

TAMARRON ASSOCIATION OF CONDOMINIUM OWNERS, INC.

**AMENDED AND RESTATED POLICY AND PROCEDURE FOR
COLLECTION OF UNPAID ASSESSMENTS**

(July 29, 2024)

This Policy and Procedure amends in the entirety all prior policies and procedures for Collection of Unpaid Assessments, including that certain Policy and Procedure For Collection of Unpaid Assessments dated July 8, 2014 and the amended and restated policy and procedure adopted November 2022.

The collection procedures below are intended to incorporate the provisions of C.R.S. 38-33.3-209.5 and 316 of the Colorado Common Interest and Ownership Act (the "Act") which govern and control the Association's authority with respect to collections. Definitional terms herein shall have the same meaning as within the Second Amended and Restated Declaration of Covenants and Restrictions for the Condominiums At Tamarron (the "Declaration").

A. Procedure for Collection of Assessments.

1. Due Date. Any assessment (Annual, Special or Default) not fully paid within 30 days after the due date thereof (the "Date of Delinquency") shall be deemed "Delinquent." Annual Assessments are levied on a quarterly basis and are due on the last day of January, April, July and October. Special and Default Assessments, if any, will be levied and mailed to Owners in accordance with the terms set forth in the Declaration and are due on the date provided in the invoice.

2. Interest and Late Fees. Delinquent assessments shall bear interest at the rate of 8% per annum commencing as of the Date of Delinquency. In addition, a one-time late fee of 10% of the Delinquent quarterly payment shall be imposed on the Date of Delinquency. The Association shall not impose late fees or fines on a daily basis.

3. Notification of Delinquency. Before the Association can turn over a delinquent account to a collection agency or refer it to an attorney, the Association must contact the Owner of a delinquency by sending a "notice of delinquency" to the Owner or their designated contact by **certified mail, return receipt requested**, and by two other means of communication, including regular US mail, email, text message or telephone call with a voice message if unable to contact by phone. The Association shall keep a record of its contacts to Owner regarding the delinquency. The Owner may identify a language other than English in which the Owner wants the Association to send all correspondence and notices. The Owner may identify another person to serve as a designated contact for the Owner. The notice of delinquency for unpaid assessments shall include the following:

a. Total amount due with an accounting or ledger showing amounts owed, and specifying if amounts consist of unpaid assessments, unpaid fines, unpaid fees and other charges, including certified mail charges.

b. The amount necessary to cure the delinquency.

c. The name and contact information of the person to whom payment should be made.

d. The opportunity to enter into a repayment plan and the instructions for contacting the Association for doing so.

e. That action must be taken to cure the delinquency and that failure to do so within 30 days may result in the imposition of a lien against the Owner's unit, the account being turned over to a collection agency, a lawsuit being filed and a personal judgment obtained against the Owner, filing a foreclosure of a lien against the Owner's property and pursuing any other remedies available under Colorado law.

NOTE: Notification to Owners regarding a violation of Governing Documents of the Association which results in the imposition of a fine must comply with the provisions of the Act, Section 209.5(b)(II) which is set forth in the Association's Policy regarding Enforcement of Covenants and Rules, Notice and Hearing.

4. Monthly Statements For Overdue Balances. The Association shall send to an Owner who has an outstanding balance owed the Association on a monthly basis, a statement of the total amounts owed to the Association, including a list of all assessments, fines, fees and other charges.

5. Referral to Collections or Attorney. Before the Association can turn over a delinquent account to a collection agency or authorize an attorney to commence collections, the Notice of Delinquency shall have been sent to the Owner and the majority of the Executive Board must vote to approve the matter on the record at a duly noticed meeting of the Board. The Board vote to refer a delinquency for legal action shall be taken in executive session in order to ensure Owner privacy and the results of the vote may be provided only to the owner who is the subject of the referral of delinquency.

