

**THE KNOLLS AT PLUM CREEK CONDOMINIUM ASSOCIATION
AMENDED COLLECTION POLICY**

Adopted August 9th, 2022

The following amended procedures have been adopted by The Knolls at Plum Creek Condominium Association (“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 well-being of the Association and to update the policy in accordance with legislative changes effective on or about August 10, 2022.

Collection Philosophy: All members are obligated by the Association’s Condominium Declaration of The Knolls at Plum Creek Condominiums (“Declaration”) to pay all dues and assessments in a timely manner. Failure to do so jeopardizes the Association’s ability to pay its bills and expenses. 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 amended 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 monthly in equal installments due on the first (1st) day of each month. 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 up to twenty-five dollars (\$25.00) on any assessment or other charge not paid within fifteen (15) days of the due date. Additionally, any assessment or other charge not paid within fifteen (15) days of the due date shall bear interest from the due date at a rate not to exceed eight percent (8%) 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 (\$20.00) fee, or such higher fee as may be authorized by Colorado law, 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. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law including, but not limited to, a request for treble damages. If one or more of an owner’s checks are returned unpaid by the bank, the Association may require that all of the owner’s future payments, for a period of one (1) year, or such other time period deemed appropriate by the Association, be made by certified check or money order.
4. **Attorneys’ Fees and Collection Charges on Delinquent Accounts.** The Association shall be entitled to recover its reasonable attorneys’ fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent owner, together with post-judgment and appellate attorneys’ fees and costs incurred. Attorneys’ fees and costs shall come due whether or not a

lawsuit is filed or other formal legal action taken to collect the delinquent balance. The Association shall also be entitled to recover any charges and/or costs incurred by the Association or management company in sending the notices required herein with the exception that the Association may not assess a charge to a homeowner requesting a statement of their account before the account is turned over to its attorney for formal collection action.

5. **Application of Payments Made to the Association.** The Association shall apply all payments received on account of any owner first to payment of delinquent assessments, then to any and all legal fees and costs (including attorneys' fees), then to costs and expenses of enforcement and collection including fines, late charges, interest, returned check charges, lien fees, and other costs owing or incurred with respect to such owner.

6. **Offer of Payment Plan.** Subject to the following requirements and conditions, the Association shall offer a payment plan to any delinquent owner and make a good faith effort to coordinate a payment plan with the owner:

- a. The payment plan must allow the delinquent owner the right to pay off the delinquency in equal installments over a period of at least eighteen (18) months;
- b. No payment plan need be offered if the owner does not occupy the unit and has acquired the unit as a result of:
 - i. a default of a security interest encumbering the unit; or
 - ii. foreclosure of the Association's lien;
- c. The Association is not required to offer a payment plan or negotiate such a plan with an owner who has previously entered into a payment plan with the Association;
- d. The payment plan shall specify the due date(s) for payment of the delinquent installments plus payment of the periodic monthly assessments coming due;
- e. The failure to timely remit payment of any monthly assessment coming due shall constitute a default of the payment agreement. Additionally, failure to remit three (3) delinquent installment payments within fifteen (15) days of their due date shall constitute a default of the payment agreement;
- f. Any payment(s) received and relating to a payment plan shall be applied first against the delinquent installment(s) due and then towards the unpaid monthly or periodic assessment(s) coming due; and
- g. The Association may pursue legal action against the owner if: (a) a homeowner fails to timely remit any monthly assessment coming due and/or (b) a homeowner defaults on three (3) or more installments towards the delinquent balance.

7. **Collection Process.** The Association shall proceed with collection of delinquent assessments and other charges as follows:

- (a) Monthly statements (hereinafter 'Monthly Statement') containing an itemized list of all assessments, fines, fees and charges owed (a detailed account ledger shall suffice) shall be sent to all owners in the community with an outstanding balance. The statements shall be sent via regular U.S. mail and also via e-mail to all homeowners who have provided an e-mail address to the Association.
- (b) After any assessment or account balance becomes at least 30 days delinquent and at least one Monthly Statement has been sent to the delinquent owner, the Association shall send a written thirty (30) day delinquency notice ("Statutory 30 Day Notice") via (i) certified mail, return receipt requested, (ii) posted on the delinquent owner's home or unit, and (iii) by regular mail or e-mail which specifies the following:

- (i) the total amount due, with an accounting of how the amount was determined;
- (ii) whether the delinquency concerns (1) unpaid assessments; (b) unpaid fines, fees or charges or (c) a combination of the above. If there are unpaid assessments, a statement must also be included that states that unpaid assessments may lead to foreclosure;
- (iii) whether an opportunity to enter into a payment plan exists under the requirements and conditions set forth in Paragraph 6 above, and the instructions for contacting the Association or its manager to enter into such a payment plan;
- (iv) the name and contact information for the person the owner may contact to request a copy of the owner's ledger in order to verify the amount owed;
- (v) that action is required to cure the delinquency and the specific action required to cure the default;
- (vi) that failure to cure the delinquency or enter into a permissible or approved payment plan within thirty (30) days may result in the delinquent account being turned over to a collection agency or the Association's attorney, a lawsuit being filed against the owner, the filing and foreclosure of a lien against the owner's unit, or other remedies available under Colorado law; and
- (vii) a description of the types of matters an owner or the association can take to small claims court including all civil action in which the debt, damage or value of the personal property claimed by either the plaintiff or the defendant exclusive of interest and costs, does not exceed \$7,500.00, including such civil penalties as may be provided by law, including all actions in tort where damages do not exceed \$7,500.00 and including injunctive matters for which the association seeks an order requiring and owner to comply with the Declaration, Bylaws, Covenants, or other Governing Documents of the Association.

