



ASSESSMENT COLLECTION POLICY

Tahoe Timber Trails Association (“the Association”) has adopted the following Collection Policy (“Policy”) to enforce its legal right to collect Assessments from Members. This Policy is intended to comply with applicable law, and the Association’s By-laws and Declaration of Tahoe Timber Trails Association (collectively, the “By-laws”) and, in the event of any inconsistency between this policy, the By-laws and applicable law, the applicable law shall control. The Policy shall be interpreted to comply first with applicable law, and thereafter will control over any inconsistency in the By-laws. Capitalized terms shall have the definition set forth in the By-laws unless otherwise defined herein.

1. **Assessment Due Date and Delinquency.** Unless otherwise provided by the Board of Directors (“Board”) any assessment is payable in advance, on the first day of the month of the fiscal year to which the assessment pertains and is delinquent if not paid within fifteen (15 days) of the due date. The due dates for Assessments that may be levied by the Association pursuant to the By-laws or applicable law (i.e., Annual, Special, Emergency, etc.) shall be stated in the notice of the Assessment sent to all Members.
2. **Late Fees, Interest and Collection Costs.** Once an Assessment becomes delinquent, the Association is entitled, by both the Davis-Stirling Common Interest Development Act (Civil Code 4000 et seq.) and the governing documents, to recover the following sums on the delinquent account (CC 5650(b) and 5675(a)):
 - a. The amount of the delinquent Assessment;
 - b. Reasonable costs incurred to collect the Assessment (including reasonable attorney fees);
 - c. A late charge not exceeding ten percent (10%) of the amount of the delinquent Assessment of \$10.00, whichever is greater; and
 - d. Interest on all sums (Assessments, costs, late charges, and legal fees) at a rate not to exceed twelve percent (12%) per annum. Interest begins to accrue from and after the time the delinquent Assessment is thirty (30) days past due.
3. **Association’s Collection Remedies: Lien Against Membership Interest and/or Personal Obligation of Member.** In accordance with CC 5650 (a), Regular and Special Assessments, together with late charges, reasonable fees and costs of collection, reasonable attorney fees, if any, and interest, if any, determined in accordance with CC 5600, are a debt of the Member of the Separate Interest (i.e., a Membership Interest) at the time that the Assessment or other sums are levied (CC 5650 (a)). Once delinquent, the Assessment and other amounts only become a lien on the Member’s Membership Interest when a Notice of Delinquent Assessment is recorded in the Office of the Nevada County Recorder against the Membership Interest. Because the Assessment and related charges constitute a personal obligation of each Member, the Association also has a right to pursue the Member personally, to pay the debt and may pursue collection of that debt in a court action (typically a small claims court proceeding). If a Member become delinquent in the payment of his or her Assessment obligations and a lien is recorded against the Member’s Membership Interest, the Association is not limited to seeking recover of the delinquent Assessment from the sale of the Member’s Membership Interest in foreclosure. Instead, the Association also has the option to pursue other remedies available at law, including the filing of an action against the Member in small claims court. Furthermore, if a Member loses his or her Membership Interest in a foreclosure proceeding initiated by another lien holder, the



Association continues to have the right to maintain an action against the Member personally. The Association maintains its right and power to credit bid during any foreclosure auction or sale.

4. **Prerequisites for Recording a Notice of Delinquent Assessment; 30-Day Pre-Lien Notice to the Delinquent Member.** In accordance with CC 5660, before a Notice of Delinquent Assessment can be recorded against the Membership Interest of a delinquent Member, the Association must send the Member a certified notice (the "Pre-Lien Notice") providing information regarding the sums claimed as being delinquent. No lien can be recorded until thirty (30) days after this Pre-Lien Notice has been given. The Pre-Lien Notice from the Association must include the information required by CC 5660.
5. **Application of Payments Made on Account of Delinquent Assessments.** In accordance with CC 5655(a) when a delinquent Member makes any payment on account of delinquent Assessments and other amounts that are claimed as due and owing, the Association must first apply the payment in reduction of the amount of delinquent Assessments, and only after the Assessment delinquency is paid in full can payments be applied to attorneys' fees, late fees, collection costs, interest, and other costs. With each payment, the Member can request, and the Association must provide, a receipt indicating the date of the payment and the person to whom the payment was made. The Association must also provide its Members with a mailing address for overnight payment of Assessments. The overnight mailing address is as follows:

