

COLLECTIONS POLICY

(This Policy supersedes and replaces all prior Collections Policies)

Purpose: Adoption of a policy regarding the collection of delinquent assessments for Town & Country Village Homeowners Association, Inc. (“Association”).

Authority: The Amended and Restated Declaration for Town and Country Village Townhomes as recorded in the real property records of Douglas County on September 2, 2004, at Reception No. 2004091833 (“Declaration”), the Association's Bylaws, Articles of Incorporation, and Colorado law.

Effective Date: August 18, 2022

Resolution: The Association hereby adopts the following policy:

1. **Due Date:**
 - i. Common Assessments are due annually. The Board allows owners to pay the annual assessment in a single payment due on January 1st or to pay the annual assessment in twelve (12) equal monthly payments due on or before the 1st day of each month (“Due Date”) in an amount determined by the Board of Directors.
 - ii. All other types of assessments, including but not limited to Special Assessments, Default Assessments, Real Estate Transfer Assessments, and Reserve Assessments, are due on the dates specified by the Board of Directors at the time the assessment was imposed.
 - iii. All Assessments are late if not *received* by the Association before 5:00 p.m. on the Due Date.
 - iv. Assessments are delinquent if not fully paid within ten (10) days after the Due Date (“Delinquency”).
 - v. Acceleration/Deceleration of Annual Assessment. Once any assessment payment has remained unpaid for thirty (30) days after the Due Date thereof, then the remaining unpaid annual assessment for that year may be accelerated and becomes due immediately at the sole election of the Association.

2. Late Fees and Interest:

- i. The Association may impose a \$50.00 per month late fee beginning on the first day of the Delinquency and continuing until all amounts owed are paid in full.
- ii. Interest accrues at the rate of eight percent (8%) per annum from the Due Date of any Delinquent assessment, including late fees, legal fees, lien fees, and other monies due, until paid in full.
- iii. Interest will continue to accrue each month on all amounts owed to the Association until paid in full.

3. Returned Check Fee:

If any check is not paid upon presentation for any reason, the Association shall assess a \$20.00 Returned Check Fee to the owner's account. The Returned Check Fee shall be in addition to any applicable statutory collection fees, late fees and/or attorney fees incurred by the Association. An owner's payment of the amount of the check plus the Returned Check Fee and statutory fees must be made by cashier's check or money order only.

4. Service Fees

Any fees or charges, however denominated, that the Association incurs from the community manager, shall be added to and become part of the Delinquency.

5. Attorney Fees on Delinquent Accounts

As an additional expense permitted under the Declaration and Colorado law, the Association is entitled to recover attorney fees and costs incurred in collection of delinquent amounts owed to the Association. Once an account is referred to the Association's attorney, all payments must be delivered to the attorney until the account is no longer delinquent. The Association may restrict access to the Association's online portal and/or the payment processing company until the account is brought current.

6. Assessment Lien

If the Association records an Assessment Lien against the property it will impose a \$175.00 Assessment Lien fee against the owner's account to cover the costs of preparation, recordation and release of the lien.

7. Restrictive Endorsements

If a Unit Owner intends to seek satisfaction of the outstanding debt by tendering a check or money order containing a restrictive endorsement for less than the entire balance then outstanding, the owner must deliver the check to the Association's managing agent

by certified mail, first class postage prepaid, return receipt requested, with a notation in the bottom right hand corner of the envelope not covered by the return receipt, stating in capital and bold letters "RESTRICTIVE ENDORSEMENT". Such checks and money orders will be rejected and returned to the owner.

8. Post Dated Checks

Any post-dated check will be deposited the day it is received irrespective of the date written on the check. No checks will be held until the date written on the check.

9. Application of Payments

Any payment for less than the full amount then outstanding will be applied by the Association to the owner's account in the order listed below and the oldest balance in each category will be paid first:

- i. Assessments
- ii. Attorney fees and costs;
- iii. Association costs and expenses;
- iv. Late Fees;
- v. Assessment Lien fee;
- vi. Interest; and
- vii. Fines (if applicable).

