

BEAR CREEK HOMEOWNERS ASSOCIATION, INC.

POLICY #0006: COLLECTION OF UNPAID ASSESSMENTS

Adopted 5-25-10

The following Policy has been adopted by the Bear Creek Homeowners Association, Inc. ("Association") pursuant to C.R.S. §38-33.3-209.5, and in accordance with C.R.S. §38-33.3-123, §38-33.3-315, §38-33.3-316, the Association Documents and The Act, at a regular meeting of the Board of Directors.

Purpose: All Members are obligated by the Declaration to pay all dues and Assessments in a timely manner, and failure to do so jeopardizes the Association's ability to meet its financial obligations. Failure of Members to pay Assessments in a timely manner is also costly to the Association and unfair to other Members. Accordingly, the Association, acting through the Board must take steps to ensure timely payment of Assessments so that it may operate in a fiscally responsible manner. The purpose of this Policy is 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; and to adopt a zero tolerance waiver policy with regard to the application of applicable late fees and interest.

NOW, THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following Policy governing the collection of Assessments and other charges of the Association:

1. Due Dates.

(a) **Annual HOA Assessment.** The annual Home Owner Association (HOA) Assessment as determined by the Association shall be due and payable annually.

(b) **Other Amounts Due to the Association.** Other Assessments, charges, and payments due to the Association shall be due and payable on the first (1) day of the month and shall be considered past due and delinquent on the eleventh (11) day following the due date.

(c) **Transfer of Ownership.** In the event that the ownership of a Unit is transferred on a day other than the first day of the year, the annual installment of the HOA Assessment and any other Assessments, charges and payments due and payable to the Association for the year of closing shall be prorated to the date of closing. Unless otherwise allowed by the Association in writing, and if not sooner paid by the seller and/or buyer, all Assessments, charges, and payments due and payable to the Association shall be paid at closing.

2. Late Charges and Interest Charges. The Association shall be entitled to impose a late charge equal to the greater of \$50.00 or twenty percent (20%) of the delinquent balance on each past due and delinquent installment. If any Assessment is not paid within thirty (30) days after its due date, the amount due shall bear interest at a rate of twenty-one percent (21%) per annum from the due date until paid. All late charges and interest charges shall be due and payable immediately, without notice, in the manner provided for payment of Assessments.

3. Return Check Charges. A twenty-five dollar (\$25.00) fee shall be assessed against a Member in the event any check or other instrument attributable to or payable for the benefit of such Member 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. If two or more of a Member's checks are returned unpaid by the bank within any twelve month period, the Association may require that all of the Member's future payments, for a period of one year, be made by certified check or money order.

4. Attorney Fees on Delinquent Accounts. The Association shall be entitled to recover its collection costs and reasonable attorney fees and costs incurred in the collection of Assessments or other charges due the Association from a delinquent Member, without the necessity of commencing a legal proceeding.

5. Application of Payments made to the Association. The Association reserves the right to apply all payments received on account of any Member first to payment of any and all attorney fees and costs, 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 Member, and any remaining amounts shall be applied to the Assessments due with respect to such Member.

6. Collection Procedure; Lien.

(a) **First Notice.** The original written communication to the Member regarding the annual HOA Assessment or *any* other Assessment, charge or payment owed to the Association, however accomplished by the Association, constitutes the first notice to the Member of an amount due to the Association.

(b) **Statutory Lien.** The Association has a statutory lien on a Unit for any Assessment levied against the Unit and other fines and charges allowable under The Act as Assessments imposed against the Member. The recorded Declaration constitutes record notice and perfection of the lien, no further recordation of any claim of lien for Assessments is required for the statutory lien. The amount of the lien includes the amount of any Assessment and all allowed charges from the time they become due. If an Assessment is payable in installments, each installment is a lien

from the time it becomes due, including the due date set by any valid acceleration of installment obligations. The Association's lien has priority over other liens as provided by The Act.

(c) **Notice of Delinquency.** After an installment of the annual HOA Assessment or any other Assessment, charge or payment owed to the Association becomes thirty (30) days past due, the Association shall cause a notice of delinquency to be sent to the Member who is delinquent in payment. The notice of delinquency is the second notice to the Member of the amount due to the Association, and shall include any applicable fees, late charges and interest.

(d) **Foreclosure and Other Remedies.** The Association's lien may be foreclosed in a like manner as a mortgage on real estate, or as provided by The Act, and the Association has the right to pursue other available remedies, including suits to recover sums. The Association has the right to accept a deed in lieu of foreclosure.

(f) **Attorney Fees.** The Association shall be entitled to costs and reasonable attorney fees incurred by the Association in a judgment or decree in any action or suit brought by the Association in accordance with The Act.

7. **Referral of Delinquent Accounts to Attorneys.** The Association may, but shall not be required to refer delinquent accounts to its attorney for collection. After consultation with the Board, the attorney shall be entitled to exercise all available remedies to collect the amounts due, including judicial foreclosure and appointment of a receiver of the delinquent Member's property.

8. **Referral of Delinquent Accounts to Collection Agencies.** The Association may, but shall not be required to assign delinquent accounts to one or more collection agencies for collection.

9. **Waivers.** Nothing in this Resolution shall require the Association to take specific actions other than to notify Members of the adoption of this Policy. The Association has the option and right to continue to evaluate each delinquency on a case by case basis. Although a zero tolerance waiver policy does exist and will be applied, the Association retains the authority to grant a waiver of any provision herein upon petition in writing by a Member showing an extreme personal hardship or other valid basis for a waiver. Such relief granted a Member shall be appropriately documented in the records of the Association, including 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.

10. **Delinquencies Constitute Covenant Violations.** Any delinquency in the payment of any Assessments shall constitute a violation of the covenants contained in the Declaration, and following notice and an opportunity to be heard, the Association shall be entitled to impose sanctions

on the delinquent Owner consistent with the Association's Enforcement of Covenants and Rules: Notice and Hearing Policy.

PRESIDENT'S CERTIFICATION:

The undersigned, being the President of the Bear Creek Homeowners Association, Inc., a Colorado nonprofit corporation, certifies that the foregoing Resolution # 0006 was introduced for first reading at a duly called and held meeting of the Board on May 25, 2010, and is hereby approved and adopted by the Board, at a duly called and held meeting of the Board on May 25, 2010, and in witness thereof, the undersigned has subscribed his/her name.

Bear Creek Homeowners Association, Inc., a Colorado non-profit corporation

By: Pete R
President

By: Robyn Cox
Secretary