All notices shall be mailed to the owner at their Association unit/property address unless the owner has given notice to the Association, in writing, of an alternate address. The Association may send additional Monthly Notices prior to and/or subsequent to the Statutory 30 Day Notice to delinquent owners, for as long as amounts remain past due on the owner's account, until such time as the Association votes to approve turnover of an account to an attorney for collections.

8. Liens. If payment in full of any assessment or other charge is not received by the deadline stated in the Statutory 30 Day Notice, which shall constitute a formal 'Intent to Lien' as may be required by the Association's governing documents, the Association may cause a notice of lien to be filed against the property of the delinquent owner. The lien shall include assessments, fees, charges, late charges, attorneys' fees, fines and interest owed by the delinquent owner. Failure to cause a notice of lien to be recorded against the property of a delinquent owner will not constitute a defense in any action to foreclose the lien and/or to pursue a receivership lawsuit.

9. Referral of Delinquent Accounts to Attorneys. After the deadline stated in the Statutory 30 Day Notice has expired, the Association may, but shall not be required to refer delinquent accounts to its attorneys for collection. Prior to referral of an account, a majority of the board of directors shall vote to approve the proposed legal turnover following discussion in executive session at a duly called board of directors meeting. Upon referral to the attorneys, the attorneys 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. All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney. After consultation with the Board of Directors or the Association's managing agent, the attorneys shall be

entitled to exercise all available remedies to collect the amounts due, including judicial foreclosure and appointment of a receiver of the delinquent owner's property subject to any additional legal requirements below.

10. Foreclosure of Lien. Notwithstanding any provision of this policy to the contrary, the Association may only foreclose the lien if:

- a. The balance of the assessments and charges secured by the lien equals or exceeds six (6) months' worth of regular assessments based on the periodic budget adopted by the Association and is not comprised only of fines or collection costs/legal fees incurred relating to the fines;
- b. A 30 day notice has been sent to a delinquent owner(s) offering them an opportunity to enter into an eighteen (18) month payment plan, permitting minimum monthly payments of \$25.00, with the remaining balance paid in full on or before the 18th month and: (i) no payment plan is requested or no response to the notice is received or (ii) a homeowner who enters into the eighteen (18) payment plan, has missed payment of any monthly/periodic assessment coming due or defaulted on three (3) or more installments of the payment plan (failure to pay any installment coming due after 15 days shall constitute a "default"); and
- c. The Board of Directors has formally resolved, by a recorded vote, to authorize the filing of a legal action against the specific owner's unit on an individual basis.

11. Waivers. Nothing in this policy shall require the Association to take specific action(s) other than to notify owners of the adoption of this policy. The failure to provide notice to a homeowner, except for those notices statutorily required, shall not constitute a defense or condition precedent to any action to collect the debt. 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 with 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 except as may be prohibited by Colorado law.

12. Order of Remedies. Subject to the restrictions contained in Paragraph 11 above concerning foreclosure, the Association may pursue any actions or remedies, including, but not limited to, actions for personal judgment, foreclosure or receivership (on an *ex parte* basis or otherwise and for purposes of collecting the lien balance coming due to the association both pre-judgment and post-judgment in any judicial proceeding), 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 (on an *ex parte* basis or otherwise) without the necessity of following the procedures set forth above.

13. Delinquencies Constitute Covenant Violations. Any delinquency in the payment of assessments or other charges 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 Notice and Hearing and Enforcement Policy and Procedures. For purposes of this section, 'sanctions' shall not include the assessment of late fees and interest which are due and payable immediately without notice and hearing.

14. Designated Contact. A homeowner may request to have all collection notices sent to a designated contact of their choice by sending a written request to the Association via certified mail, return

receipt requested. In the event that proper notice of the designated contact is received, the Association shall send all future delinquency notices to the designated contact in the manner(s) prescribed above and also to the delinquent owner via first class mail, cellular text or e-mail.

15. **Record Keeping.** The Association shall maintain a record of any contacts, including information regarding the type of communication used to contact the unit owner and the date and time that the contact was made.

16. **Language.** All notices required herein shall be written in English and in any language that a unit owner has affirmatively and expressly indicated a preference to receive the correspondence and notices. An owner may send a written notice to the association requesting that future notices be sent in a designated language.

17. **Acceleration.** The Association shall have the right to accelerate monthly assessments for the balance of the fiscal year against any owner that is delinquent in the payment of assessments or other charges in accordance with the Declaration and after at least thirty (30) days prior written notice of the intent to accelerate the assessments has been provided to the delinquent owner(s).

18. **Offset Prohibited.** A delinquent owner shall not be permitted to claim an offset against any amount(s) owed to the Association for any claim(s) not directly related to the proper assessment of the charges being collected. As a specific example, a delinquent owner may not be excused from paying any charges assessed by claiming that the Association failed to maintain the common elements or other facilities and improvements in the community.

19. **Severability.** If a provision of this policy is or becomes illegal, invalid or unenforceable, that shall not affect the validity or enforceability of any other provision of this policy.

20. **Superseding Previous Policies.** This amended policy shall replace and supersede any previous rules and regulations of the Association addressing the collection of past due assessments.

The Knolls at Plum Creek Condo. Association,
Inc.

By: 
President

This Amended Policy Regarding Collections was adopted by the Board of Directors on the 9th day of August, 2022, effective the 10th day of August, 2022, and is attested to by the Secretary of The Knolls at Plum Creek Condominium Association.


Jane E. Jaksch
Secretary