

Spyglass

REGARDING POLICY AND PROCEDURES FOR COLLECTION OF UNPAID ASSESSMENTS

The Spyglass Association has adopted the following procedures as an addendum to the Bylaws at a regular meeting of the Board of Directors

The Board had retained an attorney with experience in representing homeowner associations in collections and other matters. The Association hereby gives notice of the adoption of the following policies and procedures for the collection of assessments and other charges.

- 1. Due Dates: The annual assessment as determined by the Association and as allowed for in the Declaration shall be due and payable annually on the 1st day of every month. Assessments or other charges not paid in full to the Association by the end of that month shall be considered past due and delinquent and shall incur late fees and interest as provided below.**
- 2. Receipt Date: The Association shall post payments on the day the payment is received in the Managers office.**
- 3. Late Charged deemed by the Association: The Association shall impose on a monthly basis a late fee for each owner who fails to pay the annual assessment by the end of that month. This late fee shall be a "common expense" for each delinquent owner. Additionally, the Association shall charge interest 4 points above prime rate not to exceed 21% per annum.**
- 4. Personal obligation for Late Charges: The late charge shall be the personal obligation of the Owner(s) of the property for which such assessment or installation is unpaid. All late charges shall be due and payable immediately, without notice, in the manner provided by 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 Rule and Regulations of the Association or this Policy, a \$25.00 return check fee, 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 no honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to insufficient funds. This returned check charge shall be a "common expense" for each owner who tenders payment by**

check or another instrument which is not honored by the bank upon which it is drawn. Such return check charge shall be due and payable immediately, upon notice to the owner. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. Returned check charges shall be obligation of the Owner(s) 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. 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 the Owners future payments, for a period of three (3) years, be made by certified check or money order. This return check charge shall be in additions to any late fees or interest incurred by the Owner.

6. **Services fees:** In the event the Association incurs nay type of service fee, regardless of what it is called, for the handling and processing of delinquent accounts on a per account basis, such fees will be the responsibility of the Owner(s).
7. **Payment Plan:** Any Owner who becomes delinquent in payment of assessments after December 15, 2017 and whose account is not currently with the Associations attorney or a collection agency, may enter into a payment plan with the Association. This plan shall be for a minimum term of six (6) months or such other term as may be approved by the 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, the Association may, without additional notice, refer the delinquent account to an attorney or collection agency or may take such other action as it deems appropriate.
8. **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.
9. **Application of Payments:** All sums collected on a delinquent accout shall be remitted to the Associations Attorney until the account is brought current. All payments received on account of an Owner or the Owners property shall be applied in the following manner:

- a. First, to any and all legal fees and costs, including attorney fees.
- b. Second, to expenses of enforcement and collection, interest, late charges, returned check charges, lien fees, and other costs owing or incurred with respect to such Owner, pursuant to the Declaration, Articles, Bylaws, and Rules and Regulations.
- c. Third, to amounts reduced to judgement.
- d. Fourth, to unpaid Assessments applied to the oldest balance first.
- e. Fifth, to current Assessments.

10. Collection Process:

- a. After an installment of an annual assessment or other charges due to the Association becomes more than 30 days' delinquent, the management company shall 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. The Associations notice, at a minimum shall include the following:
 1. The total amount due to the Association along with an accounting of how the total amount was determined.
 2. Whether the Owner may enter into a payment plan and instructions for contacting the Association to arrange for the payment plan.
 3. A name and contact information for an individual owner may contact to request a copy of the Owners ledger in order to verify the amount of the debt.
 4. A Statement indicating that action is required to cure the delinquency including:
 - a. Notice that failure to do so within thirty days may result in the Owners delinquency account being turned over to an attorney, a collection agency, the filing of a lawsuit against the Owner, appointment of a receiver, the filing and foreclosure of a lien against the Owners property, or other remedies available under the Declaration, Bylaws and Colorado Law.
 - b. After an installment of an annual assessment or other charges due to the Association becomes more than 60 days' delinquent, the management company shall send a second written notice ("second notice") of non-payment, amount past due and notice that interest and late fees have accrued, notice of intent to file a lien and request for immediate payment.
 - c. After an installment of an annual assessment or other charges due to the Association becomes more than 90 days' delinquent, the management company shall turn the account over to the Associations attorney for collection.