10. Collection Procedure

- i. After the first Delinquency occurs and before sending the Notice of Delinquency as described below, the Association may send a Courtesy Notice by U.S. Mail and email only, along with the required Monthly Statement as described below.
- ii. Before the Association may send the matter to an attorney or collection agency regarding a delinquency, the Association must first contact the Unit Owner and any Designated Contact as follows:
 1. Send a Notice of Delinquency, described below, via Certified Mail, Return Receipt Requested, to the Unit Owner and to any Designated Contact.
 2. Post a copy of the Notice of Delinquency on the Property which may not be in an envelope; and
 3. Do one of the following:
 - (a) mail the Notice by U.S. First Class mail;
 - (b) send via text message to a cellular number the Unit Owner has provided to the Association; or

- (c) email the Notice to a Unit Owner using an email address that the Unit Owner has provided.
- ii. Mail a written offer to enter into a Repayment Plan (which may be contained in the Notice of Delinquency or be by separate correspondence) and either:
 - (a) the Unit Owner has declined or failed to respond to the offer after thirty (30) days; *or*
 - (b) the Unit Owner has failed to pay at least three (3) of the monthly installments within fifteen (15) days of the due date thereof.
- iii. The Board of Directors must vote to send matter to attorney or collections agency by a recorded vote, on a per unit basis, in an executive session of a Board of Directors meeting.
- iv. Both the Unit Owner and Designated Contact are entitled to receive communications in a language other than English if the Unit Owner notifies the Association of such request in writing by Certified Mail, Return Receipt Requested to the Association. See below.

11. **Notice of Delinquency:**

Before the Association may turn over the account to the Association's attorney or a collection agency, it will mail, by Certified Mail, Return Receipt Requested, a **Notice of Delinquency** to the owner at the address on file with the Association, which Notice is deemed complete upon mailing, setting forth:

- i. the total amount due with an accounting of how the total was determined;
- ii. specify whether the delinquency concerns unpaid assessments, unpaid fines, fees, or charges or both;
- iii. if the delinquency includes unpaid assessments, the Notice must inform the Unit Owner that unpaid assessments may lead to judicial foreclosure of the Property;
- iv. that a repayment plan is available and instructions for contacting the entity to enter into such plan the contents of which are described below;
- v. the name and contact information of the person from whom the owner may obtain a ledger in order to verify the amount;
- vi. that action is required to cure the delinquency;

- vii. a description of the steps the Association must take before the Association may take legal action against the Unit Owner, including a description of the Association's cure process for covenant violations under section 38-33.3-209.5(1.7)(b), C.R.S. (see Covenant Enforcement Policy for process);
- viii. a description of what legal action the Association may take against the Unit Owner, including a description of the types of matters that the Association or Unit Owner may take to small claims court, including injunctive matters for which the Association seeks an Order requiring the Unit Owner to comply with any of the governing documents of the Association;
- ix. if the Association elects to accelerate all amounts then due for the entire year; and
- x. that failure to cure the account in full within thirty (30) days ("Cure Date"), may result in the account being turned over to a collection agency or the association's attorneys, a lawsuit being filed, the filing and judicial foreclosure of a lien against the property, appointment of a receiver, suspension of the member's right to vote and/or other remedies available under Colorado law.

12. **Repayment Plan:**

- i. All Unit Owners (except as set forth in *iii.* below) are entitled to enter into one of the two Repayment Plans below to pay off the delinquency so long as the Unit Owner requests the Repayment Plan within thirty (30) days of the date on the Notice of Delinquency that contains the offer to enter into a Repayment Plan:
 - a. If the delinquency consists only of late, processing and/or lien fees, fines, and/or attorney fees and costs, then the Repayment Plan shall require that the Owner make payments in equal monthly installments over eighteen (18) months; or
 - b. If the delinquency consists of assessments and any late, processing and/or lien fees, fines, and/or attorney fees and costs and the Association intends to pursue judicial foreclosure, then the Unit Owner accepting an 18-month Repayment Plan may specify the amount to be paid each month, so long as each payment other than the final one is at least \$25.00.
- ii. The Unit Owner must request a Repayment Plan by sending a letter via certified mail, return receipt requested to the address for the current registered agent for the Association as shown on the Secretary of

State's Office website.

