

CALAVERAS TIMBER TRAILS ASSOCIATION COLLECTION POLICY

Adopted 2/8/2020

A. Regular Assessment

1. The Association shall inform each Member in writing of all assessments against his Membership.
2. The annual assessment shall be billed no later than 30 days prior to the fiscal year which is October 1 – September 30. The annual assessment may be paid in full or shall be payable in equal monthly installments in advance, on the first day of each month of the year to which such assessment pertains.

B. Special and Individual Assessments

1. Special and Individual Assessments shall be payable in full on the first day of the following month on which the Member is informed of such assessment, unless other provision is made therefore.

C. Late Charges, Interest & Suspension

1. All assessments shall become delinquent and subject to a late charge on the 1st day of the following month. (i.e. January payment due January 1st, is delinquent if not paid by February 1st).
2. When dues become one (1) month delinquent, a late charge of ten percent (10%) of the past due amount shall be assessed for that month.
3. When dues are three (3) months delinquent, the Board may take action to suspend use privileges of the site and Park facilities. Members who own more than one (1) campsite shall keep dues on all sites current or be subject to loss of privileges as stated herein.
4. At the option of the Association, interest shall be due on all such amounts, once due and unpaid for thirty (30) days, at the rate of twelve percent (12%) per annum.
5. The Association may also assess Members for all costs and expenses (including reasonable attorney's fees and costs) incurred in collecting assessments.
6. Failure of the Association to note any late fees, interest, or collection costs and expenses on any invoice is not a waiver of the Association's right to seek recovery of these items as authorized by the Bylaws and this policy. Any waiver of late fees, interest, or collection costs and expenses must be set forth in a writing signed by the Association President or other authorized officer.

7. In accordance with Civil Code §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 Civil Code §5600, are a debt of the Member. Because these assessments and related charges constitute a personal obligation of each Member, the Association has a right to look to the Member, personally, to pay the debt and may pursue collection of that debt in a court action (typically a small claims court proceeding). The Association may also record a lien against the Membership interest. If a Member becomes delinquent in the payment of his or her Assessment obligations and a lien is recorded against the Membership Interest, the Association is not limited to seeking recovery of the delinquent Assessment from a lien foreclosure sale. 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. All obligations are joint and several.

D. Payments

1. Payments to the Association may be made in several ways:
 - a. Pay in person with cash, check or credit card in the Association's Office
 - The **physical** address is: 1071 Avery Sheep Ranch Road, Avery, CA 95224
 - b. Mail a check using the U S Postal Service
 - The **mailing** address is: P O Box 362, Avery, CA 95224
 - c. Call the office to make a payment by credit card
 - d. Set up Bill Pay with your bank. The bank will mail a check to the Association.
2. The Association must inform members of a mailing address for overnight payments.
 - The mailing address is: P O Box 362, Avery, CA 95224
 - The local post office is closed weekends and holidays. If you use a carrier other than USPS, use the physical address listed above.
3. When a Member makes a payment, they may request a receipt, and the Association is required to provide it. On the receipt, the Association must indicate the date of payment, amount received, site number, member name and be signed by the office person who received it.
4. A Member may dispute an assessment debt by submitting a written request for dispute resolution to the Association. In addition, the Association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party, if requested by the Member.

5. A Member is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time.

E. Right to Request a Payment Plan

1. Whether or not an association has written standards for payment plans, members may submit a written request to meet with the board to discuss a payment plan for delinquent assessments. This written request must be mailed 15 days of the date of the postmark of the notice. The meeting with the board must occur within 45 days of the postmark of the request. The Association does not have a written standard for payment plans and payment plans are considered on a case-by-case basis in the discretion of the Board. The Association's general policy is to not enter into payment plans absent demonstrated good cause and good faith by the Member.

2. A member of a separate interest may request the Association to consider a payment plan to satisfy a delinquent account. The Association must inform the member of the standards for payment plans, if one exists.

3. If a payment plan is granted:

- a. May incorporate any assessments that accrue during the payment plan period but shall not impede the Associations' ability to record a lien on the member's separate interest to secure payment of delinquent assessments.
- b. Additional late fees will not accrue during the payment plan period if the member is in compliance with the terms of the payment plan.
- c. 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.

F. Returned Checks

1. If the Association is notified by the bank of a returned check for reasons such as "non-negotiable"; "insufficient funds"; "stop payment"; "account closed" or any other reason, the payor will be mailed a written demand letter and a copy of the returned check by certified mail, return receipt requested.

