

**RESOLUTION
OF
AUTUMN BROOK TOWNHOMES ASSOCIATION, INC.
COLLECTION OF UNPAID ASSESSMENTS**

SUBJECT: Adoption of a policy and procedure for Autumn Brook Townhomes Association, Inc. (the "Association") regarding the collection of unpaid Assessments.

PURPOSE: The purpose of this policy is to provide notice of the Executive Board's (the "Board") adoption of a uniform and systematic procedure to collect Assessments and other charges of the Association that complies with statutory requirements.

AUTHORITY: The Colorado Common Interest Ownership Act ("CCIOA"), the Nonprofit Corporation Act, the Declaration of Covenants, Conditions, Restrictions and Easements for Autumn Brook Townhomes recorded with the Summit County, Colorado, Clerk and Recorder on June 13, 2003 at Reception No. 720272, as amended (the "Declaration"), the Bylaws of Autumn Brook Townhomes Association, Inc., which together with the Articles of Incorporation, Policies, Rules and Regulations are referenced as the "Project Documents".

EFFECTIVE: Upon Approval

RESOLUTION: The Board hereby adopts the following policy and procedure subject to:

- Definitions: Unless otherwise defined, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
- Compliance with Law. The provisions of this Resolution comply with the provisions of the Declaration and the law of the State of Colorado governing the Association.
- Deviations. The Board may deviate from any provision of this Resolution if in its sole discretion such deviation is reasonable under the circumstances.
- Amendment. The Board may amend the following policies from time to time.

COLLECTION OF UNPAID ASSESSMENTS

1. Purpose of the Collection Policy. One of the many advantages of living in a community association is sharing with other members the costs of certain maintenance, repairs, and amenities that are often too expensive for a single Owner. All Owners are legally bound to share those costs. It is imperative for the proper maintenance of the Association's Common Elements that all Assessments, whether regular or special, be paid in full and on time. Delinquencies throw the Association's entire budget off course and negatively affect all Owners' property values and lifestyles. To maintain our community adequately, state statutes and our Project Documents give the Board the authority to impose and collect Assessments and other allowable charges from Owners. In fact, the Board owes a duty to all Owners to make sure everyone pays. The Board has adopted the following policy to fulfill its duty in a fair, systematic, and impartial manner.

2. Common Expenses and Assessments. Common Expenses are the expenses and liabilities of the Association including allocations for reserves. Common Expenses include expenses of administration and management, maintenance, repair or replacement of the Common Elements; expenses declared Common Expenses by the Project Documents; and expenses agreed upon as Common Expenses by the Owners. Common Expenses are funded by Assessments against the Units as provided in the Declaration including default Assessments for rules violation fines, late fees, common area repairs, insurance deductibles, attorney fees, interest, or other charges imposed under the Project Documents.

3. When Assessments Are Due. Annual Assessments are due in advance on the first day of each year without notice. Owners may pay their annual Assessments in equal monthly installments, which are due in advance and without notice on the first day of each month, or in such other installments as the Board may determine from time to time. Payments for other Assessments, or installments of other Assessments, are due thirty (30) days after the mailing of notice of Owner's obligation to pay, unless otherwise stated. If an Owner does not pay in full any Assessment by its due date the Owner's account is delinquent.

4. Where to Send Payment. Owners shall deliver all payments to the Association as follows:

Autumn Brook Townhomes Association, Inc.
P.O. Box 2590
Dillon, CO 80435-2590

5. Notice of Delinquency.

a. *First Notice.* After an Assessment is delinquent for thirty (30) days the Association Managing Agent will send to the Owner a written notice of delinquency ("First Notice"). The First Notice will state:

- i.** The total amount due with an accounting of how the total was determined;
- ii.** Who the delinquent Owner may contact to verify the amount past due;
- iii.** The Owner must cure the delinquency by payment of the amount owed either in a lump sum or under a payment plan pursuant to Section 7, and who the Owner may contact regarding a lump sum payment or a payment plan;
- iv.** How payments will be applied to the delinquency;
- v.** If the Owner fails to cure the delinquency within 30 days the delinquent account may be turned over to the Association's attorney for collection, filing a lien and other remedies available to the Association pursuant to the Project Documents and Colorado law.

