

**Wissler Ranch Homeowners Association, Inc.
Policy on Collections of Unpaid Assessments**

Subject: Policy regulating the collection of unpaid assessments.

Purpose: To establish policy and procedures for the collection of unpaid assessments consistent with the intent and provisions of the Declaration and in compliance with Colorado statutes. This policy supersedes all previous Association policy on collections.

Authority: The Declaration of Covenants, Conditions and Restrictions for Wissler Ranch Homeowners Association (Association), Inc. (Declaration), Association By-laws, the Articles of Incorporation and the Colorado Common Interest Ownership Act (CCIOA). CCIOA and this policy will control, to the extent required by law; if there are any conflicting provisions in the governing documents with the law.

In equity to all homeowners and in order that the HOA has the necessary funds required to operate efficiently, fulfill its legal obligations including having the means with which to enforce Covenants; Wissler Ranch HOA, Inc. will exercise its rights concerning assessments and collections in accordance with the Declaration and Colorado law.

1. **Due Dates.** The annual assessment is due and payable on January 15th each year. All other assessments, fees, or charges are due and payable as provided by the Association. Assessments or other charges not paid in full to the Association within one day of the due date are past due and delinquent.
2. **Receipt Date.** Payments will be deemed received on the date the payment is received in the Association's office or the Association's payment processor's office, provided however, if the Owner's name or the Lot address for which payment is made is not identified on or with the payment, payment will not be deemed received until such time as the Owner and Lot to which payment should be credited are determined. Any payment not paid in full when due is past due and delinquent.
 - a. In the event a check tendered in payment is subsequently returned unpaid or another form of payment is declined or withdrawn, the

posting to that payment will be reversed. If a replacement payment is not made by the original due date, the account will be delinquent and subject to the provision of this policy. Any amount already delinquent continues in delinquency from the original due date.

3. **Lien.** Under the Declaration and Colorado law, there exists a lien for any unpaid assessment. The Association reserves the right to record a notice of lien in the county records at any time after an assessment becomes delinquent. The Association may delegate authority to the Association's attorney to sign and acknowledge the notice of assessment of lien. This delegation may be withdrawn at any time by sending written notice to the Association's attorney of the withdrawal.
4. **Late Charges, Interest, Administrative Expenses, Collection Costs, Attorney Fees.**
 - a. **Late Fee or Charge.** A late charge in the amount of \$35 will be imposed for any assessment, fine, or other charge not paid within 30 days of the due date without further notice to the Owner. Late charges shall be due and payable immediately, without notice. The late charge is a personal obligation of the Owner and a lien on the Lot.
 - b. **Interest.** Interest at the rate of 18 percent per annum as specified by the Declaration or at the maximum allowed under CCIOA if less than 18 percent; will accrue on any delinquent assessment, fine or other charge from the due date without further notice to the Owner. Interest will be added to the Owner's account 30 days following the due date. Interest is a personal obligation of the Owner and a lien on the Lot.
 - c. **Returned Check or Similar Charges.** Any fee or charge made by the Association's financial institution to the Association because an Owner's check or other payment was refused or reversed by the Owner's financial institution for insufficient funds or any other reason shall be assessed to the Owner. In addition, the Association will apply a returned check fee of \$20. These charges and fees are due and payable immediately. These charges and fees are the personal obligation of the Owner and a lien of the lot.
 1. In the event two or more Owner's checks are returned unpaid by the bank within any fiscal year, the Association may require that all of the Owner's future payments for a period of one year be made by certified check or money order.