2. A service charge not to exceed twenty-five dollars (**\$25.00**) for the first check or thirty-five dollars (**\$35.00**) for each subsequent check plus the cost of mailing the written demand will be assessed.

3. If the full amount of the demand is not paid by cash, money order or cashier's check within 30 days from the date the written demand was mailed, the payor shall then be liable for treble damages not to exceed one thousand five hundred dollars (\$1,500) according to

California Civil Code Section 1719 and will be filed with in Small Claims Court to obtain a judgment.

4. The payor will not be held liable for the treble charges or any service charges, if payment on the check was deliberately stopped due to an actual, good faith dispute with the payee.
5. The payor can avoid liability for damages under the statute upon written confirmation to the payee that the returned check resulted from an error on the part of the payor's financial institution, or from an inadvertent error or delay of payment of a governmental assistance institution (such as Social Security) upon which the payor relied to cover the amount of the returned check.

G. Membership Rights

1. CC&R's, Article XIII, Section 6, grants the remedy of suspension of the member's rights to use recreation Common Facilities and suspension of the member's voting rights to enforce the member's obligation to abide by the Association's policies and rules.
2. Suspension of membership rights, as mentioned above, will be imposed when:
 - a. Any portion of the member's account (assessment and/or other) remains unpaid 30 days or more after the original due date.
 - b. A member's check is returned to the Association by the bank as unpaid for any reason.
3. The implementation of a payment plan does not reinstate a member to "good standing" or membership rights.
4. The appeal of a fine to the Tribunal Committee and/or Board of Directors does not reinstate a member to "good standing" or membership rights.

H. Prerequisites for Recording a Notice of Delinquent Assessment; 30-Day Pre-Lien Notice to the Delinquent Member

In accordance with Civil Code §5660, before a Notice of Delinquent Assessment can be recorded in the chain of title to the Separate 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 following information:

1. A general description of the collection and lien enforcement procedures of the Association and the method of calculation of the amount that is claimed to be owed (this summary of Assessment collection procedures is intended to satisfy that disclosure requirement);
2. A statement that the notified Member has the right to inspect the Association's records

pursuant to Civil Code §5205;

3. A statement in 14-point capital letters (or boldface type): “IMPORTANT NOTICE: IF YOUR SEPARATE INTEREST IS PLACED IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR ASSESSMENTS, IT MAY BE SOLD WITHOUT COURT ACTION.”
4. An itemized statement of the charges owed by the Member, including items on the statement that indicate the amount of any delinquent Assessments, the fees and reasonable costs of collection, reasonable attorney’s fees, and late charges, and interest, if any that have been incurred by the Member as a result of the delinquency;
5. A statement that the Member shall not be liable to pay the charges, interests and costs of collection if it is determined that the Assessment was paid on time to the Association;
6. A statement that the notified Member has a right to request to meet with the Board as provided in Civil Code §5665 (see paragraph 9, below).
7. A statement that the Member has the right to dispute the Assessment debt by submitting a written request to the Association to participate in dispute resolution pursuant to the Association’s “meet and confer” program required in Civil Code §§5900 et seq.
8. A statement that the Member also has the right to request that the matter be resolved by the use of alternative dispute resolution with a neutral third party pursuant to Civil Code §§5925 et seq. If this request is made, the Association cannot initiate foreclosure against the Member’s Separate Interest until the alternative dispute resolution process is completed. Furthermore, binding arbitration cannot be used in this alternative dispute resolution proceeding if the Association intends to initiate a judicial, rather than a non-judicial, foreclosure.

I. Member’s Right to Dispute Delinquency Amount or to Request a Meeting With the Board

On receipt of the Civil Code §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:

1. Pay the Amounts Claimed as Due and Owing in Full. The Member can simply pay the past-due Assessments and other amounts that are shown as being due and owing in the itemized statement that accompanies the Pre-Lien Notice, in which case the collection process shall be ended.
2. 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. If this option is pursued, the Association must provide the requesting Member with a copy of the Association’s payment plan standards (if any standards have been adopted). 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 so long as the Member is in compliance with the terms of the payment plan. By agreeing to a payment plan agreement the Association is not waiving its right to record a lien against the Member's Separate Interest to secure the delinquent payments and if the Member 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.