b. *Second Notice.* After an Assessment is delinquent for sixty (60) days, the Managing Agent may send the delinquent Owner a second written notice of non-payment ("Second Notice"). The Second Notice will state the amount past due, that interest and late fees have accrued and the amount thereof, and that the Managing Agent will turn the account over to the Association's attorney for collection if they do not cure the delinquency within 30 days after the date of the Second Notice.

c. *Final Notice.* After receiving the delinquent account, the Association's attorney will file a lien and send a letter ("Final Notice") to the delinquent Owner demanding immediate payment for past due Assessments, and that the delinquent Owner has 15 days from the date of the Final Notice to cure the delinquency. Upon further review, and the Board's compliance with Section 14 below, the Association's attorney may file a lawsuit or pursue other remedies authorized under the Project Documents and Colorado law. A delinquent Owner must pay reasonable attorney's fees the Association incurs together with costs, applicable interest and late fees, whether or not suit is initiated.

6. Collection Remedies. The Association may take any or all of the following actions if an Owner's account is delinquent:

a. Late Fees and Interest. If the Association does not receive payment for any Assessment in full on or before the thirty (30) days after it becomes due, the delinquent Owner must pay a late charge of **\$100.00** as liquidated damages for the Association's time, inconvenience, and overhead in collecting the late payment. The delinquent account will also accrue interest at **15%** per annum from the due date until the date of payment.

b. Returned Checks. Any Owner who writes a check to the Association that the Association's bank returns for any reason must pay the following charges:

i. a return check charge of **\$100.00** plus any related bank charges that the Association incurs because of the returned check; and

ii. If notice has been sent pursuant to C.R.S. § 13-21-109 and the total amount due set forth in that notice is not paid within fifteen (15) days after such notice is given, the person issuing the check, draft or money order will be liable to the Association for collection of three (3) times the face amount of the check, but not less than \$100.00.

iii. If Owner writes two or more checks to the Association that the Association's bank returns for any reason within one fiscal year, the Association may require that Owner to pay Assessments for one fiscal year with certified funds.

c. Reserve Deposit. The Association may require an Owner to deposit with the Association an amount equal to three periodic Assessment payments to be held by the Association as an operational reserve. Payment of such amount shall not relieve an Owner of the obligation to pay the periodic Assessments as they become due. Upon transfer of a Unit, the transferring Owner shall receive any portion of the reserve payment which remains unused as of the date of such transfer.

d. Suspend Privileges. If an account is delinquent for more than sixty (60) days, the Association will give the Owner a thirty (30) day notice of intent to suspend voting privileges.

e. Assignment of Rents. In the event of any delinquency, Owner assigns all rents of their Unit to the Association, who upon written notice to the Tenant will be entitled to collect all rent and other sums due under the rental agreement.

7. Payment Plan: In compliance with C.R.S. § 38-33.3-316.3, the Association will make a good faith effort to set up a payment plan with a delinquent Owner prior to turning the Owner's delinquent account over to a third party debt collector or referring the account to an attorney for legal action. An Owner should contact the Managing Agent to request a copy of the ledger to confirm the amount of Assessments owed or to set up a payment plan.

a. Requirements. A payment plan negotiated between the Association Treasurer or Managing Agent and an Owner pursuant to this Section must permit the Owner to pay off the delinquency in equal installments over a period of at least six months. The plan will also require the Owner to pay all periodic and other Assessments as they become due during the term of the payment plan. A payment plan will contain the material terms as set forth in the template attached as Exhibit A to this Resolution, as may be amended by the Association Treasurer to address the particular circumstances of the delinquency.

b. Default. The Association may pursue any collection remedy or

legal action the Project Documents authorize against an Owner who defaults on the terms of a payment plan entered into pursuant to this Section. An Owner will be in default of their payment plan if the Owner fails to timely pay an agreed upon installment, or if the Owner otherwise defaults under the terms of the payment plan.

c. Exceptions. The Association is not required to set up payment plans with an Owner who does not occupy the Unit and acquired the property as a result of a Default of a Security Interest, or an Owner that has previously entered into a payment plan pursuant to this Section.