- d. **Administrative Expenses and Service Fees.** Any type of service fee, regardless of what it is called, for the handling and processing of delinquent accounts on a per account basis are the responsibility of the Owner and will be posted to the Owner's account. Examples include but are not limited to, certified mailings, costs to physically post a notice, and translation costs.
 - e. **Attorney's Fees and Collection Costs.** The Association is entitled to recover its reasonable attorney's fees and collection costs incurred in collecting assessments or other charges due the Association from a delinquent Owner pursuant to the terms of the Declaration and Colorado law. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred upon demand. Attorney fees will not be charged until after notice of delinquency has been given and a payment plan offered and declined or subsequently defaulted on.
5. **Application of Payments.** Payment is applied to an Owner's account in accordance with the Declaration, CCIOA and this policy. In the event of a conflict between the order in which payments are applied, the payment will be applied in accordance with Colorado law. At this time, CCIOA requires payment be applied first to unpaid assessments and then any remaining amount to the payment of fines, fees, or other charges owed. In the event of a future change to CCIOA, payments will be applied to all costs incurred in collection action, including attorney costs; before applying the payment to the unpaid assessment. This is to ensure the HOA can recover all costs of collection to the extent allowed.
6. **Third-party Notification.** Owners may appoint a third-party to receive written notification on their behalf. The Association will send the same written communications to the third-party contact that it sends to the Owner. Owners must send written notification to the Association with the third-party's name, mailing address and email address. If the Owner wishes to change or eliminate third-party notifications, they must send written notice to the Association 30 days in advance.
7. **Alternate Language.** Notices from the Association will be sent in English unless the Owner has sent written notice to the Association stating a another language preference. The Association will attempt to provide an accurate translation of the original English version, but due to differences in translation, slight differences may occur. The Association will absorb the cost of translating routine notices. However, any costs incurred in translating documents related to delinquency, lien or foreclosure because of a delinquent account will be assessed against the Owner along with other collection costs.

- 8. Monthly Statements Required.** Each month, the Association will send to an itemized list of all assessments, fines, fees and charges to each Owners with a delinquent balance. The monthly statement will be sent by first-class mail to the Owner's mailing address as listed on county property records unless the Owner has provided an alternate mailing address to the Association. In addition, the Association will send notification by email if the Association has a relevant email address. Note, if the account has been referred to a collection agency or attorney, the statement will also specify that the balance may not include all attorney's fees and costs that have been incurred as of the statement date but not yet invoiced to the Association and posted to the Owner's account. No fees or other chares will be assessed for providing statements required under this section.
- 9. Notice of Delinquency and Suspension of Voting Rights.** The Association may send courtesy notices to Owners. Once an account is delinquent, voting rights in the Association business are suspended. 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 with an accounting of how the total was determined.
 - b. Whether the opportunity to enter into a payment plan exists as provided in this collection policy and instructions for contacting the Association to enter in a payment plan, if available
 - c. The name and contact information for the individual the Owner may contact to request a copy of the Owner's ledger to verify the amount of the debt
 - d. A statement that action is required to cure the delinquency, that failure to do so within 30 days may result in the Owner's delinquent account being turned over to a collection agency, a lawsuit being filed against the Owner, the filing and foreclosure of a lien against the Owner's property or other remedies available under Colorado law.
 - e. Whether the delinquency concerns unpaid assessments, unpaid fines, fees or charges or both unpaid assessments and unpaid fines, fees or charges and if the notice of delinquency concerns unpaid assessments, the notice of delinquency must notify the Owner that the unpaid assessments may lead to a foreclosure.
 - f. The steps the Association must take before the Association may take legal action against the Owner including a description of the

Association's cure process and

- g. 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 Declaration, By-laws, or other governing documents of the Association.**
- h. As permitted by the Covenants, an Owner's voting rights are suspended on the 31st day an assessment or assigned costs are past due (delinquent) and are not restored until all outstanding amounts including any fines, fees, administrative costs, or legal fees incurred in collections are paid in full.**

10. Owner Contact and Delivery of Notice. Before the Association turns over a delinquent account to a collection agency or refers it to an attorney for legal action, the Association will:

- a. Send a first notice at 30 days delinquent and a second notice at 60 delinquent. At 90 days delinquent the Association Board will vote on turning the account over to an attorney or collections agency or to take other action.**
- b. Send a copy of the delinquency notice by certified mail, return receipt requested**
- c. When an account is 60 days delinquent, physically post notification of the delinquency on the Owner's lot. This is a requirement of CCIOA and not otherwise HOA policy.**
- d. Contact the Owner by one of the following means:**
 - 1. First-class mail**
 - 2. Email to an email address that the Association has on file that an Owner has provided to the Association**
- e. Notices from the Association will be sent in English unless the Owner has previously notified the Association with an alternate language preference.**
- f. If the Owner has previously identified a third-party to receive notices, that person will receive the same notices as the Owner with the exception of posting notification on the third-party's property.**

g. Notice will include:

