association has the option and right to continue to evaluate each delinquency on a case-by-case basis. The Association may grant a waiver of any provision herein upon petition in writing by an owner showing a personal hardship. Such relief granted an owner shall be appropriately documented in the files with the name of the person or persons representing the Association granting the relief and the conditions of the relief. In addition, 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 may determine appropriate under the circumstances, except as may be prohibited by Colorado law. Failure of the Association to comply with any provision in this policy shall not be deemed a defense to payment of the assessment fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this policy.
17. Order of Remedies. Subject to the restriction contained in the Foreclosure of Lien Paragraph above, the Association may pursue any actions or remedies, including, but not limited to, actions for personal judgement, foreclosure or receivership (on an *ex parte* basis or otherwise and for purposes of collecting the lien balance coming due to the association both pre-judgement and post-judgement in any judicial proceedings), to collect amounts owed in any order, and in the case of a foreclosure by the holder of another security interest in the owner's property, may immediately proceed to file actions for personal judgement, foreclosure or receivership (on an *ex parte* basis or otherwise) without the necessity of following the procedures set forth above.
18. Bankruptcies and Foreclosures. Upon receipt of any notice of a bankruptcy filing by and owner, or upon receipt of a notice of a foreclosure by any holder of an encumbrance against any unit withing the Association, the Association shall notify the Association's attorney of the same and turn the account over to the Association's attorney, if appropriate.
19. Severability. If a provision of this policy is or becomes illegal, invalid or unenforceable, that shall not affect the validity or enforceability of any other provision if this policy.
20. Superseding Previous Policies. This policy shall replace and supersede any previous rules and regulations or policies of the Association addressing the collection of assessments.

Highlands Ranch Community Association, Inc.

By: 
President

This Collection Policy was adopted by the Board of Directors on the 23 day of

March, 2020, effective the _____ day of _____, 2020 and is
attested to by the Secretary of Highlands Ranch Community Association, Inc.

By: 
Secretary