8. Habitual Delinquency. An Owner that is more than thirty (30) days delinquent on two or more periodic Assessment payments in any six month period will be considered habitually delinquent. The Board may require habitually delinquent Owners to arrange for payment of future Assessments to the Association by Automated Clearing House (ACH) direct debit transfers or automatic Electronic Funds Transfer (EFT). The Board may not require an Owner to make ACH or EFT transfers for a term longer than twelve (12) consecutive months, unless the Owner requests to continue paying installments of Assessments by ACH or EFT transfers.

9. Crediting Late Payments. All delinquent accounts remain delinquent until paid in full. Acceptance of partial payments will not waive the Association's right to pursue full payment and/or to enforce the provisions of this policy. The Association will apply partial payments to the outstanding balance in the following order:

- a. Post judgment attorney's fees and costs;
- b. Post judgment interest;
- c. Late charges, returned check charges, lien fees, and any other fines or costs owing or incurred;
- d. Interest accrued on any unpaid post judgment Assessments;
- e. Unpaid Assessments, with payments applied to the oldest balance first;
- f. Current Assessments; and
- g. Amounts reduced to judgment.

10. Acceleration and Deceleration of Assessments. The Board reserves the right to accelerate and call due the entire unpaid annual or special Assessment of any delinquent account. Such acceleration will result in the entire unpaid Assessment being due to the Association immediately. The Board also reserves the right to decelerate any accelerated Assessment.

11. Certificate of Status of Assessment. The Association will furnish to an Owner or such Owner's designee within fourteen (14) days after written request to the Association's agent, a written statement setting forth the amount of unpaid Assessments currently levied against such Owner's Unit for a fee of **\$50.00**. However, if the account has been turned over to the Association's attorney, such request will be handled through the attorney.

12. Bankruptcies and Foreclosures. Upon receipt of any notice of a bankruptcy

filing by an Owner, or upon receipt of a notice of a foreclosure by any holder of an encumbrance against any Unit, the Managing Agent will notify the Association's attorney of the same and turn the account over to the Association's attorney, if appropriate.

13. Appointment 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 that manages the rental of the property, collects the rent and disburses 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 the waste and deterioration of the property.

14. Judicial Foreclosure. If the balance of the delinquent Assessments and charges secured by its lien equals or exceeds six months of Common Expense Assessments based on a periodic budget adopted by the Association, the Association may foreclose on the 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. With respect to such action:

a. The Board must formally resolve, pursuant to a recorded vote, to authorize the filing of a legal action against an Owner or a Unit.

b. The Board may not delegate its duty under this Section to any attorney, insurer, manager, or other person.

15. Waivers. The Association is authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association determines is appropriate under the circumstances.

16. Notices. The Association will cause a collection or demand letter or notice to be hand delivered or sent to a delinquent Owner at the registered or last known address by regular mail. The Association may, but is not required to send an additional copy of that letter or notice by e-mail or certified mail.

17. Communication with Owners. All communication with a delinquent Owner will initially be handled by the Managing Agent, but once a matter is referred to the attorney communication will be handled through the Association's attorney. A Board member or Managing Agent may not discuss the collection of the account directly with an Owner after it has been turned over to the Association's attorney unless the attorney is present or has consented to the contact.

18. Defenses. Failure of the Association to comply with any provisions in this policy will not be deemed a defense to payment of Assessment fees or other charges, interest, late charges, return check charges, attorney fees and/or costs as described and imposed in this policy.

The undersigned officer of Autumn Brook Townhomes Association, Inc. hereby certifies that the foregoing Resolution is true and correct as adopted by the Executive Board.

Date
By: _____, President