

**RESOLUTION OF THE BOARD OF DIRECTORS
TOMAHAWK CREEK CONDOMINIUM ASSOCIATION**

Procedures for Collection of Delinquent Assessments and Application of Partial Payments

WHEREAS, Section 12 of the Declaration of Tomahawk Creek Condominium Association ("Declaration") and Article VII of the Bylaws create an assessment obligation for owners of condominiums in Tomahawk Creek Condominium Association ("Association"), which is a continuing lien on each condominium and a personal obligation of the owner; and

WHEREAS, there is a need to establish orderly procedures for the billing and collection of said assessments; and

WHEREAS, Article VII of the Bylaws grants the Board of Directors authority to enforce payment of assessments and fines by filing a lawsuit against the owner or foreclosing the lien against any condominium for which assessments are not paid or filing a lawsuit; and

WHEREAS, the Board of Directors desires to establish these procedures in conformity with the Declaration, the Bylaws, and as provided by law;

NOW, THEREFORE, LET IT BE RESOLVED THAT the Board of Directors, on behalf of the Association, duly adopts the following collection procedures:

1. ASSESSMENTS: Each owner's annual assessment is due in 12 equal monthly installments on the first day of each month.
2. DELINQUENCY: An owner's account is delinquent if a monthly installment is not received on the 10th day of the month.
3. LATE FEES AND INTEREST: A delinquent account will be assessed a late charge of \$25 each month. A delinquent account shall bear interest on the unpaid balance from the due date until paid, at the rate of 18 percent per annum. In addition, a \$50 returned check charge and any related bank charges will be assessed against the account of the owner if the payment is returned for insufficient funds.
4. LATE NOTICES: If full payment of an installment is not received by the Association's managing agent after the delinquent date (tenth (10th) day of the month, the managing agent will send a delinquency notice to the owner by first class mail requesting immediate payment, advising the owner of the late charge, and advising that interest has begun to accrue on the unpaid balance. If full payment is not received within 15 days of the date of the letters, these owners' installments will be accelerated so all remaining installments for the calendar year shall be immediately due and payable.
5. DEBT COLLECTION OPTIONS: In order to collect a debt owed to the Association by a member, the following options may be used until the debt is satisfied:

- Legal action described below;
- File a Notice of Lien;
- Suspend the voting rights and any other privileges of the owner during any period of a delinquency.

6. NOTICE OF LIEN: If an account is delinquent, the Association may record a Notice of Lien against the home in county land records.

The Notice of Lien will inform the public of the amount of the outstanding balance, including all past due assessments, late fees, interest, costs of collection and reasonable attorney fees. Costs of preparing and recording Notice of Lien will be added to the owner's account.

7. LEGAL ACTION: If an account remains delinquent, the Association may retain an attorney to proceed with further legal action, including, but not limited to, foreclosing on the owner's property, or filing a lawsuit, or both, against the owner to collect the owner's past due account.

8. PAYMENTS CREDITED: Payments received from an owner will be credited to the outstanding balance in the following order:

- a. to any unpaid late charges which are not the subject matter of suit in the order of their coming due;
- b. to any unpaid interest charges which are not the subject matter of suit;
- c. to any unpaid specific assessments (including, but not limited to, fines imposed in accordance with the powers granted in the Instruments, including costs of collection) in the order of their coming due;
- d. to any unpaid installments of the annual assessment or special assessments which are not the subject matter of suit in the order of their coming due;
- e. if the Board of Directors so elects by resolution, to the fair rental value of the Unit during the pendency of suit and prior to satisfaction of any judgment which remains unpaid;
- f. to any unpaid late charges which are the subject matter of suit in the order of their coming due;
- g. to any unpaid interest charges which are the subject matter of suit; and
- h. to any unpaid installments of the annual assessment or special assessments which are the subject matter of suit in the order of their coming due.

9. PARTIAL PAYMENTS: If an owner attempts to make a payment of less than all monies due the Association after collection proceedings have commenced, the Association's attorney or designated collection agent will send a letter by first class mail to the owner advising the owner that his or her account remains delinquent as to all remaining monies owed to the Association. The Association's retention of the partial payment does not constitute a waiver of the Board's authority to foreclose on the owner's property to take action against the owner to collect the outstanding balance.

Failure by the Association to follow any of the procedures set forth in this Resolution shall not excuse any owner from their obligation to pay all assessments, interest, charges and costs, including attorney fees, due in a timely manner, nor does such failure constitute a waiver of the Association's right to collect all assessments, costs, charges and interest due the Association.

This policy is effective beginning September 1, 2019. This policy replaces and supersedes all prior policies and procedures for delinquent payments.

Signed _____, 2019.

Printed Name: _____

President – Board of Directors