

AMERICAN VILLAGE OWNERS ASSOCIATION, INC  
COLLECTION OF UNPAID ASSESSMENTS  
POLICY #2

Adopted \_\_\_\_\_, 20\_\_\_\_

The following procedures have been adopted by American Village Subdivision I (“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 wellbeing of the Association.

Collection Philosophy: All members are obligated by the Covenants, Conditions and Restrictions of the American Village Subdivision I, Montrose, Colorado (“CCRs”) 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 its 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 assessment, as determined by the Association, shall be due and payable by the 31st of January. Special assessments or other charges may be assessed or made from time to time by the Association in accordance with the Declaration and are due and payable as specified by the resolution authorizing such Assessment or charge. All assessments or other charges not paid to the Association when due shall be considered past due and delinquent.

2) Late Fees and Interest. The Association shall be entitled to impose a late fee of thirty five dollars (\$35.00 per month) on any assessment or other charge not paid within thirty (30) days of the due date. Additionally, any assessment or other charge not paid within thirty (30) days after the due date shall bear interest from the due date at the rate of fifteen percent (15%) per annum. All such fees and interest shall be due and payable immediately, without notice, in the manner provided for payment of assessments.

3) Return Check Charges. A twenty-dollar (\$35.00) 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 not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to, insufficient funds. Such amount shall be in addition to any charges made by the bank due to the dishonored

check. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law.

4) Attorney Fees on Delinquent Accounts. 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.

5) Application for payments made to the Association. The Association reserves the right to apply all payments received on account of any Owner first to payment of any and all legal fees and costs (including attorney 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.

6) Collection Letters. After any assessment or installment thereof owed to the Association becomes thirty (30) days past due, the Association shall cause a notice of delinquency to be sent to the Owner who is delinquent in payment. The notice shall specify:

- a.) The fact that the account is delinquent with an accounting of the total amount due.
- b.) What is required to cure the delinquency and allowable methods of payment.
- c.) The date (not less than 30 days from when the notice is mailed or posted on Owner's door) by which the delinquency must be cured.
- d.) Notice that failure to cure delinquency by said date will result in a \$35 fine for each month in arrears and/or the account may be turned over for collections, and/or if the delinquency represents more than six months' worth of annual assessments, dues, fines, interest or any amounts due, a lien or lawsuit may be filed against the Owner's property.
- e.) The name and contact information of the management company or Association Treasurer that the Owner may contact for additional information.
- g.) If a payment plan is available for the Owner.

7) Payment Plan. Before and account is turned over to collections, a payment plan must be offered to the Owner if the Owner lives in his home and the home was not obtained through foreclosure or deed in lieu of foreclosure. The Plan shall include:

- a.) A time frame of no less than 6 months wherein the owner may pay

of the delinquency with equal monthly payments.

b.) Owner is required to keep up with any other association payments during this time, including, but not limited to: regular and special assessments, fees, interest, late charges attorney fees, fines.

c.) Should an Owner miss a regularly scheduled payment during the payment plan, or fail to pay other assessments during this time, the Owner shall be in default and the Association may pursue collection remedies.

8) Application of Payments. Collection of delinquent funds shall first be applied remedying the overdue assessment, then to fines and interest, and subsequently to all other costs related to the collection of the delinquent account including but not limited to late fees, attorney fees, lien fees, court costs.

9) Liens. If delinquency equals or is greater than six months of budgeted common expense assessments, the Board must vote to commence foreclosure proceedings. No other entity may initiate the foreclosure process on an Owner for this delinquency. The lien shall include assessments, fees, charges, late charges, attorney fees, fines and interest owed by the delinquent Owner.

10) Referral of Delinquent Accounts to Attorneys. If payment in full is not received within thirty (30) days after mailing of the notice of delinquency, the Association may, but shall not be required to refer delinquent accounts to its attorneys or other agency (Collection Agent) for collection. Upon referral to the Collection Agent, the Collection Agent shall take all appropriate action to collect the accounts referred. After an account has been referred to an Collection Agent, 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 a Collection Agent for collection shall be set up and monitored through the Collection Agent. After consultation with the Board of Directors or the Association's managing agent, the Collection Agent shall be entitled to exercise all available remedies to collect the amounts due.

11) Waivers. Nothing in this policy shall require the Association to take specific actions other than to notify Owners 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. 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 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.

12) Order of Remedies. The Association may pursue any actions or remedies to collect amounts owed in any order or contemporaneously, and

cumulatively, 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 judgment, foreclosure, or receivership without the necessity of following the procedures set forth in paragraphs 6, 7 and 8 above.

13) Delinquencies. This Policy shall replace and supersede any previous rules and regulations of the Association addressing the collection of past due assessments.

This Collection Policy was adopted by the Board of Directors on the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, effective the \_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_, and is attested to by the Secretary of American Village Subdivision I.

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Secretary