

Blumenau Homeowner's Association

Collection Policy & Procedure

Although Blumenau HOA (BHA) pre-dates the required participation of the Colorado Common Interest Ownership Act (required for all HOAs formed *after* 1992 – Blumenau HOA was formed in the 1970s), the Board of Directors (Board) has sought to adopt many recommended uniform and systematic policies and procedures as prescribed in the Act.

BHA hereby adopts the following policy and procedure for Collection of Unpaid Dues, Sums, Charges or Assessments, effective July 2018:

1. **Personal Obligation:** Annual dues shall be the personal obligation of the Owner of the lot for which such dues or charges are issued. Owners must notify BHA in writing of any change in their mailing address or status within 30 days of such change.
2. **Due Dates:**
 - A. **Annual dues**, as allowed for in the Bylaws, shall be assessed on the first day of June and are due prior to the annual meeting held on the fourth Saturday of July. Dues not paid in full to BHA by August 1 of each year shall be considered past due and delinquent. After an installment of an annual assessment becomes more than two years delinquent, the third year's annual assessment shall include written notice of intent to file lien as well as pending fees. After that annual meeting, a second and final notice of intent to file lien shall be sent via certified mail with a copy of the pending lien. After 30 days with no resolution, the lien shall be filed with the Custer County Clerk.
 - B. **Special assessments** per lot may be established from time to time by the Board of Directors based on current situations or needs such as necessary legal fees to defend BHA or repair damage as a result of a manmade or natural disaster. Special assessments shall be due within 30 days of the assessment or as otherwise determined and specified by the Board. A special assessment more than 60 days delinquent may be subject to the filing of a lien against the property as outlined in the procedures below.
 - C. **Fines** shall be due and payable upon notice of the fine. All fines shall be considered an assessment and may be collected as outlined in the procedures below and may be subject to a lien against the property. Fines shall be in addition to all other remedies available to BHA pursuant to the terms of the Declaration and Colorado law, including the BHA's right to collect attorney fees as authorized by Colorado law.
3. **Fees:**
 - A. **Returned Checks:** BHA will impose an administrative fee of \$30 in addition to any applicable bank fees for all returned checks. If an Owner's check is returned unpaid by the bank, BHA may require that all of the Owner's future payments, for a period of three years, be made by cash, certified check or money order.
 - B. **Liens:** Should a lien be filed, a \$50 recording/postage/handling fee will be added to the amount of the lien. BHA may record subsequential notices of lien, giving notice of its lien rights and/or giving notice of sums then due BHA from an Owner, each with an additional \$50 recording/postage/handling fee.
4. **Suspension of Voting Rights:** BHA voting rights of any Owner whose account is more than \$30 past due (one full year) shall be suspended.

5. Proof of Payments:

- A. Since the records of BHA are kept in the ordinary course of business and BHA relies upon same on behalf of all Owners, there is a presumption that those records are correct and valid if there is no written dispute received by BHA within 30 days after the mailing of a billing statement.
- B. Within 30 days after the mailing of a billing statement, an Owner wishing to dispute the amount or validity of any Assessment must send written notice describing all disputed payments. Owner may also request information from or a hearing before the Board.
- C. The Board may require that the Owner deliver documentation, such as cancelled checks or bank statements, to support the Owner's claims.
- D. All payments made to settle a dispute and all correspondence regarding payment disputes must be sent by certified mail to BHA's Secretary/Treasurer at BHA's PO Box. If payment or correspondence is delivered by any other method, the Owner assumes the risk that the payment and any communication sent by that method will not be received by BHA.

6. Remedies for Collection of Delinquent Assessments:

- A. To the fullest extent permitted by BHA's Governing Documents and/or Colorado statutes, BHA may proceed to file litigation against any Owner who has not paid his assessment and, without affecting that remedy, may also file a lien against the delinquent lot, or BHA may pursue other remedies available under Colorado law.
- B. To qualify as an "Owner in good standing" for purposes of this Rule, and to obtain a release of liens, restoration of voting or other rights, or to terminate litigation, the delinquent Owner must make payment in full of all Assessments and other sums, including sums which arise after the collection process or after the Owner delivers a payment to BHA.
- C. BHA shall be entitled to recover its reasonable attorney fees and collection costs incurred in the collection of assessments or other charges due BHA from a delinquent Owner pursuant to the terms of the Declaration and Colorado law. Attorney fees incurred by BHA shall be considered part of the assessments and shall be due and payable immediately when incurred, upon demand.

