

**AMENDED RESOLUTION  
OF THE  
FIRST HIGHLAND GREENS ASSOCIATION  
REGARDING POLICY AND PROCEDURES FOR COLLECTION OF UNPAID  
ASSESSMENTS**

- SUBJECT:** Adoption of a policy and procedure regarding the collection of unpaid assessments.
- PURPOSE:** To provide notice of the Association's adoption of a uniform and systematic procedure to collect assessments and other fees of the Association.
- AUTHORITY:** The Declaration, Articles of Incorporation and Bylaws of the Association and Colorado law.
- EFFECTIVE DATE:** **October 1, 2013**
- RESOLUTION:** The Association hereby adopts the following policy:

It is in the best interest of the Association to collect delinquent dues and to refer delinquent assessments promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue. The Association hereby gives notice of its adoption of the following policies and procedures for the collection of assessments and other fees of the Association:

1. **Due Dates.** The annual assessment as determined by the Association, and as allowed for in the Declaration, shall be due and payable in four equal installments on the following dates; November 1, February 1, May 1 and August 1 each year. Alternatively, the entire annual assessment may also be paid in full on November 1. Assessments or other charges not received on or before the 10<sup>th</sup> day of the month, or the following business day should the 10<sup>th</sup> day fall on a weekend or holiday, are considered late and will be subject to late fees and other charges as outlined below.

2. **Fees on Delinquent Installments and/or Fees Not Paid in Full.**

a. **Association Fees:**

The Association shall impose a late fee each month of 2.5 percent of the annual dues, rounded to the nearest \$5 increment, for each Owner who fails to timely pay his/her installment of the annual assessment-within 10 days of the due date. For example the 2013 fee for delinquent installments would be \$20 per month, which is 2.5 percent of the FY2013 annual assessment of \$700 (\$17.50), rounded to the nearest \$5 increment (\$20.00). Owners who fail to pay their installments shall incur late fees as described above for every additional thirty days the installment remains past due. This late fee shall be a "common expense" for each delinquent Owner.

b. **Collection Fees**

**The Association allows for separate collection charges or fees to be imposed by a management company, attorneys for the Association, or other professional services providers acting on behalf of the Association.** Fees from these third party providers represent incurred costs to the Association and shall be charged to the delinquent Owner.

3. Receipt Date. The Association shall post payments on the day that the payment is received by the Association.

4. Personal Obligation for Late Fees. The late fee shall be the personal obligation of the Owner(s) of the property for which such assessment or installment is unpaid. All late fees shall be due and payable immediately, without notice, in the manner provided by the Declaration (and as set forth herein) for payment of assessments.

5. Return Check Fees. In addition to any and all fees imposed under the Declaration, Articles of Incorporation and Bylaws, the Rules and Regulations of the Association or this Resolution, a reasonable fee, not to exceed \$20.00, shall be assessed against an Owner in the event any check or other instrument attributable to or payable for the benefit of such Owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to insufficient funds. For clarity, the returned check fee would be in addition to any fees for delinquent installments set forth in paragraph 3 above.

This returned check charge shall be a "common expense" for each Owner who tenders payment by check or other instrument which is not honored by the bank upon which it is drawn. Such return check charge shall be due and payable immediately, upon demand. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. Returned check fees shall be the obligation of the Owner(s) of the unit for which payment was tendered to the Association. Returned check fees shall become effective on any instrument tendered to the Association for payment of sums due under the Declaration, Articles, Bylaws, Rules and Regulations or this Resolution after the date adopted as shown above. If two or more of an 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 (1) year, be made by certified check or money order. This return check charge shall be in addition to any late fees incurred by an Owner.

6. Attorney Fees on Delinquent Accounts. As an additional expense permitted under the Declaration and by Colorado law, the Association shall be entitled to recover its reasonable attorney fees and collection costs incurred in the collection of assessments or other fees due the Association from a delinquent Owner. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred, upon demand.

7. Application of Payments. All sums collected on a delinquent account that has been turned over to the Association's attorney shall be remitted to the Association's attorney until the account is brought current. All payments received on account of any Owner or the Owner's property (hereinafter collectively "Owner"), shall be applied to payment of any and all legal fees and costs (including attorney fees), expenses of enforcement and collection, late fees, returned check fees, lien fees, and other costs owing or incurred with respect to such Owner pursuant to the Declaration, Articles, Bylaws, Rules and Regulations, or this Resolution, prior to application of the payment to any special or regular assessments due or to become due with respect to such Owner.

8. Collection Process.

(a) After any assessment installment payment or other fees due to the

Association becomes more than 10 days delinquent, the Association shall send a written notice ("First Notice") of non-payment, specifying the amount past due and any late fees that have accrued, and requesting immediate payment.

