

**KINGS ROW HOMEOWNERS ASSOCIATION, INC.  
POLICY AND PROCEDURE**

**COLLECTION OF UNPAID ASSESSMENTS**

Effective February 13, 2023

This policy and procedure has been adopted by the Executive Board ("Board") of the KINGS ROW HOMEOWNERS ASSOCIATION, INC. ("Association") for collection of unpaid assessments (the "Collection Policy") to comply with C.R.S. §§ 38-33.3-209.5(1)(b)(I), (1.7), (6), (7) and (8). This Collection Policy repeals and replaces the existing "Policy and Procedure for Collection of Assessments" and any other policy in conflict herewith, and shall remain in effect until such time as it may be duly changed, modified, or amended by the Board.

1. Due Dates. Installments of annual assessments shall be due on a quarterly basis. The quarterly installments of the annual assessments (as determined by the Association and as allowed for in the Declaration) shall be due and payable the first day of each quarter (i.e. January 1, April 1, etc.). Special assessments shall be due on the date stated on the notice of assessment.
2. Invoice; Statement of Account.
  - A. Owners may request an invoice/billing statement for each installment of the annual assessment (operating assessment and capital reserve assessment) to be sent to the Owner at the billing address on record with the Association. Failure to receive this statement does not obviate the Owner's responsibility to stay current on assessments.
  - B. For any account with an outstanding balance owed, the Association shall provide the Owner a courtesy notice together with a monthly statement of account that itemizes all assessments, fines, fees, and charges that the Owner owes to the Association. The Association shall continue to provide such monthly statement until the Owner has brought the delinquent account current. Such notice shall be sent by first-class mail and by email (if available) to the Owner and any Designated Contact for the Owner.
  - C. The Association shall not assess a fee or other charge for providing a statement of account.
3. Late Charges and Interest. Payments shall be considered past due and delinquent when an Owner fails to pay any assessment on or before the last day of the month following the month in which the payment is due (i.e. if not paid on or before February 28th, May 31<sup>st</sup>, etc.). The Association shall assess a \$20.00 monthly late charge on overdue payments. Past due payments shall also accrue interest from the due date at the rate of 9% per annum.
4. Returned Check Charges. Any returned check charges incurred by the Association shall

be assessed to the Owner causing such charge

5. 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; however, such fees shall only be recoverable for fees incurred 30 days after the Association has provided a Notice of Delinquency in accordance with this Policy. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred, upon demand.
6. Notice of Delinquency. Before the Association turns over a delinquent account of an Owner to a collection agency or refers it to an attorney for legal action, the Association must send the Owner a “Notice of Delinquency” specifying:
  - A. The total amount due to the Association, with an accounting of how the total amount was determined;
  - B. Whether the opportunity to enter a payment plan exists and instructions for contacting the Association to enter such a payment plan;
  - C. The name and contact information for an individual the Owner may contact to request a copy of the Owner’s ledger in order to verify the amount of the debt; and
  - D. A statement indicating that action is required to cure the delinquency and that failure to do so within thirty (30) days may result in the Owner’s account being turned over to an attorney, a collection agency, the filing of a lawsuit against the Owner, the filing of a lien against the Owner’s property, the foreclosure of a lien against the Owner’s property (if lien is based on unpaid assessments), that late fees and interest may be imposed, or other remedies available under Colorado Law, including revoking the owners right to vote, right to use common amenities, acceleration of annual assessments, and the termination of services.
  - E. Whether the delinquency concerns unpaid assessments; unpaid fines, fees, or charges; or both unpaid assessments and unpaid fines, fees, or charges. If the delinquency concerns unpaid assessments, then the Notice must state that unpaid assessment may lead to foreclosure.
  - F. A description of the steps the Association must take before the Association may take legal action against the Owner.
  - G. For unpaid fines, the Notice must contain a description of the applicable cure process set for the Enforcement Policy.
  - H. A description of what legal action the Association may take against the Owner, including a description of the types of matters that the Association or Owner may take to small claims court, including injunctive matters for which the Association

seeks an order requiring the Owner to comply with the Governing Documents.

The Notice of Delinquency shall be sent by certified mail, return receipt requested and physical posting on the Owner's property. In addition, the Association shall contact the Owner to alert the Owner of the delinquency by either: (i) first class mail; (ii) text message; or (iii) email.

7. Providing Notices; Records. An Owner may identify another person to serve as a "Designated Contact" for the Owner to be contacted on the Owner's behalf for Notices of Delinquency and other notices provided under this Policy. In such case, notices shall be provided to both the Owner and Designated Contact. Further, Notices shall be provided in a language other than English if requested by the Owner pursuant to C.R.S. § 38-33.3-209.5(1.7)(a). The Association shall maintain a records of communications to the Owner (and Designated Contact), including information regarding the type of communication and the date/time the contact was made. The Owner shall be solely responsible for providing the Association with the information for any Designated Contact or to request that Notices be provided in a language other than English.
8. Board Action for Referral to Attorney or Collection Agency. The Association may refer a delinquent account to an attorney or collection agency only if a majority of the Executive Board votes to refer such delinquent account in a recorded vote in executive session. The delinquent owner may request and receive the results of any vote taken in executive session.
9. Initiating Foreclosure. The Association shall not commence a legal action to initiate a foreclosure proceeding based on an Owner's delinquency in paying assessments, unless:
  - A. The Association complies with all requirements under this Policy and C.R.S. § 38-33.3-316.3;
  - B. The Association provides a written offer to enter into a payment plan in accordance with this Policy;
  - C. Within 30 days after providing the written offer to enter into a payment plan, the Owner either: (i) declines the payment plan; or (ii) after accepting the payment plan, fails to pay at least 3 of the monthly installments within 15 days after the monthly installments were due.
  - D. The Executive Board has formally resolved, by a recorded vote, to authorize the filing of a legal action to foreclose on an individual basis in accordance with C.R.S. § 38-33.3-316.
10. Payment Plan. As required by C.R.S. §§ 38-33.3-209.5(7)(a) and 316.3, the following provisions apply to payment plans:

- A. The Association shall offer a payment plan to delinquent Owners that occupy their Unit, and did not obtain title to the Unit as a result of a default of a security interest encumbering the Unit or foreclosure of the Association’s lien, and have not previously entered into a payment plan with the Association.
  - B. Payment plans shall be for a minimum term of 18 months. Said payment plan must permit the Owner to pay off the deficiency in equal installments over the payment period, or, prior to foreclosure, in an amount chosen by the Owner but at least \$25 per monthly installment. Notwithstanding the forgoing, payment plans shall permit full or partial pre-payment at any time without penalty. The unpaid principal balance of the payment plan shall accrue interest at the rate of 8% per annum until paid in full.
  - C. Each Owner who has entered a payment plan pursuant to this Policy is required to remain current with regular assessments, plus make timely payments under the payment plan. An Owner who fails to remit payment of 3 or more installments under the payment plan (within 15 days of due date), or fails to pay all regular assessments as they come due during the effective term, or fails to perform any other obligation under the payment plan, shall be in default of the payment plan. In such case, the Association may at any time thereafter terminate the payment plan and refer the delinquent account to an attorney or collection agency for collection action pursuant to this Policy or may take such other action as it deems appropriate in relation to the delinquency.
11. Collection Procedures/Time Frames. The following time frames shall be followed for use in the collection of assessments.

<b>Due Date</b> (date payment due)	1 <sup>st</sup> day of each quarter (i.e. January 1, April 1, etc.)
<b>Past Due Date</b> (date payment is late if not received on or before that date)	Last day the first month of the quarter in which payment is due (i.e. January 31, April 30, etc.); however, late charges and interest are not imposed until the last day of the following month in which the payment is due (February 28, May 31, etc.)
<b>Notice of Delinquency</b>	Any time after payment is past due and delinquent. Owner shall have 30 days to pay or request payment plan.

<b>Referral to Attorney; Record Lien</b>	Any time after Notice of Delinquency and Action by the Board.
<b>Initiate Foreclosure</b>	Any time after Owner fails to enter payment; payment plan terminates; and Action by the Board

The attorney is to consult with the Association as necessary to determine if payment has been arranged or what collection procedures are appropriate.

12. Application of Payments. All payments received on the account of any Owner shall be applied in the following order: (1) unpaid assessments; (2) any and all attorney fees, legal fees and costs incurred, including lien fees; and (3) fines, late charges, and interest. Checks containing a restrictive endorsement on the back will be returned to the Owner and the amount tendered shall be considered unpaid.
  
13. Legal Remedies Available to the Association. The Association is authorized to pursue all available legal remedies for collection pursuant to the Association's Governing Documents and Colorado law, including, but not limited to:
  - A. Recording a lien again the delinquent Owner's Unit;
  - B. Filing of a suit against the delinquent Owner for a money judgment;
  - C. Instituting a judicial foreclosure action of the Association's lien, upon approval by the Association's Board;
  - D. Filing necessary claims, documents and motions in bankruptcy court in order to protect the Association's interests;
  - E. Filing a court action seeking appointment of a receiver; and
  - F. Garnishment and attachment.
  
14. Suspension of Rights. After any assessment or other charges due to the Association becomes sixty (60) days past due and delinquent, the Owner's voting privileges shall be suspended during the period of the delinquency and the Association may cease to provide any and all services to such Owner and prohibit the use of any common amenities by such Owner.
  
15. Judicial Foreclosure. Judicial foreclosure may only be commenced if the Owner is delinquent in the payment of assessments, but not if the delinquency consists of only fines, late fees, interest, or attorneys fees. The Association may choose to foreclose on its lien in lieu of or in addition to suing an Owner for a money judgment. The purpose of foreclosing is to obtain payment of all assessments owing in situations where either a money judgment

lawsuit has been or is 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 an amount equal to six (6) months of common expenses assessments based on a periodic budget adopted by the Association and in accordance with this Policy.

16. Defenses/No Right to Offset. 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, returned check charges, attorney fees and/or costs as described and imposed by this Policy. There is no right to offset. An Owner may not withhold assessments owed to the Association on the alleged grounds that the Owner is entitled to recover money or damages from the Association for some other obligation.
17. Credit Report. In the 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.
18. Supplement to Law. The provisions of this Policy shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the common interest community.
19. 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.
20. Amendment. This Policy may be amended from time to time by the Board.

#### **CERTIFICATION:**

The undersigned, being the President of the Kings Row Homeowners Association, Inc., a Colorado non-profit corporation, certifies that the foregoing policy and procedure was adopted by the Executive Board of the Association, at a duly called and held meeting of the Board on February 13, 2023.

KINGS ROW HOMEOWNERS ASSOCIATION, INC,  
a Colorado non-profit corporation

By: Julie Mikus Hazard  
President