7. Notice of Delinquent Assessments: Before turning over the delinquent account of an Owner to a collection agency, referring it to an attorney for legal action, or filing a lien with the County Clerk, the BHA shall, to the extent required by statute or law, send the Owner a notice of delinquency specifying:

- A. The total amount due, with an accounting of how the total was determined
- B. That action is required to cure the delinquency, and 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 of a lien against the Owner's property, or other remedies available under Colorado law
- C. The opportunity to request a payment plan if over \$90 or more delinquent in accordance with Section 8 of this Policy and the contact information in which to do so.

8. Payment Plan:

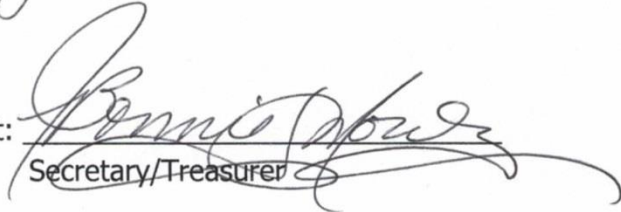
- A. BHA is not a lender, and failure to pay Assessments imposes financial burdens on the other Owners. A payment plan may only be considered for circumstances required by law or statute, or hardship conditions that justify some sort of temporary accommodation.
- B. Any request for a payment plan must be made by an Owner in writing and mailed to BHA at PO Box 368, Westcliffe, CO 81252.
- C. Any payment plan shall be a legally binding contract, requiring the Owner to pay all delinquent sums, including attorney fees and other costs. The payment plan shall require the Owner to keep all monthly payments current and must pay off the entire delinquent amount in six equal monthly installments, unless otherwise agreed to in writing by the Board.
- D. Nothing in this Rule prohibits BHA from pursuing legal action against an Owner if the Owner fails to comply with the terms of their payment plan. An Owner's failure to remit payment of an agreed-upon installment, or to remain current with regular Assessments as they come due during the repayment period, constitutes a failure to comply with the terms of their payment plan.

- E. BHA is not obligated to negotiate a payment plan with an Owner who has previously entered into a payment plan. The Board shall have complete discretion over payment plans, except as otherwise required by Colorado statute.
9. Application of Payments for Delinquent Accounts: All payments received on account of any Owner shall be applied to payment of any and all legal fees and costs (including attorney fees), if any, expenses of enforcement and collection, if any, returned check charges, if any, notice of lien fees, if any, and other costs owing or incurred with respect to such Owner pursuant to BHA's Governing Documents, prior to application of the payment to any annual dues due or to become due with respect to such Owner.
10. Notices: In the event BHA sends mail to a delinquent Owner by regular mail, BHA may also choose to send an additional copy by certified mail.
11. Waivers: BHA may alter the time for the filing of lawsuits and liens, or otherwise modify the procedures contained herein, as BHA shall determine appropriate under the particular circumstances. Any such accommodation shall be documented in BHA's files with the conditions of relief. Failure of BHA to require strict compliance with this Collection Policy shall not be deemed a waiver of BHA's right to require strict compliance and shall not be deemed a defense to payment of assessment fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this Collection Policy.
12. Defenses: Failure of BHA to comply with any provision in this policy shall not be deemed a defense to payment of dues fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this policy.
13. General: Nothing in this Policy requires the Board to take specific actions at a specific time. The Board has the option and right to continue to evaluate each delinquency on a case-by-case basis. The Board may modify the procedures contained herein as the Board shall determine appropriate under the particular circumstances.

IN WITNESS WHEREOF, the undersigned certify that the Amendment Procedure was adopted by resolution of the Board of Directors of the Association this 23 day of July, 2018.

Blumenau Homeowners Association

By: 
President

Attest: 
Secretary/Treasurer