Tahoe Timber Trails Association, Inc.
16021 Hobart Mills Road
Truckee, CA 96161

6. **Member's Right to Dispute Delinquency Amount or to Request a Meeting with the Board.** On receipt of the CC 5660 certified Pre-Lien Notice, the noticed Member has four (4) possible courses of action that he or she can elect to pursue at this point in the collection process, namely:
 - a. Pay the Amounts Claimed as Due and Owing in Full. The Member can pay the past-due Assessments and other amounts shown as being due and owing on the itemized statement accompanying the Pre-Lien Notice, in which case the collection process shall end; or
 - b. Negotiate a Payment Plan to Retire the Delinquency. The Member can submit a written request to meet with the board of Directors to discuss a payment plan for retiring the delinquent Assessments. The Board shall meet with the Member in Executive Session within forty-five (45) days of the postmark of the Member's request, if the request is mailed within fifteen (15) days of the date of the postmark of the Association's Pre-Lien Notice, unless there is no regularly scheduled Board meeting within that period, in which case the Board may designate a committee of one or more Directors to meet with the Member. If a payment plan is negotiated, it may include Assessment payments that become due during the payment plan period, however, the plan cannot call for additional late fees to accrue during the payment plan period do long as the Member follows the terms of the payment plan. By agreeing to a payment plan, the Association is not waiving its right to record a lien against the Member's Membership Interest to secure the delinquent payments and if the Members subsequently defaults in his or her obligations under the negotiated payment plan, the Association may resume its efforts to collect the delinquent Assessments from the time prior to entering into the payment plan; or



- c. Dispute the Amount Claimed as Due and Request Internal Dispute Resolution. The Member has the right to dispute the debt stated in the Pre-Lien Notice by submitting a written request to the Board for dispute resolution pursuant to the Association's meet and confer program as required by CC 5900 through 5915, or
 - d. Dispute the Amount Claimed as Due and Request Alternative Dispute Resolution. In the alternative, the Member can choose to have the dispute resolved by alternative dispute resolution before a neutral third party pursuant to CC 5924 et seq. The choice of the type of dispute resolution process is up to the requesting Member, except that binding arbitration cannot be used if the Association intends to pursue collection by use of judicial foreclosure.
7. **Association's Right to Record a Notice of Delinquent Assessment (Lien).** In accordance with CC 5675, the Association is entitled to record in the Official Records of Nevada County, a Notice of Delinquent Assessment thirty (30) days following the mailing of the certified Pre-Lien Notice required by CC 5660. Recording the Notice of Delinquent Assessment creates a lien against the Separate Interest (i.e., a Membership Interest) that is owned by a delinquent Member. Certain penalty Assessment may not be collected by the use of lien and foreclosure remedies (see CC 5725(b)). In accordance with CC 5673, the decision to record a lien for delinquent Assessments must be made by the Board of Directors of the Association and may not be delegated to some other agent of the Association. The decision to record a lien must be approved by a majority vote of the Directors in an Open Meeting and the record of the Board vote must be recorded in the minutes of that meeting.
8. **Obligation to Record Releases of Assessment Liens.** Within twenty-one (21) days following payment of the sums specified in the Association's Notice of Delinquent Assessment, the Association is obligated by CC 5685 (a) to record or cause to be recorded in the Office of the Nevada County Recorder a lien release or notice of rescission of the Association's lien and to provide the Member with a copy of the lien release or notice of rescission of the lien.
9. **General Procedures.** The Association generally follows the procedure below for delinquencies, which may be altered by the Board in its discretion on a case-by-case basis in the best interest of the Association.
- a. Delinquent Assessments include delinquent Member Reimbursed Services (MRS), which are due and payable at the time of service and no later than thirty (30) days from the date of service. Interest and late fees will be assessed on all delinquent Assessments whether or not notice of the interest or late fees is provided to the delinquent Member. As set forth below, the Board shall have the authority to waive interest, late fees or collection costs as approved by the Treasurer or President of the Board of Directors but it is not required to use this authority.
 - b. When a Member is thirty (30) days or more behind in Assessments, staff will print an aged receivable for review by the Treasurer. The Treasurer or any Board member may authorize sending a courtesy reminder notice (email or letter) from the Association indicating the Member is behind in paying Assessments. The Association and Board are not required to provide a courtesy notice and any such notice shall be provided solely in the discretion of the Board.



