

Western Winds Homeowners Association, Inc.

Notice of Homeowner Association Dues Collection Policy (Regular assessment, special assessments, and City of Tucson Utility recovery fee)

Originally issued: August 1, 2012; updated: November 19, 2020

Dear Homeowner,

One of the Board's important responsibilities is to maintain the financial health of the Association. The Board appreciates the efforts of the majority of homeowners who have maintained an excellent record of making timely payments of their monthly HOA Dues, especially during these difficult economic times. Because of the negative effect that non-payment has on the Association, the Board is clarifying its policy concerning delinquent accounts.

In summary, you have thirty (30) days to pay the HOA Dues each month. The Association appreciates a timely payment. If you do not, late fees and interest will be added and you will receive notices at thirty (30) days, forty (40) days, and (50) days past due. If you have not made your account current by sixty (60) days past due, you will receive a certified letter requesting that you make your account current by no more than ninety (90) days past due. If you have a problem in making payments, then you can notify the Association by twenty one (21) days or earlier after the date of the certified letter to establish payment arrangements. If you do not, you run the risk of being sent to collections. The reminder of this letter explains the process in detail.

Per Article 5.8 of the Association's CC&Rs, "any assessment or installment of an assessment that is not paid within 30 days after it first became due shall be deemed delinquent."

The Board enforces Article 5.8 as follows in accordance with a Board Resolution, effective December 1, 2020, which is an enhancement to an earlier resolution made on July 31, 2012.

- The Collection Policy applies to the HOA Dues, including the regular assessment, special assessments, and the reimbursement for the City of Tucson Utility recovery fee – interest and late fees are added to past due balances
- When payment of an Assessment is not received within thirty (30) days from the original due date, a delinquency notice will be sent to the homeowner – this notice is part of the monthly statement that is sent to homeowners, which also shows the due date and late fees should a homeowner's account become delinquent
- If the delinquent amount has not been received within forty (40) days from the original due date, a second notice will be sent separate from the monthly statement
- If the delinquent amount has not been received within fifty (50) days from the original due date, a third notice will be sent separate from the monthly statement
- If the delinquent amount has not been received within sixty (60) days from the original due date, a certified letter with a delinquency notice will be sent to the homeowner in accordance with Arizona Revised Statutes § 33-1803. The homeowner has twenty one (21) calendar days to respond in writing by certified mail, and the Association has a further ten (10) days to respond, which may include referring the matter to the Association's attorney for collection if the homeowner's account does not become current within ninety (90) days.
- Referring a homeowner for collection may also include legal action to obtain a monetary judgment, notice to credit reporting agencies, garnishment, or other remedies available to the Association

The above policy does not negate or modify any of the Association's other remedies regarding its rights to collect unpaid HOA Dues.

Board of Directors
Western Winds Homeowners Association

Western Winds Homeowners Association, Inc.

Board Resolution

Homeowner Association Dues Collection Policy and Procedures (Assessment and City of Tucson Utility recovery fee)

This resolution of the Board of Directors (the "Board") of Western Winds Homeowners Association (the "Association") on November 19, 2020, being an update to an earlier resolution made on July 31, 2012.

RECITALS

- A. The Association is charged with certain responsibilities regarding administration of the Association's business; enforcement of governing documents; care, maintenance, and services of the common areas; and promoting the recreation, health, safety, and welfare of the homeowners.
- B. The Association must have the financial ability to discharge its responsibilities.
- C. The Board is required by the Declaration of Covenants, Conditions, and Restrictions for the Association (the "Declaration" or "CC&Rs") to pursue collection of assessments and other charges from delinquent owners being Homeowner Association dues ("HOA Dues") under Article 5.1 of the CC&Rs to include regular assessments, special assessments, and reimbursement for the City of Tucson Utility recovery fee.
- D. The Board desires to adopt a uniform and systematic procedure to collect assessments and other charges of the Association.

NOW, THEREFORE, BE IT RESOLVED, that the Board of the Association does hereby enhance the following procedures for the collection of HOA Dues of the Association, effective December 1, 2020, that were original in place effective September 1, 2012:

- 1. **Due Dates.** The annual HOA Dues including the assessment and City of Tucson Utility recovery fee, as determined by the Board in accordance with Article 5.7 of the Declaration, shall be payable in advance, in twelve (12) installments due on the 1st day of each month. HOA Dues and other charges such as late fees not paid to the Association within thirty (30) days after the due date shall be considered past due and delinquent. The Board will advise the homeowners the amount of HOA Dues once the budget has been approved in compliance with Article 5.3 of the CC&Rs.
- 2. **Billing Statement.** The Association will provide a billing statement to a homeowner, which will be mailed by the 10th of the current month for which HOA Dues are payable including any late charges due to non payment of HOA Dues from a prior month. Non receipt of a billing statement shall in no way relieve the homeowner of the obligation to pay the amount due by the due date. Under Arizona Revised Statutes § 33-1807 (L), the Association is not obligated to send a statement to homeowners as there are less than fifty lots; however, it intends to do so as a matter of courtesy.
- 3. **Late Charges and Interest.** A late fee limited to \$15.00 or 10% of the unpaid HOA Dues will be charged if any assessment is not received by the Association within thirty (30) days after they became due. After late fees are added to the account, they become part of the delinquent HOA Dues. Interest may accrue monthly at the rate of 12% per annum using the 30/360 method on all delinquent HOA Dues and associated charges. Late fees are assessed on the pre-interest balance for the prior period and added to the post-interest balance.
- 4. **Acceleration of HOA Dues.** If any installment of any HOA Dues levied against a lot remains unpaid for ninety (90) days beyond the due date, the Association may accelerate the remainder of the HOA Dues installments for the year and declare them payable in full.

