

## THE MOUNTAIN OAKS HOMEOWNERS ASSOCIATION POLICY ON COLLECTIONS

Effective Date: 09/18/2016

The following Policy on Collections of all past due assessments, fines and other charges applicable to all owners of lots located at Mountain Oaks Subdivision Filing Nos. 1,2,3, & 4 (“Owners”), is hereby adopted by the Board of Directors of Mountain Oaks Homeowners Association (“MOHA”):

- (1) **Due Date and Delinquency.** Payment for all assessments<sup>1</sup>, fines and other charges is due on the date specified on the invoice and is considered late if not received by MOHA or its designated payee by the 30<sup>th</sup> day after the date listed on the invoice. Owners should allow ample time for mailing and receipt of payments. An account is delinquent if an Owner has an unpaid balance for more than sixty days.
- (2) **Late Fees and Interest.** If payment is not received within 30 (thirty) days of the date specified on an invoice (“Past Due Date”), the account and payment are considered late and a late fee of thirty dollars (\$30.00) will be assessed to the Owner’s account. Any assessments and late fees that remain unpaid as of the Past Due Date shall bear interest from and after the Due Date at the rate specified in Section 608 of the MOHA Covenants.<sup>2</sup>
- (3) **Return Check Charges.** In the event that a check in payment of assessments is dishonored, any bank charges to MOHA plus a \$40.00 fee will be assessed to the Owner’s account.
- (4) **Other Fees:** Additional Fees may apply and be considered other collection costs, to include but not limited to, preparation and recording of notices of intent to lien, lien filings and releases, and any other fees reasonably incurred as a result of the delinquency of the homeowner.
- (5) **Payment Plans**
  - a. **Payment Plan Eligibility.** An Owner with assessments that are sixty days or more past due and therefore delinquent is entitled to enter into a payment plan with MOHA for the past due balance. This payment plan is not available to Owners in the following circumstances: (a) if the Owner does not occupy the unit, and has acquired the property as a result of a default of a security instrument encumbering the unit or as a result of a foreclosure of the MOHA’s lien, or (b) if an Owner has defaulted under a previous Payment Plan with MOHA.

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<sup>1</sup> The term “assessment” means regular and special assessments, fees, charges, late charges, attorney fees, fines, interest, and collection costs.

<sup>2</sup> MOHA Covenants, ¶ 608. Effect of- Nonpayment of Assessments; Remedies of the Association. Any assessments which are not paid when due shall be delinquent. Any assessment not paid within thirty (30) days after the due date thereof shall bear interest from the due date at the rate of two percent (2%) over prime rate of the First National Bank of Colorado Springs per annum. The Association may bring an action at law against the Owner personally obligated to pay the same, or foreclose the lien against such Owner's Lot and in the event a judgment is obtained, such judgment shall include interest on the assessment as above provided, and a reasonable attorney's fee to be fixed by the Court, together with the costs of the action No Owner may waive or otherwise escape liability for the assessments provided for herein by non- use of the Common Area or abandonment of his Lot.



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- (8) **Remedies Available in Collection.** The following remedies are available to the MOHA in the collection of unpaid assessments:
- a. A lien for unpaid assessments, fines, charges, fees, sums assessed including interest, court costs, collection costs and reasonable attorney fees (“assessment lien”), is automatically imposed by operation of law and by the declaration of covenants. Prior to release of any lien, all assessments, late charges, interest and costs must be paid in full to the MOHA by certified check or money order;
  - b. Foreclosure of an assessment lien if the balance of the assessment lien equals or exceeds six months of common expense assessments based on a periodic budget adopted by the MOHA, which action can only be taken after the MOHA Board of Directors has formally resolved, by a recorded vote, to authorize such legal action;
  - c. Suit for collection of the unpaid assessments seeking a personal judgment against the Owner or former Owner on an individual basis, which action can only be taken after the MOHA Board of Directors has formally resolved, by a recorded vote, to authorize such legal action against the Owner individually;
  - d. Appointment by the Court of a receiver to collect all sums alleged to be due by the Owner;
  - e. Enforcement actions pursuant to Section 1304 of the Covenants authorize MOHA to remedy a breach of covenants after notice. In the event that MOHA remedies the breach with corrective action, MOHA shall be reimbursed for all reasonable expenses incurred to cure the breach by the person responsible for the breach and if not paid within thirty (30) days after such Owner has been sent notice of the amount due, such amount, plus interest at the rate of twelve percent (12%) per annum and plus cost of collection, shall be a lien on the ownership interest in the Lot (including improvements thereon) of each person so notified and shall in all respects be the personal obligation of the Owner.
- (9) **Small Balance and Audit Letters:** A delinquent homeowner with a balance less than \$25 and under circumstances which would cost the Association more to collect the delinquent balance than to receive the amount owed, may receive audit letters. The MOHA Board of Directors, in their discretion, may not follow the Collection Policy regarding the collection of small balance accounts, but instead send audit letters. Audit letters will be distributed at the direction of the Board.
- (10) **Dispute and Settlement:** All Assessments shall be payable in the amounts specified in the statement thereof, and no offsets or reduction shall be permitted for any reason including, without limitation, any claim that the Association or the Board of Directors are not properly exercising their duties and powers under the Covenants. The MOHA Board has the authority to present or accept a settlement offer that waives all or some of the costs, late fees, attorney fees, r other collection costs and/or interest, or Regular or Special Assessments, if in the MOHA Board’s opinion, such waiver is in the best interest of the community. Waiver of regular or special assessments requires a unanimous vote of the MOHA Board.

IN WITNESS WHEREOF, the undersigned certify that Policy on Collections was adopted by resolution of the Board of Directors of Mountain View Homeowners Association on this 18 day of September, 2016.

MOUNTAIN OAKS HOMEOWNERS ASSOCIATION  
A Colorado nonprofit corporation,

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By: Steve Carmichall  
President

By: Beverly Collins  
Secretary