(b) After any assessment installment payment or other fees due to the Association becomes more than 40 days delinquent, the Association shall send a second written notice ("Second Notice") of non-payment. The Second Notice shall state (1) the amount past due, including an accounting of how this amount was determined, (2) any late fees have accrued, (3) the name and contact information for the person the owner should contact to obtain a copy of the Owner's ledger, and (4) that failure to take action and cure the delinquency within 30 days may result in the account being turned over to the Association's attorneys for collection, 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. The Second Notice shall also state that within 30 days the Owner may contact the Association to enter into a payment plan for the past due assessments.

(c) If the Owner contacts the Association within 30 days of the Second Notice, he/she is entitled to enter into a payment plan for the past due assessments. The payment plan must allow the owner to pay off the delinquent assessments in no less than 6 equal monthly installments. The Association may take additional action against an Owner if the Owner fails to comply with the terms of the payment plan. A Unit Owner's failure to remit a payment as agreed, remain current with the regular assessments during the payment plan, or comply with other agreed upon terms, shall constitute a failure to comply with the terms of the payment plan. Notwithstanding the above, the Association shall not be obligated to enter into a payment plan with an Owner who has previously entered into a payment plan with the Association. The Association shall also not be obligated to enter into a payment plan with an Owner who does not occupy the property and has acquired the property through a foreclosure.

(d) After any assessment, installment payment, or other fees due to the Association becomes more than 90 days delinquent and the Owner has not requested a payment plan, or has requested a payment plan and defaulted, the Association shall turn the account over to the Association's attorney for collection. Upon receiving the delinquent account, the Association's attorneys shall file a lien and send a letter to the delinquent Owner demanding immediate payment for past due assessments or other fees due. Upon further review, the Association's attorney may file a lawsuit. If a judgment or decree is obtained, including without limitation a foreclosure action, such judgment or decree shall include reasonable attorney's fees together with the cost of the action and any applicable late fees.

(e) In addition to the steps outlined above, the Association may elect, after giving the Owner proper notice and an opportunity to be heard pursuant to the Association's enforcement policy, to suspend the voting rights of any Owner whose account is past due at the time of such voting and suspend the owner's rights to use Common Facilities of the Association.

10. Certificate of Status of Assessment. The Association shall furnish to an Owner or such Owner's designee upon written request, first class postage prepaid, return receipt, to the Association's agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's property. However, if the account has been turned over to the Association's attorney, such request may be handled through the attorney.

11. 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 within the Association, the Association shall notify the Association's attorney of the same and turn the account over to the Association's attorney, if appropriate.

12. Use of Certified Mail/Regular Mail. The Association shall cause a collection or demand letter or notices to be sent to a delinquent Owner by certified mail.

13. Referral of Delinquent Accounts to Attorneys. Upon referral to the Association's attorney, the attorney shall take all appropriate action to collect the accounts referred. After an account has been referred to an attorney, the account shall remain with the attorney until the account is settled, has a zero balance or is written off. The attorney, in consultation with the Association, is authorized to take whatever action is necessary and determined to be in the best interests of the Association, including, but not limited to:

- a. Filing of a suit against the delinquent Owner for a money judgment;
- b. Instituting a judicial foreclosure action of the Association's lien;
- c. Filing necessary claims, documents, and motions in bankruptcy court in order to protect the Association's interests; and
- d. Filing a court action seeking appointment of a receiver.

Notwithstanding the above, no foreclosure action shall be initiated unless the amount due equals or exceeds six months worth of assessments and the Board has formally resolved to authorize the action. All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney.

14. 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, which 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.

15. Judicial Foreclosure. The Association may choose to foreclose on its 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. No foreclosure action shall be initiated unless the amount due equals or exceeds six months worth of assessments and the Board has formally resolved to authorize the action.

16. Waivers. The Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the

Association shall determine appropriate under the circumstances.

17. Communication with Owners. All communication with a delinquent Owner shall be handled through the Association's attorney once a matter has been referred to the attorney. No member of the Board of Directors shall 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 provision in this Policy shall not be deemed a defense to payment of assessment fees or other fees, late fees, return check fees, attorney fees and/or costs as described and imposed by this Policy.

19. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.

20. Supplement to Law. The provisions of this Resolution 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.

21. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.

22. Amendment. This Policy may be amended from time to time by the Board of Directors.

**PRESIDENT'S  
CERTIFICATION:**

The undersigned, being the President of the Association certifies that the foregoing Resolution was adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on August 20, 2013 and in witness thereof, the undersigned has subscribed his/her name.

**FIRST HYLAND GREENS ASSOCIATION, INC.**  
a Colorado nonprofit corporation

By \_\_\_\_\_ (Original Signature on File)  
President