Upon receiving the delinquent account, the Associations attorney may file a lien and send a letter to the delinquent Owner demanding immediate payment for past due assessments or other charges due. Upon further review, the Associations attorney may file a lawsuit. If a judgement or decree is obtained, including without limitation a foreclosure action, such judgement or decree shall include reasonable attorney's fees together with the cost of the action and any applicable interest and late fees.

11. 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.

12. Collection Procedures/Time Frames: The Following time frames shall be used in the collection of the annual assessment and other charges. The attorney is to consult with the Associations as necessary to determine if payment has been arranged or what collection procedures are appropriate.

Due Date	1 st Day of the Month due
Past Due Date	1 st Day of the next month
"First Notice "Date	Any time after the Past due date
"Second Notice "Date	Any time 60 days after the due date
Attorney turnover Date	Any time 90 days after the due date
Date lien to be filed	Within 30 days of Attorney turnover
Demand letter	Within 30 days of Attorney turnover

13. 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 Associations agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owners property for a reasonable fee. However, if the account has been turned over to the Associations attorney, such request may be handled through the attorney.

14. 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 property within the Association, the management company shall notify the Associations attorney of the same and turn the account over to the Associations attorney.

15. 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.

16. Referral of Delinquent Accounts to Attorneys: Upon referral to the Associations attorney, the attorney 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, in consultation with the management company, is authorized to take whatever action is necessary and determined 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 judgement.
- b. Instituting a judicial foreclosure action of the Associations lien, upon approval by the Associations Board of Directors.
- c. Filing necessary claims, documents, and motions in bankruptcy court in order to protect the Associations interests; and
- d. Filing 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.

17. 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.

18. Rental Interception. To the extent permitted by the Declaration and Colorado law, the Association may, without court order, notify the tenant of the property where the Owner is delinquent in the payment of assessments, that rents shall be paid to the Association effective immediately and continue until such time as the Owners account is current. Such notice shall be in writing to the tenant and the Owner. All funds received by the Association from the tenant shall be credited to the Owners account as set forth herein.

19. Judicial Foreclosure: The Association may choose to foreclose on its lien in lieu of or in addition to suing an owner for a money judgement. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgement lawsuit has been 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 based on the annual budget adopted by the Association. The Board of Directors via resolution or a vote of shall approve such foreclosure and have it recorded in the minutes of the meeting.

20. **Waivers:** The Association is hereby authorized to extend the time for the filling of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association shall determine appropriate under the circumstances.
21. **Communication with Owners:** All communication with a delinquent Owner shall be handled through the Associations 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 Associations attorney unless the attorney is present or has consented to the contact.
22. **Communication by Owners:** Owners may communicate with the Association in any manner they choose including email, text, fax, phone, or in writing. However, in doing so, the Owner acknowledges that the Association and/or its agents may communicate via the same method unless otherwise advised.
23. **Defenses:** Failure of the Association to comply with any provision in this 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 Policy.
24. **Credit Reporting:** In an event an owner becomes delinquent in the payment of assessments pursuant to the Declaration and Colorado law, the Owner acknowledges and agrees that the Association may cause a credit report to be pulled via an agent, in order to facilitate the collection of unpaid assessments.
25. **Definitions:** Unless otherwise defined in this Policy initially capitalized or terms defined in the Declaration shall have the same meaning herein.
26. **Supplement to Law:** The provisions of the Policy shall be in addition to and in supplement of the terms and provision of the Declaration and the governing law of the State of Colorado.

27.Deviations: The Board may deviate from the procedures set forth in this Policy if in its sole discretion such deviation is reasonable under the circumstances.

28.Amendment: This Policy may be amended from time to time by the Board of Directors.

The undersigned officer of the Spyglass Association hereby certifies that the foregoing Resolution is true and correct as adopted by the Board of Directors.

The Spyglass Association

By: *Holly M. Fyfe* 10-7-17
President