- c. The President, Treasurer, and/or TTT staff may from time-to-time send notices to the Member or may call the Member in the discretion of the President or Treasurer. The purpose of the notices or calls is to engage in communication with the Member to obtain prompt payment. Under no circumstances is TTT or the Board required to take any action not required by law, and TTT may use its discretion to provide notice of any delinquency and proceed directly with the lien and foreclosure process under applicable law.
- d. If the Assessment becomes forty-five (45) days' past due, the delinquency may be scheduled for the next Association Board meeting for Board review and direction as to recording a notice of Delinquent Assessment or Restriction of Membership Privileges. Prior to the Board meeting, the Treasurer or President may also send a Pre-Lien Notice to the delinquent Member by certified mail and may, in his/her sole discretion, provide a second courtesy notice email or call to the Member.
- e. If approved by the Board at the subsequent Board meeting, the Association shall record a Notice of Delinquent Assessment against the delinquent Member's Membership Interest. Prior to recording this document, which results in a lien, the Association must send the Member a Pre-Lien Notice by certified mail if not sent prior to the Board meeting. Applicable law requires that no lien is filed prior to 30 days following the mailing of the certified Pre-Lien Notice. In addition to late fees and interest, all costs and attorneys' fees incurred by the Association in this process shall be added to the delinquency and lien.
- f. If the Assessment becomes more than one hundred and eighty (180) days delinquent, the Association, at the discretion of the Board, may consider additional collection options, including foreclosure (subject to limitations set forth by applicable law and this policy), civil action (including small claims) against the Member, or may pursue any other legally available recourse against the delinquent Member, including Restriction of Membership Privileges.
- g. If the Association determines that enforcement of the lien through judicial or non-judicial foreclosure is appropriate, the **delinquency amount in default must exceed \$1,800** (exclusive of accelerated assessments, late charges, fees and other reasonable costs of collection) **OR be greater than twelve (12) months in arrears.**
 - i. Should the Association proceed with the decision to foreclose on the lien in an Executive Session, the Board will confirm at the next Open Meeting disclosing only the site number to ensure confidentiality of the member's name.
 - ii. This language is to be used for the minutes: "On (date), TTT recorded a lien against Site Number #-## due to delinquent assessments. The California Civil Code requires the board of directors to authorize, by majority vote of the board in executive session, the foreclosure of a lien for delinquent assessments, which has also occurred. The Owner of Site #-## has been and is now delinquent in the payment of regular or special assessments in an amount that equals or exceeds one thousand eight hundred dollars (\$1,800), exclusive of any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest. The balance owed on the account has also been delinquent for more than twelve months. As such, the Association previously authorized its office staff, with



assistance of counsel, to foreclose on the lien to recover the delinquent amounts and any late fees, interest charges, and other collection-related amounts.

This resolution/authority was adopted by the Board of Directors at an executive session held on the ____ day of month, year.”

- h. The Association shall be authorized to waive late fees and/or interest in consideration of timely payment, especially for non-recurring late payments (e.g. as the result of inadvertence, mistake, or excusable neglect) where the Member shows good faith in timely bringing the balance current once the delinquency is made known to the Member. Staff may refer questions or issues of late fees, interest or other matters to the Treasurer or President for direction and the Treasurer or President shall have the authority to waive interest, late fees and collection costs.
- i. Neither the Association’s failure to send any notice or make any phone call nor the Member’s non-receipt of any notice or phone call precludes the Association from pursuing its collection remedies or imposing late fees, interest, or collection costs against the delinquent Member. For clarity, the Board and Association are only required to act pursuant to applicable law despite the Association’s desire to engage in communication with the Member to obtain prompt payment and resolve all delinquencies without need for formal enforcement.

10. **Forms Instructions.** To facilitate the process as described in this Policy the following Forms should be used in the performance of the collection process.

- a. FM-07-33 Delinquency Notice(s). The Office Manager will send late notices on each late regular assessment, special assessment, and/or MRS charges. The account will be charged late fees as specified in MR-07-03 MRS Admin Fines & Fees.
- b. FM-07-34 Pre-Lien Notice. If the member account has not been brought current, the President or Treasurer may authorize that the Pre-Lien notice to be sent, if applicable (see 9c and 9d above).
- c. FM-07-35 Notice of Hearing to Suspend Privileges. When the Board is to meet to consider or impose restrictions, this notice must be sent a minimum of 10 days prior to the meeting.
- d. FM-07-36 Final Notice and Restrictions. After an assessment and/or MRS charges have been delinquent for three (3) months, The Board may authorize a notice of restriction of Member Privileges and/or foreclosure of membership.
- e. FM-07-37 Foreclosure Notice. This notice is to be sent following a vote by the Board to begin foreclosure proceedings (see 9e and 9f above).

Associated Documents:

OR-03-11 Dues, Assessments & Fees – Authority to Assess

MR-07-03 MRS Admin Fines & Fees

FM-07-33 Delinquency Notice(s)

FM-07-34 Pre-Lien Notice

FM-07-35 Notice of Hearing to Suspend Privileges

FM-07-36 Final Notice and Restrictions

FM-07-37 Foreclosure Notice