

**RESOLUTION  
OF THE BOARD OF DIRECTORS OF WILLOW CREEK TOWNHOMES  
ASSOCIATION, INC. REGARDING POLICY AND PROCEDURES FOR  
COLLECTION OF UNPAID ASSESSMENTS**

**SUBJECT:** Adoption of policies and procedures regarding the collection of unpaid assessments ("**Policy**") for the Willow Creek Townhomes Association, Inc. (the "**Association**").

**PURPOSE:** To provide notice of the Association's adoption of a uniform and systematic procedure to collect assessments and other charges of the Association. For purposes of this Policy, "assessments" includes, without limitation, all annual, special, user fees, enforcement, any associated fees, charges, late charges, interest, attorney fees, fines and interest charged pursuant to the Act, or any other assessment set forth in the Declaration.

**AUTHORITY:** The Willow Creek Townhome Declaration (the "**Declaration**"), Articles of Incorporation ("**Articles**") and Bylaws ("**Bylaws**"), and Rules and Regulations of the Association (collectively, the "**Governing Documents**") and Colorado Revised Statutes, 38-33.3-101 et. seq (the "**Act**").

**EFFECTIVE DATE:** January 1, 2014

**RESOLUTION:** The Association adopts the following Policy:

It is in the best interest of the Association to refer delinquent accounts promptly to a collection agency or an attorney for collection so as to minimize the Association's loss of assessment revenue. The Board of Directors may retain an attorney or hire a collection agency. The Association gives notice of its adoption of this Policy for the collection of assessments and other charges of the Association:

1. Due Dates. Monthly installments of the annual assessment as determined by the Board of Directions of the Association and as allowed for in the Declaration are due and payable on or before the 1st day of each month. Assessments or other charges not paid in full to the Association when due are past due and delinquent if not received on or before the 1<sup>st</sup> day of the month. Assessments or other charges not that are not paid in full to the Association within fifteen days of the due date will incur late fees and interest. If a notice of acceleration is given to a delinquent Unit Owner, the Unit Owner will be charged any costs or expenses incurred by the Association in giving notice of such acceleration.

2. Receipt Date. The Association or its manager will post payments within one business day of the day that the payment is received at the Association's office or its manager's office, as the case may be, and as provided for in the annual assessment notice to the Unit Owner.

3. Late Charges on Delinquent Installments. A Unit Owner who fails to timely pay the monthly installment of the annual assessment will pay a \$75.00 late charge for each month and on each monthly installment until paid. This late charge is an additional assessment for each delinquent Unit Owner to defray the costs to the Association related to late payment. The Association will also impose interest from the date due at the rate of 18% per annum on the amount owed for each Unit Owner who fails to timely pay their monthly installment of the annual assessment within 15 days of the due date and such amount will continue to accrue on the outstanding amount owed, including late charges, until paid. The late charges and interest are collectively, the "**Late Fees**".

4. Personal Obligation for Late Charges. Late Fees are the personal obligation of the Unit Owner for which such assessment or installment is unpaid and are assessments against the Unit. All Late Fees are due and payable immediately, without further notice, in the manner provided by the most recent assessment notice for payment of assessments.

5. Return Check Charges. In addition to any and all charges imposed under the Declaration, Articles and Bylaws, the Rules and Regulations of the Association or this Policy, a return check fee, not to exceed \$50.00, will be assessed against a Unit Owner if any check or other instrument attributable to or payable for the benefit of such Unit 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 returned check charge is an additional assessment for each Unit Owner who tenders payment by check or other instrument which is not honored by the bank upon which it is drawn. Such return check charge is due and payable immediately, upon demand. Notwithstanding this provision, the Association has all additional remedies as may be provided by applicable law. Returned check charges are the obligation of the Unit Owner for which payment was tendered to the Association. Returned check charges are effective on any instrument tendered to the Association for payment of sums due under the Declaration, Articles, Bylaws, Rules and Regulations or this Policy as of the Effective Date. If two or more of a Unit Owner's checks are returned unpaid by a bank or other financial institution within any fiscal year, the Association may require that such Unit Owner's future payments, for a period of one full year, be made by certified check or money order. The return check charge is in addition to any Late Fees. Any returned check charge will cause a Unit Owner's account to be past due if full payment of the monthly installment of the annual assessment and the return check charge is not received on or before the 15<sup>th</sup> of the month.

6. Service Fees. If the Association incurs any 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 Unit Owner as an assessment against such Unit Owner's account, as such fee would not be incurred but for the delinquency of the Unit Owner.

