

WEST FORK VILLAGE OWNERS ASSOCIATION, INC.

COLLECTION POLICY AND PROCEDURE

Adopted Feb. 13, 2014, 2014

The following policy and procedure has been adopted by the West Fork Village Owners Association, Inc. (the "Association"), pursuant to the Colorado Common Interest Ownership Act (C.R.S. §28-33.3-101 et al), other pertinent Colorado laws and statutes, the Declaration of Covenants, Conditions, Restrictions of West Fork Village recorded on October 22, 2002, at Reception No. 2998232 at the Weld County Clerk and Recorder's office (the "Declaration"), the Bylaws for the Association and other governing documents, to establish a policy and procedure for collection of unpaid assessments of the Association.

- 1. Due Date.** The annual assessment as determined by the Board of Directors for the Association ("Board") and as allowed for in the Declaration and Colorado Statutes shall be due and payable in monthly installments due on the first day of each month. Assessments or other charges not paid to the Association by the 10th day of each month shall be considered past due and delinquent.
- 2. Late Charge and Interest Imposed.** If a monthly assessment is not paid by the 10th and 30th day of each month, the Board shall assess a Late Charge of thirty dollars (\$30.00) for that month's assessment. The Board, at its option, may waive an Owner's Late Charges if the Owner enters into a payment plan pursuant to Section 10 below.
- 3. Returned Check Charges.** In addition to any and all charges imposed under the Declaration, Colorado Statutes, or this policy and procedure, a fifty dollar (\$50.00) fee or other amount deemed appropriate by the Board shall be assessed against an Owner in the event any check, or authorization for direct payment from an Owner's checking or savings account, 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. Such returned check charge or insufficient funds 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 and or insufficient funds charges shall be the obligation of the Owner(s) of the property for which payment was tendered to the Association. Returned check charges and insufficient funds charges shall be effective on any instrument tendered to the Association for payment of sums due under the Declaration, Colorado Statutes, Rules and Regulations or this policy and procedure.
- 4. Attorney Fees on Delinquent Accounts.** As an additional expense permitted under the Declaration and Colorado Statutes, 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, upon demand, and shall be charged as an assessment against the Owner's account.

5. **Application of Payments made to the Association**. All payments received on the account of any Owner shall be applied in the following order:
- (a) Any and all attorney fees, legal fees and costs incurred for delinquent collection of assessments or for Owner's failure to comply with provisions of the Association's Declaration, Bylaws, Articles of Incorporation, or Rules and Regulations, including lien fees;
 - (b) Fines, late charges and interest;
 - (c) returned check charges, or insufficient funds charges and other costs owing or incurred with respect to such Owner pursuant to the Declaration, Colorado statutes, Rules and Regulations, or this policy and procedure; and
 - (d) Assessments due or to become due with respect to each Owner.
6. **Collection Letters**. Before the Association may turn over a delinquent account of an Owner to a collection agency or refer it to an attorney for legal action (except as provided herein), the Association must send to Owner a notice of delinquency specifying:
- (a) The total amount due, with an accounting of how the total was determined;
 - (b) Whether the opportunity to enter into a payment plan exists pursuant to C.R.S. 38-33.3-316.3 and instructions for contacting the Association to enter into such a payment plan;
 - (c) The name and contact information for the individual the Owner may contact to request a copy of the Owner's ledger to verify the amount of the debt; and
 - (d) That action is required to cure the delinquency and that a failure to cure the delinquency within thirty (30) days may result in the Owner's delinquent account being turned over to a collection agency or law office, a lawsuit being filed against the Owner, the filing of a foreclosure of the lien against the Owner's property, or other remedies under Colorado Law.
7. **Referral of Delinquent Accounts to Attorneys**. The Board may, but shall not be required to, refer delinquent accounts to its attorneys for collection. Upon referral to the attorneys, the attorneys shall take all appropriate action to collect the accounts referred, including sending a demand notice, recording of a Notice of Assessment Lien against the property, filing of a lawsuit for collections, or filing and foreclosing of a lien against the Owner's property, or any other remedies available under Colorado Law. 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 payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney. The Board at their discretion may garnish the wages or bank account of a delinquent Owner through the attorney for the Association.
8. **Appointment of a Receiver**. The Board may seek the appointment of a receiver if an Owner becomes delinquent in the payment of assessments. A receiver is a disinterested person, appointed by the court that 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.

