

TAMARRON ASSOCIATION OF CONDOMINIUM OWNERS, INC.

**AMENDED AND RESTATED
ENFORCEMENT OF COVENANTS AND RULES, INCLUDING NOTICE AND
HEARING PROCEDURES, SCHEDULE OF FINES
(July 29, 2024)**

This Policy and Procedure amends in the entirety all prior policies and procedures for Enforcement of Covenants and Rules, Including Notice and Hearing Procedures, Schedule of Fines including such policy dated September 9, 2015 and the amended and restated policy 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 enforcement and levy of fines. 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").

NOW THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following policy:

A. Notice and Hearing Procedures – Violations of Association Documents.

The following procedures shall apply when an Owner has violated any of the terms and conditions of the Declarations, the Bylaws, or any Rules and Regulations or Policies and Procedures adopted by the Board (the "Association Documents").

1. Notification. The Association must contact the Owner with respect to any violation of the Governing Documents of the Association by sending a "Notice of Violation" to the Owner by certified mail, return receipt requested, and by two other means of communication, including regular US mail, email text message or phone call and voice message if unable to make contact by phone. The Association shall keep a record of its contacts to Owner regarding the violation. 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 Violation shall include:
 - a. a description of the nature of the alleged violation;
 - b. the action or actions required to cure the alleged violation;
 - c. the timeline for the fair and impartial fact-finding process required under the Notice and Hearing Policy; and
 - d. the amount and interval upon which fines may be levied in accordance with this policy for violations that are continuing in nature.
2. Cure Period and Fines.

A. Violation - Public Safety. If the Association reasonably determines that the violation threatens the public safety or health, the notice shall provide the Unit owner with written notice of the violation informing the Owner that the owner has 72-hours to cure the violation or the Association may fine the Owner. If, after inspection of the Unit, or inspection of the circumstances pertaining to the violation, the Association determines that the Owner has not cured the violation within 72 hours after receipt of the notice, the Association impose fines on the Owner *every other day* and may take legal action against the Owner for the violation except that the Association shall NOT pursue foreclosure against the Owner based on fines owed.

B. Violation – Other Than Public Safety.

1. If the Association reasonably determines that the violation is one which does not threaten the public safety or health, the Association shall provide written notice of the violation informing the Owner that Owner has 30 days to cure the violation or the Association, after conducting an inspection and determining that the Owner has not cured the violation, may fine the Owner; however, the total amount of the fines imposed for the violation may not exceed \$500.

2. The Association shall grant the Owner two consecutive 30-day periods to cure a violation before the Association may take legal action against the Owner for the Violation.

a. If the Owner cures the violation within the period of cure afforded the Owner, the Owner may notify the Association of the cure and, if the Owner sends with the notice visual evidence that the violation has been cured, the violation is deemed cured on the date that the Owner sends the notice. If the Owner's notice does not include visual evidence that the violation has been cured, the Association shall inspect the Unit or the circumstances giving rise to the violation, as soon as practicable to determine if the violation has been cured.

b. If the Association does not receive notice from the Owner that the violation has been cured, the Association shall inspect the unit within 7 days after the expiration of the 30-day cure period to determine if the violation has been cured. If, after the inspection and whether or not the Association received notice from the Owner that the violation was cured, the Association determines that the violation has not been cured:

i. A second 30-day period to cure commences if only one 30-day period to cure has elapsed; or

ii. The Association may take legal action (and levy a fine) as provided below if two 30-day periods to cure have elapsed.

3. Miscellaneous Regarding Fines.

A. Once the Owner cures a violation, the Association shall notify the Owner (per notice of violation requirements above) that the Owner will not be further fined with regard to the violation and of any outstanding fine balance that the Owner still owes the Association.

B. The Association may not fine an Owner unless the Notice of Violation complies with the above-referenced notice requirements.

C. The Association shall NOT pursue foreclosure against the Owner based on fines owed.

D. The Board of Directors may levy a fine of \$100.00 for each violation of the Association Documents. In the discretion of the Board of Directors, the \$100.00 fine may be increased or decreased depending upon the facts and circumstances of each violation; however, Owners should be prepared to pay a minimum \$100.00 fine. The total amount of the fine imposed for a single violation (not involving public safety) may not exceed \$500. The Board of Directors, in its discretion, may adopt a "schedule of fines" to be applied for particular violations. The Schedule of Fines may be adopted in conjunction with Rules and Regulations of the Association or by separate policy.

E. For violations (both public safety and non-public safety violations) which are ongoing or recurring, the Board shall impose a weekly fine of \$250.00 which can be pro-rated in the event a violation does not continue for a full week. A recurring or ongoing violation is a violation that persists after an Owner has received a Notice of Violation and the Owner fails to cure said violation and continues to commit the same or substantially similar violation. An example of an ongoing violation is a prohibited condition that remains in a Unit such as an obnoxious odor. An example of a recurring violation is an Owner who, after having received a Notice of Violation, commits the same or substantially similar violation again at a future date. In these instances, the Association may levy the recurring fine without sending the Owner another notice of violation for the same or substantially similar violation that was previously committed by the Owner.

F. The Association may be reimbursed, without necessity of taking legal action, for reasonable attorneys' fees and costs incurred as a result of the failure to comply with a violation in the sum of \$5000 or 50% of the actual costs incurred by the Association a result of the failure to comply, whichever is less. In any civil action to enforce or defend the Governing Documents, the court shall not award attorneys fees in an amount in excess of \$5000 or 50% of the actual costs incurred by the Association a result of the failure to comply, whichever is less; provided however, a court may award a greater sum if the Owner willfully failed to comply in accordance with the provisions of Section 123(1) of the Act.

4. Hearing: Imposition of Fine. If an alleged violation ("Alleged Violation") as described in the Notice of Violation has not ceased and all cure periods have passed, the Rules Committee Chairperson or Maintenance Director (the "Chairperson"), or other authorized representative of the Board, will notify the Owner that the Board intends to levy a fine and that, if the Owner desires to dispute the fine, the Owner has the opportunity to be heard before the Rules Committee. The hearing will be held at a time established by the Executive Board, no later than 30 days after the Owner is sent notification of the Board's intent to levy the fine. The Owner may attend the meeting in person or by telephone. If the Owner does not dispute the occurrence of the Alleged Violation, the Alleged Violation shall be deemed to have occurred.

5. Constraints on the Committee. It shall be incumbent upon each member of the Rules

Committee to make a determination as to whether he or she is able to function at the hearing in a disinterested fashion. If such member is incapable of objective consideration in the case, he or she shall disclose such to the committee and remove himself or herself from the proceedings and have it so recorded in the minutes.

6. Hearing Evidence. The hearing will not be conducted according to technical rules relating to evidence and witnesses. Generally, any relevant evidence may be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. Decisions of the Rules Committee may be made "under advisement," i.e. at a later date and time but not to exceed 7 days from the date of the hearing. All decisions of the Rules Committee are effective three days after written notice is sent to the Owner via regular mail, email or otherwise hand-delivered.

7. Failure to Attend. If the accused party fails to attend the hearing (in person or by telephone), the violation shall be deemed to have occurred and the Rules Committee shall be authorized to impose the fine, charges and/or attorney's fees.

8. Joint and Several Liability. If there are multiple Owners, each shall be jointly and severally liable for any fine or other monetary penalty imposed pursuant to the enforcement of the Governing Documents, including, but not limited to, all attorney's fees, expert witness fees and costs incurred by the Association resulting from or in any way related to the violation or the collection of fines.

9. Remedy. Each remedy set forth herein shall be in addition to all other remedies, whether available at law or in equity, and all such remedies, whether or not set forth in the Governing Documents, shall be cumulative and nonexclusive. In addition, the Executive Board may authorize law enforcement to enter a Unit, in which, or as to which, the violation or breach exists and to summarily abate and remove, at the expense of the defaulting Owner, any structure, thing or condition (except for additions or alterations of a permanent nature that may exist in that Unit) that is existing and creating a danger to the Community contrary to the intent and meaning of the provisions of the Association Documents and the Association shall not be deemed liable for any manner of trespass by this action; or the Executive Board may file a lawsuit to enjoin, abate or remedy by appropriate legal proceedings, either at law or in equity, the continuance of any breach.

CERTIFICATION: Certified to be the **AMENDED AND RESTATED ENFORCEMENT OF COVENANTS AND RULES, INCLUDING NOTICE AND HEARING PROCEDURES, SCHEDULE OF FINES** 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