



TIMBER COVE HOMES ASSOCIATION

DELINQUENT ASSESSMENT COLLECTION POLICY

1. It is the fiduciary responsibility of the Board of Directors to collect all assessments for the maintenance of roads and other Association expenses in a timely fashion. The Association is entitled to recover assessments, reasonable collection costs, reasonable attorney's fees, late fees, and interest. The Association will not use non-judicial foreclosure to collect fines or penalties, but other remedies that are available to collect these and any sums not suitable for collection by non-judicial foreclosure. The Association shall comply with the requirements of Civil Code Sections 5700-5725 when collecting delinquent assessments. If an error is made that requires termination of any collection proceeding or beginning a collection process over, the Association shall bear the costs; otherwise, the owner is responsible for all costs as identified above.

2. Annual Assessments (dues) are due and payable on March 1st of each calendar year and delinquent if not paid by March 15th of that calendar year. All other assessments such as fire abatement lot clearing charges, road mitigation fees and special assessments shall be delinquent 15 days after they become due. When an assessment is delinquent, a late charge of ten percent (10%) of the delinquent assessment or \$10.00, whichever is greater, will be charged, and the Association shall recover its reasonable fees and costs incurred in collecting the delinquent assessment, including reasonable attorney's fees. The Association shall recover interest on all sums imposed in accordance with this paragraph, including the delinquent assessments, late charges, reasonable fees and costs of collection, and reasonable attorney's fees, at an annual interest rate of twelve percent (12%) per annum commencing 30 days after the assessment becomes due. All such amounts must be paid in full, and the Association shall not be required to accept partial payments absent an agreement.

3. On or about the 60th day after a delinquent assessment became due, and at least 30 days prior to recording a lien upon the separate interest of the owner of record to collect a delinquent assessment, the Association shall notify the owner of record in writing by certified mail of the following:

(a) A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount, a statement that the owner of the separate interest has the right to inspect the Association records pursuant to Section 5205, and the following statement in 14-point boldface type, if printed, or in capital letters, if typed:



“IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION.”

(b) An itemized statement of the charges owed by the owner, including items on the statement which indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney’s fees, any late charges, and interest, if any.

(c) A statement that the owner shall not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time to the Association.

(d) The right to request a meeting with the Board as provided in Section 5665.

(e) The right to dispute the assessment debt by submitting a written request for dispute resolution to the Association pursuant to the Association’s “meet and confer” program required in Article 2 (commencing with Section 5900) of Chapter 10.

(f) The right to request alternative dispute resolution with a neutral third party pursuant to Article 3 (commencing with Section 5925) of Chapter 10 before the Association may initiate foreclosure against the owner’s separate interest, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

4. The decision to record a lien against the separate interest of an owner owing a delinquent assessment shall be made by the Board of Directors and approved by a majority vote in an open meeting. The Board shall record the vote in the minutes of that meeting referring to the property by parcel number, and not name of the owner. Likewise, the decision to commence an action in small claims court against an owner owing a delinquent assessment shall be made by the Board and not the Association's agent.

5. Prior to recording a lien for delinquent assessments, the Association shall offer the owner of record and, if so requested by the owner, participate in dispute resolution pursuant to the Association’s “meet and confer” program.

6. At least 30 days after the Association has provided the owner of record with the notice described in paragraph 3, above, and subject to compliance with paragraph 5, above, the Association may record a lien on the property to secure the debt.

