

Quartz Creek Property Owners Association
A Colorado nonprofit corporation

COLLECTION POLICY

The following Collection Policy was adopted on this 4th day of December 2013, by the Board of Directors of the Quartz Creek Property Owners Association, aka "QCPOA", a Colorado nonprofit corporation ('Association') pursuant to 38-33.3-209.5, 38-33.3-316 & 38-33.3-316.3, C.R.S., at a regular meeting of the said Board.

IT IS RESOLVED that the Association hereby adopts this Collection Policy, to be effective on and after the 1st day of January 2014, as follows:

1. Assessments. For purposes of this Policy, "assessments" or "regular assessments" include regular and special assessments and any associated fees, charges, late charges, attorney's fees, fines and interest. Assessments shall be paid in equal monthly, quarterly, bi-annual or annual installments, as determined by the Association Board, on or before the 1st day of the month during which such assessment is due. If an assessment is not received by the 1st day of the month during which the assessment is due, the assessment is delinquent.
2. Late Fees & Interest. If the full amount of any assessment is not received by the Association's managing agent by the 15th day of the month in which the assessment is due, the assessment shall be considered delinquent. At such time, a late charge of 15% of the total amount due or \$25, whichever is greater, shall be assessed to the delinquent account. Delinquent assessments shall also bear interest at the rate of twelve percent (12%) per annum from the date of delinquency until paid in full. The Association may also charge a \$25 fee for any bounced or returned check.
3. Prior to Referral to Legal Counsel. Prior to referring a delinquent account to the Association's legal counsel or to a collection agency, the Association shall mail to the delinquent property owner a notice of the delinquency that specifies:

- a. The total amount due with an accounting of how the total was determined;
- b. Whether the opportunity to enter into a payment plan exists pursuant to Section 4 below, and instructions for contacting the Association to enter into a payment plan;
- c. The name and contact information for the individual the property owner may contact to request a copy of the property owner's ledger in order to verify the amount of the debt; and
- d. That action is required to cure the delinquency and that failure to do so within thirty (30) days may result in the following:
 - i. The delinquent account being turned over to an attorney or a collection agency for collection;

- ii. A lawsuit being filed against the owner;
- iii. The filing and foreclosure of a lien against the owner's property;
- iv. The Association applying for a court-ordered receivership over the property; and/or
- v. Any other remedies available under Colorado law.

A sample Association delinquency notification letter is attached to this Collection Policy as Exhibit "A" for reference.

4. Payment Plans.

- a. *Eligibility.* A property owner is entitled to enter into a payment plan with the Association so long as the property owner has not previously been offered a payment plan pursuant to this collection Policy. If a property owner has previously been offered a payment plan with the Association pursuant to this Collection Policy, the Association may immediately pursue any legal remedies for collection of further delinquent assessments, or may, in its discretion, offer to allow the property owner to enter into another payment plan. If the Association offers to allow the property owner to enter into another payment plan, said plan shall not be subject to the requirements of Paragraph 4 b. below.
- b. *Terms.* Any required payment plan shall be offered in writing by the Association to the property owner and shall permit the property owner to pay off the delinquency in equal installments over a period of at least six (6) months. The six (6) month timeframe shall commence as of the date when the notice letter contemplated by Section 3 above is mailed to the property owner. The six (6) month offer by the Association to the property owner is deemed to be the agreement among and between the property owner and the Association, unless otherwise agreed in writing by both parties. The property owner must also remain current with regular assessments as they come due during the payment plan time period. A property owner's failure to remit payment of an agreed upon payment plan installment, or to remain current with regular assessments as they come due during the payment plan period, constitutes a failure to comply with the terms of the payment plan. If a property owner fails to comply with terms of a payment plan, the Association may pursue the legal remedies permitted under Colorado law for collection of delinquent Association accounts.

5. Application of Payments. Payments received by the Association shall be applied in the following order, as may be applicable:

- a. Attorney's fees and legal costs and expenses;

- b. Fines, late charges and interest;
- c. Returned check charges and other costs owing or incurred with respect to such owner; and
- d. Assessments due or to become due with application to the most long-standing delinquent assessment first.

6. **Legal Remedies**. In the event a property owner does not comply with a payment plan or is not eligible for a payment plan, the legal remedies available to the Association to collect a property owner's delinquent account pursuant to the Association's governing documents and Colorado law are as follows:

- a. A lawsuit by the Association against the delinquent owner;
- b. The filing and foreclosure of a lien against the owner's property, but only if:
 - i. The balance of the assessments and charges secured by the lien equals or exceeds six (6) months of common expense assessments based on a periodic budget adopted by the Association related to the subject property; and
 - ii. The Executive Board has formally resolved, by a recorded vote, to authorize the filing of a legal action against the specific property on an individual basis. The Executive Board may not delegate its duty to act under this subsection to any attorney, insurer, manager, or other person, and any legal action filed without evidence of the recorded vote authorizing the action must be dismissed.
- c. Referral of the delinquent account to the Association's attorney or a collection agency; and/or
- d. The Association may apply to be the court-appointed receiver of the subject property.

7. **Exceptions**. This Collection Policy does not apply if the property owner has acquired the property as a result of:

- a. A default of a security interest encumbering the property; or
- b. Foreclosure of an Association lien.

8. **Conflict of Laws**. In the event of a conflict between this Collection Policy and the Association's Declaration, Bylaws, or any other policy, rule or regulation of the Association, the Collection Policy shall control.

CERTIFICATION

The undersigned, as Secretary of the Quartz Creek Property Owners Association, aka "QCPOA", a Colorado nonprofit corporation, certifies that the foregoing Collection Policy was adopted by the Board of Directors of the Association at a duly called and held meeting on the 4th day of December, 2013, and in witness thereof, the undersigned has subscribed her name.

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a Colorado nonprofit corporation

(Updated January 2015)