7. Delinquency Notice. Any Unit Owner who becomes delinquent in payment of assessments after January 1, 2014 and whose account is not currently with the Association's

attorney or a collection agency for collection action on January 1, 2014, must receive a delinquency notice ("**Delinquency Notice**") from the Association or its manager, prior to the Association or its manager turning over the delinquent account of a Unit Owner to a collection agency or refers it to an attorney for legal action specifying:

(i) The total amount due to the Association along with an accounting of how the total amount was determined.

(ii) Whether the Unit Owner may enter into a payment plan and instructions for contacting the Association to arrange for and enter into a payment plan, if applicable.

(iii) A name and contact information for an individual the Unit Owner may contact to request a copy of the Unit Owner's ledger in order to verify the amount of the debt.

(iv) A statement indicating that action is required to cure the delinquency and that failure to do so within thirty days may result in the Unit Owner's delinquency account being turned over to an attorney, a collection agency, the filing of a lawsuit against the Unit Owner, appointment of a receiver, the filing and foreclosure of a lien against the Unit Owner's property, or other remedies available under Colorado law including revoking the Unit Owners right to vote .

8. Timing of Delinquency Notices. After a monthly installment of the annual assessment or other charges due to the Association becomes more than fifteen days delinquent, the Association or its management company will send a Delinquency Notice ("**First Delinquency Notice**"). After a monthly installment of the annual assessment or other charges due to the Association becomes more than thirty days delinquent and another installment is delinquent, the Association or its management company will send a Delinquency Notice ("**Second Delinquency Notice**"). After a monthly installment of the annual assessment or other charges due to the Association becomes more than sixty days delinquent and another installment is delinquent, the Association or its management company will send a Delinquency Notice and a notice of intent to lien ("**Intent to Lien Notice**").

9. Suspension of Voting. The Association may elect to suspend the voting rights of any Unit Owner whose account is past due at the time of such voting.

10. Attorney Fees on Delinquent Accounts. As an assessment permitted under the Declaration and by Colorado law, a delinquent Unit Owner shall pay reasonable attorney fees and collection costs incurred in the collection of assessments or other charges to the Association. The reasonable attorney fees incurred by the Association are due and payable immediately by the Unit Owner when incurred, upon demand by the Association and will accrue interest at 18% per annum, until paid.

11. Application of Payments. All sums collected on a delinquent account will be remitted to the Association's manager until the account is brought current. All payments received on account of any Unit Owner will be applied in the following manner: first to the payment of any and all legal fees and costs (including attorney fees), then to expenses of

enforcement and collection, Late Fees, returned check charges, lien fees, and other costs owing or incurred with respect to such Unit Owner pursuant to the Declaration, Articles, Bylaws, Rules and Regulations, or this Policy, prior to application of the payment to any special or regular assessments due or to become due with respect to such Unit Owner.

12. Collection Process. The Association will make a good-faith effort to coordinate with a Unit Owner delinquent in the payment of assessments and set up a payment plan that meets the requirements of this Policy prior to the Association referring any account to an attorney or collection agency for collection action, except that the Association is not required to enter into a payment plan if:

(i) If the Unit Owner does not occupy the Unit and has acquired the Unit as a result of (a) a default of a security interest encumbering the Unit; 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 a Unit Owner who has previously entered into a payment plan under this Policy.

A payment plan negotiated between the Association or a holder or assignee of the Association's debt and the Unit Owner must permit the Unit Owner to pay the deficiency in equal installments over a period of at least six month. If the Unit Owner fails to comply with the terms of the payment plan, this Policy does not prohibit the Association or a holder or assignee of the Association's debt from pursuing legal action against the Unit Owner. A Unit Owner's failure to remit payment of an agreed-upon installment or failure to remain current with regular assessments as they come due during the six-month period, constitutes a failure to comply with the terms of the payment plan.

13. Acceleration and Deceleration of Assessments. The Board of Directors 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. If the Board of Directors elects to accelerate the entire and unpaid annual assessments then the entire unpaid annual assessment is due by the Unit Owner on demand.

14. Collection Time Frames. The timeframe for collection of monthly installments of the annual assessment and other charges are as follows:

Due Date (date payment due)	1st day of the month due
Past Due Date (date payment is late if not received on or before that date)	One day after due date
First Notice (notice that late charges and interest have accrued, required disclosures of the Association and the availability of a payment plan if applicable)	Any time after 15 days after due date
Second Notice (notice that late charges	Any time after 30 days after due

and interest have accrued, notice of intent to file lien)	date and another installment is delinquent.
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15. Foreclosure Procedure. The Association or a holder or assignee of the Association's lien may only foreclose the lien if (i) the balance of the assessments and charges secured by its lien, equals or exceeds six months of common expense assessments based on the periodic budget adopted by the Association and (ii) 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. A form of a Board of Director's resolution authorizing the foreclosure is attached to this Policy.