3. Dispute the Amount Claimed as Due and Request IDR. The Member has the right to dispute the debt stated in the Pre-Lien Notice by submitting to the Board a written request for dispute resolution pursuant to the Association's meet and confer program that is required by Civil Code §§5900 through 5915; or
4. Dispute the Amount Claimed as Due and Request ADR. In the alternative, the Member can choose to have the dispute resolved by alternative dispute resolution before a neutral third party pursuant to Civil Code §§5925 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; or
5. Association's Right to Record a Notice of Delinquent Assessment. In accordance with Civil Code §5675, thirty (30) days following the mailing by the Association to the defaulting Member of the certified Pre-Lien Notice required by Civil Code §5660, the Association is entitled to record, in the Official Records of [NAME OF COUNTY] County, a Notice of Delinquent Assessment. However, Civil Code §5670 instructs that before the Association can record the Notice of Delinquent Assessment, the Member of the Separate Interest that is about to be liened must be offered, and if requested by the Member the Association must participate in the Association's "meet and confer" program (Civil Code §5900 et seq.).

Recording the Notice of Delinquent Assessment creates a lien against the Separate Interest that is owned by a delinquent Member. Certain penalty Assessments may not be collected by the use of lien and foreclosure remedies (see Paragraph 15, below). As noted above, the Association's agreement to enter into a payment plan for retiring delinquent Assessments does not preclude the Association from recording a Notice of Delinquent Assessment while the plan is in progress. For all Assessments and other sums that can be collected through the use of lien and foreclosure remedies, the recorded Notice of Delinquent Assessment which begins the lien process must include all of the following information:

1. The amount of the Assessment and the other sums that have been charged in accordance with Civil Code §5650(b) with respect to the Separate Interest that is being liened;
2. The legal description of the Member's Separate Interest;
3. The name of the record Member(s) of that Separate Interest; and
4. In order for the lien to be enforced by non-judicial foreclosure as provided in Civil Code §5700 to 5710, the name and address of the trustee authorized by the Association to enforce the lien by sale (Civil Code §5675(c)).
5. Included with the recorded Notice of Delinquent Assessment must be a copy of the itemized statement of the charges owed by the Member that was included in the Association's Pre-Lien Notice (Civil Code §5660(b)).
6. The Notice of Delinquent Assessment (Civil Code §5675(a)) must be signed by the person designated in the Declaration as having that authority, by the president of the Association, or by a person who is designated by the Association as having authority to sign and record the Notice of Delinquent Assessment on behalf of the Association. However only the Board, by majority vote, can approve recordation of the Notice of Delinquent Assessment. Civil Code §5673.
7. The Notice of Delinquent Assessment must be mailed by certified mail to every person who is shown as a Member of the Separate Interest on the Association's records.

In accordance with Civil Code §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.

6. No Enforcement Action for 30 Days Following Recordation of Notice of Delinquent Assessment; Notice of Decision to Pursue Foreclosure. For a period of thirty (30) days following the recording date of the Notice of Delinquent Assessment, no further action can be taken by the Association to enforce the lien. See Civil Code §5700(a). Furthermore, prior to initiating foreclosure on a Member's Separate Interest the Association must first offer the Member, and if so requested by the Member, participate in either a meet and confer session with the Board (Civil Code §5900 et seq.) or alternative dispute resolution in accordance with Civil Code §5925 et seq.). The choice of what form of dispute resolution to pursue is up to the Member, however binding arbitration is not available if the Association indicates that it intends to pursue judicial arbitration rather than a trustee's sale. Civil Code §5705(b).

7. The decision to initiate foreclosure of a lien for delinquent Assessments that has been validly recorded may only be made by the vote of a majority of the directors in executive session and may not be delegated to an agent of the Association. The Board shall maintain the confidentiality of the Member or Members of the Separate Interest that is the subject of the foreclosure action by identifying the matter in the minutes of meeting by the parcel number of the property, rather than the name of the Member or Members. A Board vote to approve foreclosure of the Association's lien shall take place at least thirty (30) days prior to any public sale. Civil Code §5705(c).
8. If the Board of Directors votes to foreclose on the delinquent Member's Separate Interest, the Board must provide notice by personal service in accordance with the manner for the service of a summons (CCP §§415.10 et seq.) to the Member or his or her legal representative if the Member is living in the Separate Interest that is the subject of the foreclosure action. If the Member does not occupy the Separate Interest in question, then this notice must be served at the address shown on the books of the Association (Civil Code §5705(d)). In the absence of written notification by the Member to the Association the address of the Member's Separate Interest may be treated as the Member's mailing address for purposes of this Paragraph 11.
9. Limitations on the Authority of the Board to Commence Foreclosure of an Assessment Lien. In accordance with Civil Code §5720(a), an association is prohibited from using either judicial or non-judicial foreclosure remedies as a means of collecting delinquent Assessments until such time as the amount of the delinquency, *exclusive* of any accelerated Assessments, late charges, fees and costs of collection, attorney's fees, *or* interest is at least \$1,800.00 or the Assessment secured by the lien is more than 12 months delinquent. Until such time as either of those thresholds is met, the Association is limited to use of the following remedies (Civil Code §5720(b)(2) and (b)(3):
 - a. The Association can seek to recover the delinquent sums in a small claims court action (assuming the amount claimed is \$5,000.00 or less);
 - b. The Association can record a lien on the Member's Separate Interest and then hold any further foreclosure action in abeyance until either of the thresholds described above are met. As noted above, if recording a notice of lien is the chosen alternative, the Association must offer the Member, and if so requested by the Member, participate in dispute resolution as set forth in Civil code §§5900 et seq.;
or
 - c. The Association may pursue collection in any other manner provided by law other than the use of judicial or non-judicial foreclosure.

The above limitations do not apply to any Assessment secured by a lien which are more than twelve (12) months delinquent or any Assessments owned by the developer if the developer still owns Separate Interests in the development. Civil Code §5720(c).

10. Pursuit of Non-Judicial Foreclosure to Collect Assessments. In accordance with Civil Code §§5700 through 5725 once all of these pre-foreclosure notice and hearing procedures have been satisfied (Paragraphs 7 through 12 above) and a period of thirty (30) days has elapsed since the Notice of Delinquent Assessment was recorded, the Association is authorized to enforce the lien through any means permitted by law, including sale by the court, sale by the trustee designated in the Notice of Delinquent Assessment, or sale by a trustee substituted pursuant to Civil Code §2934(a). Any sale by a trustee in a non-judicial foreclosure must be conducted in accordance with Civil Code §§2924, 2924b and 2924c, applicable to the exercise of powers of sale in a mortgage or deed of trust and the fees of the trustee may not exceed the amounts prescribed in Civil Code §§ 2924c and 2924d, together with the notice of default service costs.
11. In accordance with Civil Code §5705(d)), the Board is obligated to provide notice by personal service on the delinquent Member or such Member's legal representative if the Board votes to foreclose on the Member's Separate Interest (see discussion above).
12. Alternative of Pursuing Collection of Delinquent Assessments in a Court Proceeding. Civil Code §5700(b) permits the Association to sue Members who are delinquent in the payment of Assessment obligations personally, rather than pursuing lien and foreclosure remedies or to take a deed in lieu of foreclosure on account of delinquent Assessments.
13. 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 Civil Code §5685(a) to record or cause to be recorded in the Office of the County Recorder a lien release or notice of rescission of the Association's lien and to provide the Member with a copy of that lien release or notice of rescission of the lien.
14. Annual Notice to Members of Assessment and Assessment Collection Rules: In addition to the Association's obligation to adopt and distribute this Assessment Collection Policy, Civil Code §§5310(a)(6) and 5730 require community associations to distribute to each Member, during the 60 day period immediately preceding the beginning of the Association's fiscal year, of a notice, printed in 12-point type, that reads as set forth in Exhibit "A" of this Collection Policy.
15. General Procedures. The Association generally follows the following procedure for delinquencies, which may be altered by the Board in its discretion on a case-by-case basis in the best interests of the Association:
 - a. Interest and fees will be assessed on all delinquent dues.
 - b. When a member becomes sixty (60) days behind in assessments, he/she will receive a certified letter from the Association indicating he/she is behind in paying his/her assessments and must notify the association within thirty (30) days in writing of a payment plan to be implemented to bring the dues back to a

current status. The payment plan may be accepted or rejected by the Board in its sole discretion.

- c. If the assessment becomes ninety (90) days delinquent, the Association may initiate steps to record a Notice of Delinquent Assessment Lien against the delinquent member's property in the office of the Nevada County Recorder. All costs and attorneys' fees incurred by the Association shall be added to the delinquency and lien.
- d. The Association, at the discretion of the Board, may pursue foreclosure or civil action against the member.

EXHIBIT "A"
**CIVIL CODE SECTION 5730 NOTICE REGARDING
COMMUNITY ASSOCIATION ASSESSMENT RIGHTS AND
FORECLOSURE AND OTHER COLLECTION REMEDIES**

Civil Code §§5310(a)(6) and 5730 require that the following notice be provided to each Member of an association operating within a California common interest development (as defined in Civil Code section 4100) during the 60-day period immediately preceding the beginning of the association's fiscal year. This notice must be printed in at least 12-point type:

NOTICE REGARDING ASSESSMENTS AND FORECLOSURE

This notice outlines some of the rights and responsibilities of Members of property in common interest developments and the Associations that manage them. Please refer to the sections of the Civil Code referenced in this disclosure for further information. You may wish to consult a lawyer if you dispute an Assessment.

ASSESSMENTS AND FORECLOSURE

Assessments become delinquent fifteen (15) days after they are due, unless the governing documents provide for a longer time. The failure to pay association assessments may result in the loss of a Member's property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure or without court action, often referred to as non-judicial foreclosure. An association may not use judicial or non-judicial foreclosure to enforce that lien if the amount of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest, and costs of collection, is less than one thousand eight hundred dollars (\$1,800). For delinquent assessments or dues in excess of one thousand eight hundred dollars (\$1,800) or more than twelve (12) months delinquent, an association may use judicial or non-judicial foreclosure subject to the conditions set forth in Civil Code §§5700 et seq. When using judicial or non-judicial foreclosure, the Association records a lien on the Member's property. The Member's property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (Sections 5700 through 5720 of the Civil Code).

In a judicial or non-judicial foreclosure, the Association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The Association may not use non-judicial foreclosure to collect fines or penalties, except for costs to repair common areas damaged by a Member or a Member's guests, if the governing documents provide for this. (Civil Code §5725).

The Association must comply with the requirements of Civil Code §§5650 et seq. when collecting delinquent assessments. If the Association fails to follow these requirements, it may not record a lien on the Member's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the Association. (Civil Code §5675).

At least thirty (30) days prior to recording a lien on a Member's Separate Interest, the Association must provide the person or persons who are the Member(s) of record with certain documents by certified mail, including a description of the Association's collection and lien enforcement procedures and the method of calculating the amount of

the claimed delinquency. The Association must also provide an itemized statement of the charges owed by the Member. Members who receive such a notice have a right to review the Association's records to verify the debt. (Civil Code §5660).

If a lien is recorded against a Member's property in error, the person who recorded the lien is required to record a lien release within twenty-one (21) days, and to provide a Member certain documents in this regard. (Civil Code §5685).

The collection practices of the Association may be governed by state and federal laws regarding fair debt collection practices. Penalties can be imposed for debt collection practices that violate these laws.

PAYMENTS

When a Member makes a payment, he or she may request a receipt, and the Association is required to provide it. On the receipt, the Association must indicate the date of payment and the person who received it. The Association must inform Members of a mailing address for overnight payments. (Civil Code §5665).

A Member may, but is not obligated to, pay under protest any disputed charge or sum levied by the Association, including, but not limited to, an Assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise.

A Member may dispute an Assessment debt by submitting a written request for dispute resolution to the Association as set forth in Civil Code §§5900 et seq. In addition, an association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Civil Code §§5925 et seq., if so requested by the Member. Binding arbitration shall not be available if the Association intends to initiate a judicial foreclosure.

A Member is not liable for charges, interest, and costs of collection, if it is established that the Assessment was paid properly on time. (Civil Code §5685)

MEETINGS AND PAYMENT PLANS

A Member of a Separate Interest may request the Association to consider a payment plan to satisfy a delinquent Assessment. The Association must inform Members of the standards for payment plans, if any exist. (Civil Code §5665).

The Board of Directors of the Association must meet with a Member who make a proper written request for a meeting to discuss a payment plan when the Member has received a notice of a delinquent Assessment. These payment plans must conform with the payment plan standards of the Association, if they exist. (Civil Code §5665).

A Member of an association may provide written notice by facsimile transmission or United States mail to the Association of a secondary address. If a secondary address is provided, the Association shall send any and all correspondence and legal notices required pursuant to this article to both the primary and the secondary address.