9. **Judicial Foreclosure.** The Association's lien may be foreclosed in like manner as a mortgage on real estate; except that the Association or a holder or assignee of the Association's lien, whether the holder or assignee of the Association's lien is an entity or a natural person, may only foreclose on the lien if:

- (a) The balance of the assessments and charges secured by its lien equals or exceeds six months of common expense assessments based on a periodic budget adopted by the Association; and
- (b) The executive board of the Association has formally resolved, by a recorded vote, to authorize the filing of a legal action against the specific property on an individual basis. The board may not delegate its duty to act under this subparagraph (b) to any attorney, insurer, manager, or other person, and any legal action filed without evidence of the recorded vote authorizing the action must be dismissed. No attorney fees, court costs, or other charges incurred by the Association or a holder or assignee of the Association's lien in connection with an action that is dismissed for this reason may be assessed against the Owner.

10. **Payment Plan.**

- (a) The Association must make a good -faith effort to coordinate with the Owner to set up a payment plan that meets the requirements of this Section 10; except that:
 - (i) This section does not apply if the Owner does not occupy the property and has acquired the property as a result of:
 - (A) A default of a security interest encumbering the home ; or
 - (B) Foreclosure of the Association's lien; and
 - (ii) The Association or a holder or assignee of the Association's debt is not obligated to negotiate a payment plan with an Owner who has previously entered into a payment plan under this Section.
- (b) A payment plan negotiated between the Association or a holder or assignee of the Association's debt, whether the holder or assignee of the Association's debt is an entity or a natural person, and the Owner pursuant to this Section 10 must permit the Owner to pay off the deficiency in equal installments over a period of at least six (6) months. Nothing in this Section 10 prohibits the Association or a holder or assignee of the Association's debt from pursuing legal action against an Owner if the Owner fails to comply with the terms of his or her payment plan 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 six - month period, constituting a failure to comply with the terms of his or her payment plan.
- (c) For purposes of this section, "assessments" and "debt" includes regular and special assessments and any associated fees, charges, late charges, attorney fees, fines, and interest charged pursuant to C.R.S § 38- 33.3 - 315(2).

11. **Waivers.** The Board 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 Board granting the relief and the conditions of the relief.



12. **Ongoing Evaluation.** Nothing in this policy shall require the Board to take specific actions at a specific time but the Board shall not take any action in less than the times stated herein for a particular action. The Board has the option and right to continue to evaluate each delinquency on a case by case basis.
13. **Notice of Action.** Any First Mortgage and any Agency which holds, insures or guarantees a First Mortgage, upon written request to the Association (which shall include the Agency's name and address and the Unit number), will be entitled to timely written notice of: Any delinquency in the payment of Assessments owed by a Unit Owner subject to the Mortgage where such delinquency has continued for a period of sixty (60) days. (The Association's Declarations pages 30, 31 paragraphs 16.4 & 16.4.4)
14. **Conflict.** In the event that there is a conflict between the provisions in this collection policy and procedure and the Colorado Statutes, the provisions of the Colorado Statutes shall apply and this collection policy and procedure will be deemed to be amended to comply with the provisions of the Colorado Statutes.

PRESIDENT'S CERTIFICATION:

The undersigned, being the President of the West Fork Village Owners Association, Inc., a Colorado non-profit corporation, certifies that the foregoing policy and procedure was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on February 13, 2014, and in witness thereof, the undersigned has subscribed his/her name

WEST FORK VILLAGE OWNERS ASSOCIATION, INC.,
A Colorado non-profit corporation

By: Jar Wahl
President.

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Steve Moreno, Clerk and Recorder, Weld County, CO



Attest:

Catherine C. Bohanna
Secretary