16. Certificate of Status of Assessment. The Association shall furnish a written statement setting forth the amount of unpaid assessments currently levied against such Unit Owner's Unit to a Unit Owner or such Unit Owner's designee, within 14 days of written request for such statement either personally or by certified mail, first class postage prepaid, return receipt to the Association's registered agent.

17. Use of Certified Mail/Regular Mail; Electronic Mail. If the Association sends a collection or demand letter or notices to a delinquent Unit Owner by regular mail, the Association may also, but shall not be required to send, an additional copy of that letter or notice by certified mail. The Association may send notices by electronic mail to an email address provided by the Unit Owner to the Association or its manager.

18. Referral of Delinquent Accounts to Attorneys. Upon referral to the Association's attorney or collection agency, the attorney or collection agency shall take all appropriate action to collect the accounts referred. The attorney or collection agency, in consultation with the Association or its manager, is authorized to take whatever action is necessary to collect, including, but not limited to:

- (a) Filing of a suit against the delinquent Unit Owner for a money judgment.
- (b) Instituting a judicial foreclosure action of the Association's lien, upon approval by the Association's Board of Directors.
- (c) Filing necessary claims, documents, and motions in bankruptcy court in order to protect the Association's interests.
- (d) Filing a court action seeking appointment of a receiver.

19. Waivers. The Association is authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained in this Policy, as the Association determines appropriate under the circumstances.

20. Communication with Unit Owners. All communications between a delinquent Unit Owner and the Association must 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 may discuss the collection of the account directly with an Unit Owner after it has been turned over to the Association's attorney, unless the attorney is present.

21. Defenses. Failure of the Association to comply with any provision in this Policy is not a defense to the payment of assessments or other charges, late charges, return check charges or attorneys' fees as described and imposed by this Policy.

22. Definitions. Unless otherwise defined in this Policy, initially capitalized or terms used in this Policy have the meanings set forth the Declaration.

23. Supplement to Law. The provisions of this Policy are in addition to and in supplement of the terms and provisions of the Declaration and the laws of the State of Colorado.

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

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

29. Conflict. If this Policy conflicts with Article 7 of the Declaration, this Policy controls over any conflicting provision in the Declaration.

IN WITNESS, the undersigned certifies that this Policy was adopted by the Board of Directors of the Association on December 17, 2013.

**WILLOW CREEK TOWNHOMES  
ASSOCIATION, INC.,** a Colorado non-profit  
corporation,

By: *Mike Cowling*  
Its: President

**RESOLUTION OF THE BOARD OF DIRECTORS OF  
WILLOW CREEK TOWNHOMES ASSOCIATION, INC.**

WHEREAS, the Unit Owner of Unit \_\_\_\_\_ (the "Unit Owner"), Willow Creek Townhomes is currently delinquent in payment of assessments to the Willow Creek Townhomes Association, Inc. (the "Association") in the amount of \$\_\_\_\_\_, which amount includes, late fees, penalties, interest and attorney fees; and

WHEREAS, the Association, on \_\_\_\_\_ notified the Unit Owner of the delinquent assessments and offered the Unit Owner a payment plan of at least 6 months for the repayment of the delinquent assessments; and

WHEREAS, the Unit Owner on \_\_\_\_\_ defaulted in the terms and conditions of the payment plan, or conversely, failed to enter into a payment plan with the Association; and

WHEREAS, the current delinquent amount is equal to or exceeds six months of common expenses assessments allocated to the Unit Owner's Unit pursuant to the Association's annual budget.

NOW, THEREFORE, BE IT RESOLVED, by a vote of \_\_\_\_\_ FOR and \_\_\_\_\_ AGAINST, the Board of Directors, pursuant to the Association's collection policy and in accordance with the Colorado Common Interest Unit Ownership Act, approves the commencement of a foreclosure action on Unit \_\_\_\_\_, Willow Creek Townhomes, to be commenced as soon as practical.

IN WITNESS, the undersigned certifies that this Resolution was adopted by the Board of Directors of the Association on \_\_\_\_\_.

**WILLOW CREEK TOWNHOMES  
ASSOCIATION, INC.,** a Colorado non-profit  
corporation,

By: \_\_\_\_\_  
Its: President