6. Repayment Plan. In the notice of delinquency, the Association will offer the Owner the opportunity to pay off a deficiency in equal monthly installments over a period of at least 18 months pursuant to C.R.S. 38-33.3-316.3(2). If the Owner fails to make at least 3 monthly payments within 15 days after the installments were due or if the Owner fails to remain current with the Annual Assessments during the repayment plan period, the Owner is in default of the plan and the Association can foreclose or take legal action against the Owner. The Treasurer (or such other designated officer) is authorized to accept and enter into the repayment plan with the Owner and establish the start date of said plan which shall commence no later than 60 days after the date of the notice of delinquency. The Treasurer, with approval of the Board, may negotiate a repayment plan for greater than 18 months if circumstances warrant providing the Owner with additional time. Entering into a repayment plan does not remove the Owner from delinquent status and a lien against the Owner's Unit will not be released until the account is no longer delinquent. Only upon satisfactory fulfillment of the terms and conditions of the repayment plan will the Owner be deemed non-delinquent.

7. Liens. The Act provides the Association with a statutory lien if an assessment is not

paid within 15 days after the assessment is due. The Association may elect to record a Statement of Lien in the real property records of La Plata County, Colorado evidencing its lien 30 days after notice of delinquency is provided. A lien may not be foreclosed except as provided in Section 10 below.

8. **Attorney's Fees.** The Association is entitled to reimbursement for costs and reasonable attorney's fees that the Association incurs as a result of the delinquent Owner's failure to pay in the sum of \$5000 or 50% of the assessments and any money owed to the Association, whichever is less. An Association is not entitled to recover attorney's fees for fees incurred by an attorney before the Association has complied with the delinquency notice requirements.

9. **Application of Payments.** If an Owner who has both unpaid assessments and unpaid fines, fees or other charges make a payment to the Association, the Association shall apply the payment first to the assessments owed and any remaining amount of the payment to the fines, fees, or other charges (including attorney's fees) owed.

10. **Foreclosure.** Before an Association may foreclose on a lien, the following requirements must be met:

a. The Association must have complied with all applicable provisions of the Act including the notifications of delinquency.

b. The Association must have offered the 18-month repayment plan described above and after the Association has provided the Owner with the written offer to enter into the repayment plan, the Owner has either: failed to accept the repayment plan within 30 days after the written offer was made or after accepting the plan, failed to pay at least 3 of the monthly installments within 15 days after the monthly installments were due.

c. The Association shall not foreclose on an assessment lien if the debt securing the lien consists only of one or both of the following: (i) Fines that the Association has assessed against the Owner; or (ii) Collection costs or attorney fees that the Association has incurred and that are only associated with assessed fines.

d. The balance due from the Owner must equal or exceed six months of budgeted common expense assessments allocated to the delinquent Owner's Unit.

e. The Association must have obtained a personal judgment against the Unit Owner in a civil action to collect the amounts due. If a judgment is not obtained, the Association's failure to obtain a judgment must fall within the exceptions set forth in Section 316 (10.5) of the Act.

f. The Board must vote, in executive session, to approve the commencement of foreclosure against the delinquent Unit Owner and the Unit Owner shall be provided with the results of the vote taken on the matter.

g. At least 30 days prior to initiating foreclosure, the Association shall have

provided Owner with written notice of right to mediate in accordance with Section 316 (10.7) of the Act.

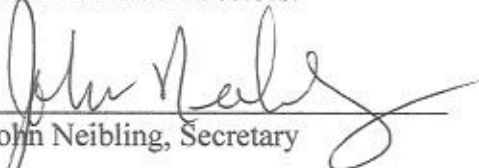
B. Delinquent Status.

1. Suspension of Voting Rights. Any Owner who is delinquent as to the payment of an Assessment shall be ineligible to vote on any TACO-related matters as further described in the Association's policy and procedure entitled, **SUSPENSION OF VOTING RIGHTS IN THE EVENT OF DELINQUENT ASSESSMENTS OR FINES.**

2. Suspension of Maintenance. So long as an Owner is delinquent in the payment of Assessments, the Association will not facilitate an Owner's request for work which constitutes "elective" maintenance, repair, or improvements to a Unit and such Owner will need to contract for work directly with maintenance contractors and not through the Association.

3. Resignation from Board or Committee. Any person who is delinquent in the payment of an Assessment may not act as a member of the Board of Directors and/or may not serve as a member of any committees of the Association and shall resign immediately from such position.

CERTIFICATION: Certified to be the **AMENDED AND RESTATED POLICY AND PROCEDURE FOR COLLECTION OF UNPAID ASSESSMENTS** for the Tamarron Association of Condominium Owners, Inc. adopted by consent action of the Board of Directors on July 29, 2024 by an affirmative vote of more than 66 2/3rds of the Board of Directors.


John Neibling, Secretary