- 1. The total amount due to the Association along with an accounting of how the total was determined including the type of charge.**
- 2. If eligible, the offer of a payment plan and instructions on how to contact the Association to arrange for and enter into a plan.**
- 3. The name and contact information of an individual the Owner may contact to request a copy of the Owner's ledger in order to verify the amount of the debt.**
- 4. A statement indicating that action is required to cure the delinquency and that failure to do so within thirty days may result in the Owner's delinquency account being turned over to an attorney, a collection agency, the filing of a lawsuit against the Owner, appointment of a receiver, the filling and foreclosure of a lien against the Owner's property, or other remedies available under Colorado law.**
- 5. Notice that if the delinquency includes unpaid assessments the Association may foreclose.**
- 6. Include a description of the steps the Association must take under CCIOA before the Association may take legal action against the owner.**

11. Payment Plans. An Owner whose account becomes delinquent may enter into a payment plan with the Association to pay off the delinquency in equal installments over an 18-month period or a longer period if approved by the Board.

- a. Before turning over an account to a collection agency or an attorney, the Association will offer the Owner the opportunity to set up a payment plan. This offer will be in writing.**
- b. The Owner must pay a minimum of \$25 per month and may choose to pay a higher amount. The repayment plan offer will be a minimum of 18 months unless paid off sooner by the minimum \$25 per month payment.**
 - 1. An Owner may pay the entire amount due at any time.**

2. Outstanding assessment balances will continue to accrue interest until paid in full.
 3. Entering into a payment plan does not preclude additional fines, fees or charges being assessed on continuing covenant violations.
- c. The Owner must sign signifying acceptance of the offer within 30 days and return the original signature copy to the Association. The first payment is due at the time the offer is accepted. If the Owner does not sign signifying acceptance within 30 days, the offer is null and void and the Owner is considered to have declined the offer. The Association may then proceed with collection action.
 - d. If the Owner signs and accepts the payment plan but subsequently fails to comply with the terms of the payment plan, fails to remit three or more agreed upon installment payments within 15 days of the monthly installment due date; the Association may, without additional notice, refer the delinquent account to an attorney or collection agency for collection action or may take such other action, including legal action; as deemed appropriate.
 - e. If the Owner signs and accepts the payment plan and although making payments, fails to remain current with regular assessments as they come due during the 18-month period, this constitutes a failure to comply with the terms of the payment plan. Therefore, if an Owner fails to remain current with regular assessments as they come due, they are in default of the payment plan and the Association may, without additional notice, refer the delinquent account to an attorney or collection agency for collection action or may take such other action, including legal action; as deemed appropriate.
 - f. The Association is not obligated to negotiate a payment plan with:
 1. An Owner(s) who has previously entered into a payment plan pursuant to this policy or;
 2. An Owner who does not occupy the Lot and acquired the Lot because of a default of a security interest encumbering the Lot or a foreclosure of the Associations lien.
12. Curing a Delinquency. A delinquency is cured when all delinquent assessments including all fines, fees and costs have been paid in full within 30 days of delinquency notice or subsequently paid in full in accordance with an approved payment plan.

13. **Record of Communications.** The Association will maintain a record of the contacts(s) it has made with an Owner regarding a delinquency, including the type of communication used to contact the Owner and the date and time the contact was made. As this record relates to a particular Lot, it will not be deemed a record available to all Owners under Colorado law.
14. **Certificate of Status of Assessments.** Upon written request to the Association, the Association will furnish to an Owner or the Owner's designee; a written statement from the Association setting forth the amount of unpaid assessments currently levied against such Owner's property. However, if the account has been turned over to an attorney, such request may be handled through the attorney. The statement will be delivered within 14 calendar days after receipt of the request by certified mail, first-class postage prepaid, return receipt request. Except that if the Owner's request was submitted by email, the letter may be delivered by email. This letter will be without charge unless the Owner's account has been turned over to the Association's attorney and in that case, the statement will include the attorney's fees incurred in providing the statement.
15. **Board Action Required to Refer Delinquent Account.** Before a delinquent account is referred to a collection agency or attorney, a majority of the Board must vote to refer the matter by recorded vote conducted in executive session.
16. **Collection of Amount Not Subject to Foreclosure.** The Association will seek to collect all amounts owed including those amounts not subject to foreclosure. This may include turning the delinquency over to an attorney or collections agency or making a claim in Small Claims Court.
17. **Judicial Foreclosure.** The Association may foreclose on liens for unpaid assessments in lieu of or in addition to suing an Owner for a money judgement. 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.
 - a. The Association will not commence a judicial foreclosure action unless the balance of the assessments and charges secured by its lien (which may include late fees, fines and other charges as well as other assessments) equals or exceeds six (6) months of common expense assessments based on the Association's periodic budget.
 - b. The Association will not pursue foreclosure against an Owner solely

based on fines owed to the Association or collection cost or attorney fees the Association incurred that are only associated with such fines.