7. If all sums secured by the lien are not paid in full within thirty (30) days after recordation, and the amount of delinquent regular or special assessments reaches \$1,800.00, not including any accelerated assessments, late charges, fees and costs of collection, attorney's fees, or interest, or has been delinquent more than 12 months, the Board may make the decision to foreclose the lien. All resulting collection fees and costs will be added to the total delinquent amount. Prior to



initiating a foreclosure on an owner's separate interest, the Board shall offer the owner and, if so requested by the owner, shall participate in dispute resolution pursuant to the Association's "meet and confer" program or alternative dispute resolution with a neutral third party. The decision to pursue dispute resolution or a particular type of alternative dispute resolution shall be the choice of the owner, except that binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

8. The decision to initiate foreclosure shall be made only by the Board of Directors and may not be delegated to an agent of the Association. The Board shall approve the decision by a majority vote of the directors in an executive session and record the vote in the minutes of the next meeting of the Board open to all members. The Board shall maintain the confidentiality of the owner or owners of the separate interest by identifying the matter in the minutes by the parcel number of the property, rather than the name of the owner or owners. A Board vote to approve foreclosure of a lien must take place at least 30 days prior to any public sale.

9. If the Board votes to foreclose upon the separate interest of an owner, the Board shall provide notice of its decision by personal service in accordance with the manner of service of summons to an owner who occupies the separate interest or to the owner's legal representative. If the owner does not occupy the separate interest, said notice will be sent by first-class mail, postage prepaid, to the most current address shown on the books of the Association. In the absence of written notification by the owner to the Association, the address of the owner's separate interest may be treated as the owner's mailing address. In addition, statutory procedures including recorded notices regarding foreclosure and sale will be accomplished.

10. A non-judicial foreclosure by an Association shall be subject to the owner's right to redeem the property up to 90 days after the sale.

11. All charges assessed to the assessment account must be paid in full as a condition to curing and releasing a recorded Lien and other documents of foreclosure. The Association is not required to accept any partial or installment payments, except with execution of a mutually agreeable payment agreement. Arrangements for such an agreement must be made with the Association's Agent assigned to the collection of the account or the Board or Board representative, at a meeting arranged under the "meet and confer" process of the Association.

12. When a payment towards a delinquent assessment is made, the owner may request a receipt and the Association will provide it. On the receipt, the Association shall indicate the date of payment and person who received it.

13. Each payment from an owner towards a delinquent assessment shall be applied first to the assessment owed, then, only after the delinquent assessment is paid in full, in descending order,



to interest, late charges and collection expenses, unless an alternate agreement is entered into between the Association and the owner.

14. An owner may submit a written request to the Board of Directors of the Association to consider a payment plan to satisfy a delinquent assessment. The Board will inform the owner of the standards for payment plans, to the extent standards have been adopted by the Board. Certain timelines apply as follows: If an owner's request is mailed within 15 days of the date of the postmark of the notice described in paragraph 3, above, the Board will meet with the owner in executive session within 45 days of the postmark of that request. However, if there is no regularly scheduled Board meeting during that period, the Board may designate one or more Directors to meet with the owner. Payment plans may incorporate any assessments that accrue during the payment plan period; however, they shall not impede the Association's ability to record a lien to secure payment of delinquent assessments. Additional late fees shall not accrue during the payment plan period if the owner is in compliance with the terms of the payment plan. In the event of a default on any payment plan, the Association may resume its efforts to collect the delinquent assessments from the time prior to entering into the payment plan.

15. Any check returned by the bank for insufficient funds, stop payment or any other reasons will be charged back to the unit and a \$25.00 administrative fee plus any bank fees will be assessed to the account. If the account has been turned over to the Association's agent for collection and a check is returned, the account will be assessed whatever administrative fees the Agent provides.

16. The mailing address for overnight payment of assessments is the same as that for routine assessment payments, 22098 Lyons Court, Jenner, CA 95450, unless otherwise noted.

17. An owner of a separate interest has the right to inspect the Association's financial books and records to verify the delinquency, per laws and bylaws related to inspection of HOA records.

18. Except where prohibited by law, the Board of Directors of the Association may revise this policy, either generally or on a case-by-case basis, if it finds good cause to do so. To the extent there are any general discretionary changes (rather than compliance related to the law or governing documents), the Board shall circulate the policy to owners at least 28 days before the meeting at which the revisions will be considered.