- iii. If the Unit Owner declines the Repayment Plan or fails to request a Repayment Plan within thirty (30) days, then the Association is *not* required to later accept a Repayment Plan.
- iv. **Exception.** In the following two circumstances, Unit Owners *are not entitled* to a Repayment Plan:
 - a. The Unit Owner previously entered into a payment plan with the Association; or
 - b. The Unit Owner does not occupy the unit and acquired the property as a result of a default of a security interest encumbering the unit or foreclosure of the Association's lien.
- v. All Repayment Plans shall be executed by the owner and the Association in a document titled Stipulated Settlement Agreement which may be filed with the court if a lawsuit is commenced.
- vi. **Default.** A Unit Owner's failure *either* to remit payment of three (3) or more installments of the Repayment Plan within fifteen (15) days of its due date *or* to remain current with regular assessments as they come due during the eighteen (18) month period, constitutes a failure to comply with the Repayment Plan and allows the Association to send the account to collections or its attorneys.
- vii. Unit Owners may elect to pay the entire remaining balance owed under the Repayment Plan at any time.

13. **Monthly Statements**

- i. For all Unit Owners with a delinquent balance, on a monthly basis, the Association shall send to the Unit Owner and Designated Contact, if any, by First Class mail and, if it possesses an email address for the Unit Owner, by email, an itemized list of all assessments, fines, fees, and charges that the Unit Owner owes to the Association.
- ii. For Unit Owners with current bankruptcies, the Association shall only send a statement reflecting post-petition delinquencies in order to avoid violating the automatic stay imposed by the Bankruptcy Court as to attempted collection of pre-petition amounts due. Unit Owners in bankruptcy or their attorney may request a copy of the pre-petition ledger at any time at no charge.
- iii. If the Unit Owner's account has already been referred to the Association's attorney, the Association will continue to mail a monthly

statement, but it may not reflect the total amount then owed since attorney fees and costs which have not yet been billed to the Association may not be contained on such statement. The Association may include a disclaimer on such monthly statements to alert the Unit Owner that payment of the amount shown on the statement may not satisfy the total amount then due and that the Unit Owner should contact the Association's attorney to obtain an accurate payoff amount.

14. Delinquent Accounts Referred to Attorneys

- i. After following the above procedures, the Association may turn the matter over to the it's attorneys for collection.
- ii. The attorneys may take all steps necessary to collect the past due balance including, but not limited to, filing suit for a personal money judgment, filing an action for judicial foreclosure of the Assessment Lien, subject to the limitations set forth below, and/or requesting that the court appoint a receiver.
- iii. Once the matter is referred to the Association's attorneys, the owner must communicate with the attorney to arrange payment of the past due balance. The Association or management company staff will cease all further communication with the owner regarding the delinquency other than mailing of required monthly statements as described herein.
- iv. The communication and payment portal for the owner may, at the Association's discretion, be disabled until the Delinquency is paid in full.
- v. The Association may suspend the Unit Owner's voting rights for any period of Delinquency.
- vi. After notice and opportunity for a hearing, the Association may suspend the rights to use any recreational facilities.

15. Judicial Foreclosure Limitations

- i. Judicial foreclosure may only be commenced if the Delinquency equals or exceeds an amount totaling six months of Common Assessments.
- ii. Judicial foreclosure must be authorized by the Board by recorded vote prior to initiating such action.
- iii. Judicial Foreclosure cannot be used as a remedy if the debt securing the Assessment Lien consists solely of any of the following:

- i. Fines assessed against the Unit Owner;
 - ii. Interest; or
 - iii. Collection costs or attorney fees and costs that the Association has incurred that are only associated with fines.
- iv. Fines, interest and attorney fees and costs continue to secure the Association's Assessment Lien and are collectible in an action for money damages or upon sale of the Property.