- c. The Association shall consider individually each recommendation for foreclosure. Prior to filing a foreclosure action, the Board will resolve by a recorded vote in executive session to authorize the filing of foreclosure action against the particular Lot against which the foreclosure action will be filed.

18. **Receivership. The Association of a Receiver.** The Association may seek the appointment of a receiver if an Owner becomes delinquent in the payment of assessments pursuant to the Declaration and Colorado law. A receiver is a disinterested person appointed by the court who manages rental of the Owner's property and collects the rents according to the court's order. The purpose of a receivership for the Association is to obtain payment of current assessments, reduce past-due assessments and prevent waste deterioration of the property.

19. **Bankruptcies and Public Trustee Foreclosures.** Upon receipt of any bankruptcy notice or a foreclosure notice by any holder of an encumbrance against any Lot within the Association, the Association may advise the Association's attorney of the same and turn the account over to the Association's attorney.

20. **Referral of Delinquent Accounts to Attorneys or Collections Agency.** The Association may turn a delinquent account over to the Association's attorney or a collection agency at any time after notice of delinquency has been given, information on how to cure a delinquency has been provided and a payment plan offered and declined or defaulted on. In addition, it may be turned over to the Association's attorney in the event of a bankruptcy or public trustee sale.

- a. Upon referral to the Association's attorney, the attorney shall take all appropriate action to collect the accounts referred.
- b. After an account has been referred, the account shall remain with the attorney until the account is settled and has a zero balance or is written off.
- c. The attorney, in consultation with the Board is authorized to take whatever action is necessary and determined to be in the best interest of the Association, including but not limited to:
 - 1. Notice of Lien. If no already recorded, a notice of lien may be recorded against the delinquent Owner's property to

provide record notice of the Association's claim against the property.

2. **Filing Lawsuit.** The Association may file a lawsuit against the delinquent Owner seeking a money judgement. The Association may pursue remedies such as garnishing the Owner's wages or bank account to collect judgement amounts.
3. **Judicial Foreclosure.** Instituting a judicial foreclosure action of the Association's lien, upon approval of the Association's Board of Directors;
4. **Filing necessary claims, documents and motions in bankruptcy court in order to protect the Association's interests; and**
5. **Filing a court action seeking appointment of a receiver.**

- d. **All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through an attorney.**
- e. **After an account has been referred to the Association's attorney, the account remains with the attorney until it is settled, has a zero balance or is otherwise resolved. Once accounts are turned over to the Association's attorney, Owners will make payments to the Association at the attorney's address. The Association's attorney is authorized to take whatever action is necessary in consultation with the Board's President or other person designated by the Board, believed to be in the Association's best interest.**

21. **Supplement to Law.** The provisions of this Rule 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 Project.
22. **Deviations.** The Board may deviate from procedures set forth in this Policy if in its sole discretion such deviation is reasonable under the circumstances.
23. **Violations.** Failure to pay amounts assessed when due is a Covenant violation and subject to enforcement through this policy, the Covenant Enforcement Policy, and legal action.
24. **Amendment.** This policy may be amended from time to time by the Board of Directors.

25. **Waivers.** The Association may modify these procedures as the Association determines appropriate under particular circumstances. Any accommodation may be documented in the Association's files.


26. **Defenses.** Failure to require strict compliance with this policy is not deemed a waiver of the Association's right to require strict compliance and will not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney's fees and or costs as described or imposed by this policy.

This Collection Policy supersedes all previously adopted and recorded collections policies.

This policy was adopted by the Board of Directors this 1st day of March 2023.

PRESIDENT'S CERTIFICATION: The undersigned, being the Acting President of the Wissler Ranch Homeowners Association, Inc., a Colorado nonprofit corporation, certifies that the foregoing policy was adopted by the Board of Directors of the association at a duly called and held meeting of the Board of Directors on March 1, 2023. In witness thereof, the undersigned has subscribed their name.

Wissler Ranch Homeowners Association, Inc., a Colorado nonprofit corporation

By: 
Its: Acting President