5. **Late Notices.** The Association provides a late notice as part of the monthly statement.
 - a. When payment of an Assessment is not received within 30 days from the original due date, a delinquency notice will be sent to the homeowner – this notice is part of the monthly statement that is sent to homeowners, which also shows the due date and late fees should a homeowner’s account become delinquent.
 - b. If the delinquent amount has not been received within 40 days from the original due date, a second notice will be sent separate from the monthly statement.
 - c. If the delinquent amount has not been received within 50 days from the original due date, a third notice will be sent separate from the monthly statement.
 - d. If the delinquent amount has not been received within 60 days from the original due date, a certified letter with a delinquency notice will be sent to the homeowner; in accordance with Arizona Revised Statutes § 33-1803, the homeowner has 21 calendar days to respond in writing by certified mail, and the Association has a further 10 days to respond, which may include referring the matter to the Association’s attorney for collection after 30 days.
6. **Liens.** The Association has an automatic lien in accordance with Arizona Revised Statutes § 33-1807 against every lot.
7. **Returned Check Charges.** In addition to any and all charges imposed under the governing documents of the Association, or this resolution, a \$25.00 fee (or other amount deemed appropriate by the Board) shall be assessed against a homeowner in the event any check or other instrument attributable to or payable for the benefit of such homeowner is not honored by a bank or is returned for any reason whatsoever, including but not limited to insufficient funds. This returned check charge shall be a “common expense” for each homeowner who tenders payment by check or other instrument that is not honored by the bank upon which it is drawn. Such returned check charges shall be due and payable immediately, upon demand. In addition to the actions in this section 7, the Association shall be entitled to all additional remedies as may be provided by applicable law. Returned check charges shall be obligation of the homeowners of the lot for which the returned check was submitted to the Association for payment of sums due under the governing documents of the Association.
8. **Alternative payment vehicles to checks.** The Association at its own discretion may provide alternative electronic methods for payment of HOA Dues and other charges through a payment portal on its website, or by other means. The Association, at its own discretion, may charge a convenience fee to a homeowner for the use of a payment portal in order to recover any fees levied by a payment processor and any associated bookkeeping fees.
9. **Required Payment by Certified Funds.** If two or more of a homeowner’s checks are returned unpaid by a bank within any fiscal year, the Association may require that all of the homeowner’s future payments, for a period of one year, be made by certified check or money order, or through a payment portal.
10. **Institution of collection activity.** If a homeowner’s account balance reaches three times the amount of the monthly assessment, and if satisfactory arrangements for the payments of these amounts have not been made with the Association, then the Board may authorize the Association’s attorney to take further action against the homeowner after having provided notice in compliance with Arizona Revised Statutes § 33-1807 (K). To be compliant, the Association will send a notice by certified mail with return receipt requested thirty days before turning the account over to the Association’s attorney requiring the homeowner to bring the account to current status within the thirty day period to avoid collection activities. Collection activities may include a lawsuit to obtain a personal judgment, notice to one or more credit reporting agencies, and collection by garnishment, attachment, or execution. All attorneys fees and costs

incurred by the Association for legal services will be added to the amount due from the homeowner, and will also be part of the lien against the homeowner's lot.

11. **Non-waiver.** The procedures established in this resolution shall not negate or modify any of the Association's other available rights and remedies to collect unpaid assessments and City of Tucson Utility recovery fees.

Approved:

Western Winds Board of Directors:

Dan Chandler	Martin Kaplan	Nigel Brooks	Toni Swartz
Dan Chandler President	Martin Kaplan Vice President	Nigel Brooks Treasurer	Toni Swartz Board member-at-large

November 19, 2020

Example of late fee and interest calculations

In the example below, there are two scenarios:

- Settle by bringing account current at 75 days past due
- Turnover to collections at 90 days past due

Days	Past due	Charges	Credits	Balance	Description
0		149.00		149.00	Monthly HOA Dues
30		1.49		150.49	Interest at 12% 30/360 method 30 days
30		15.00		165.49	Late fee at \$15
30		149.00		314.49	Monthly HOA Dues
30				314.49	Late notice
40				314.49	Late notice
50				314.49	Late notice
60		3.14		317.63	Interest at 12% 30/360 method 30 days
60		31.45		349.08	Late fee at 10% on pre-interest amount
60		149.00		498.08	Monthly HOA Dues
60				498.08	Certified letter
If settled by 75 days:					
75				498.08	Settlement offer
75		2.49		500.57	Interest at 12% 30/360 method 15 days
75			(500.57)	0.00	Current
If not settled by 90 days:					
90		4.98		503.06	Interest at 12% 30/360 method 30 days
90		49.81		552.87	Late fee at 10% on pre-interest amount
90				552.87	Turnover to collections