16. Designated Contact

- i. A Unit Owner may designate another person to serve as a Designated Contact to be contacted on the Unit Owner's behalf regarding a delinquency.
- ii. In order to validly appoint a Designated Contact, a Unit Owner must mail by Certified Mail, Return Receipt Requested, a letter to the Association's current community manager and provide the Designated Contact's full name and complete physical street address with zip code. This address may not be a post office box or other location where a signature on certified mail cannot be obtained. If the Unit Owner prefers that the Designated Contact receive correspondence in a language other than English, such preference shall be stated in the letter appointing such Designated Contact.
- iii. The Unit Owner may change or cancel the Designated Contact by sending a written notice by Certified Mail, Return Receipt Requested to the Association with instructions.
- iv. All correspondence must be sent by the Association to both the Unit Owner and to the Designated Contact in whatever languages they have designated or, if none, in English.

17. Language Preference

If the Unit Owner prefers to receive communications in a language other than English, the Unit Owner shall notify the Association by Certified Mail, Return Receipt Requested of such language preference. Otherwise, all communications shall be sent in English.

18. Methods of Communication

Unit Owners are permitted to communicate with the Association via email or by telephone or in writing. In doing so, the Unit Owner agrees and acknowledges that the Association may use such email addresses and telephone numbers to communicate with the Unit Owner.

19. Bankruptcies and Foreclosures

Upon receipt of any notice of a bankruptcy filing by a Unit Owner or upon receipt of a notice of a foreclosure commenced by a holder of any encumbrance against any property within the Association, the Association shall turn over the account to the Association's attorney for appropriate action. Attorney fees and costs incurred in connection therewith shall be posted to the Unit Owner's account.

20. Statement of Assessments Due

A statement of the total amount owed may be obtained by the Unit Owner from the community association manager or the Association's attorney (if the case has been sent to the attorney) at no charge. However, if the Unit Owner is selling the property, a Status Letter must be requested as set forth below.

21. Status Letter Requests

In connection with a sale of a lot or unit, upon written request and payment in advance to the community association manager of the then-current Status Letter fee, the Association will perform a covenant inspection, provide copies of all governing documents required for the sale, and prepare a Status Letter containing results of the covenant inspection, information concerning reserves, disclosure of any construction defect actions, transfer fees, and a written statement of the full balance owed to the Association and/or community association manager, including all assessments, charges, interest, fees, fines, working capital, etc. If a Status Letter is requested to be provided within three (3) business days or fewer from the date payment for the Status Letter is received, a Rush Fee will also be charged and must be paid before the Status Letter is prepared.

22. Membership Transfer

Pursuant to the Colorado Nonprofit Corporation Act and the Association's Bylaws, the Association will charge a fee of two times the then-current assessment to transfer the membership on the Association's books at any time the Association receives notification from any source that ownership of the property has transferred.

23. Definitions

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

24. 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 community.

25. **Deviations**

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

26. **Amendment**

This policy may be amended from time to time by the Board of Directors.

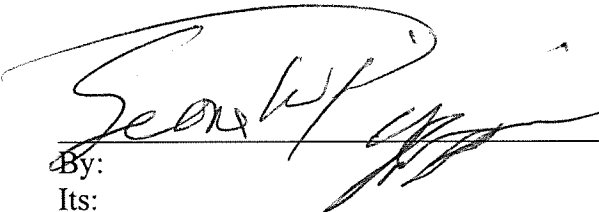
27. **Severability**

Invalidation of one of the foregoing provisions by court order or judgment shall have no effect on the remaining provisions which shall remain in full force and effect.

Certification:

The undersigned President of the Board of Directors for The Town & Country Village Homeowners Association, Inc., a Colorado nonprofit corporation, hereby certifies that the foregoing Resolution was approved and adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors on 8/18, 2022 to be effective 8/18, 2022.

The Town & Country Village Homeowners Association, Inc.

By: 
Its: