

**AVILA PARK CONDOMINIUM ASSOCIATION, INC.  
COLLECTION POLICY**

Adopted February 13th, 2019

The following procedures have been adopted by Avila Park Condominium Association, Inc. (“Association”) pursuant to C.R.S. 38-33.3-209.5, at a regular meeting of the Executive Board (“Board of Directors”).

Purpose: To establish a uniform and systematic procedure for collecting assessments and other charges of the Association, thus ensuring the financial well-being of the Association.

Collection Philosophy: All members are obligated by the Declaration For Avila Park Condominiums (“Declaration”) to pay all dues and assessments in a timely manner. Failure to do so jeopardizes the Association’s ability to pay its bills. Failure of members to pay assessments in a timely manner is also unfair to other members who do. Accordingly, the Association, acting through the Board of Directors, must take steps to ensure timely payment of assessments.

NOW, THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following procedures and policies for the collection of assessments and other charges of the Association:

1. Due Dates. The annual common expense assessments, as determined by the Association’s Board of Directors, and as allowed for in the Declaration and Colorado statutes, shall be due and payable monthly in equal installments due on the first (1<sup>st</sup>) day of each month. Special assessments, default assessments, individual purpose assessments, reimbursement assessments and other charges may be assessed or made from time to time by the Association in accordance with the Declaration and are due and payable as determined by the Board. All assessments or other charges not paid to the Association when due shall be considered past due and delinquent.

2. Late Fees and Interest. The Association shall be entitled to impose a late fee of fifty dollars (\$50.00) on any assessment or other charge not received within ten (10) days of the due date. Additionally, any assessment or other charge not received within thirty (30) days after the due date shall bear interest from the due date at the rate of one and one half percent (1.5%) per month until paid in full. All such fees and interest shall be due and payable immediately, without notice, in the manner provided for payment of assessments.

3. Acceleration. If an assessment installment becomes delinquent, the Association, in its sole discretion, may accelerate all remaining assessment installments for the remainder of that fiscal year to become immediately due and payable at once pursuant to Section 10.10 of the Declaration.

4. Return Check Charges. A twenty dollar (\$20.00) fee shall be assessed against an owner in the event any check or other instrument attributable to or payable for the benefit of such owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to, insufficient funds. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. Returned check charges shall be the obligation of the owner of the unit for which payment was tendered to the Association. If two or more of an owner’s checks are returned unpaid by the bank within any twelve (12) month period, the Association may require that all of the owner’s future payments, for a period of one (1) year, be made by certified check or money order.

5. Attorneys' Fees and Collection Costs on Delinquent Accounts. The Association shall be entitled to recover from an owner its reasonable attorneys' fees and collection costs, including any costs of collection charged by the Association's management company, incurred in the collection of assessments or other charges due, whether or not a lawsuit has been initiated against the owner. The Association shall be entitled to recover its post-judgment and appellate attorneys' fees and costs incurred from an owner.

6. No Offsets. No owner may be exempt from liability for payment of any assessment or other charge for any reason, including but not limited to, the abandonment of the unit against which the assessment or charge is made. All assessments shall be payable in the amounts specified and no offsets or reduction shall be permitted for any reason including, without limitation, any claim that the Association or Board of Directors is not properly exercising its duties and powers under the Declaration.

7. Application of Payments Made to the Association. The Association reserves the right to apply all payments received on account of any owner first to interest, then to payment of any and all legal fees and costs (including attorneys' fees), then to costs and expenses of enforcement and collection, late charges, returned check charges, lien fees, and other costs owing or incurred with respect to such owner, and any remaining amounts shall be applied to the assessments or other charges due with respect to such owner. The Association has the discretion to return any payment containing a restrictive endorsement or directing application of payments contrary to this provision. For purposes of collecting an outstanding judgment, the Association may, but shall not be required to, first apply payments received following entry of a judgment towards post-judgment attorneys' fees and costs and/or assessments and other charges coming due following the entry of the judgment.

8. Offer of Payment Plan. Subject to the following requirements and conditions, the Association shall offer a payment plan to any owner and make a good faith effort to coordinate a payment plan with the owner:

- a. The payment plan must allow the owner the right to pay off the delinquency in equal installments over a period of at least six (6) months;
- b. No payment plan need be offered if the owner does not occupy the unit and has acquired the unit as a result of:
  - i. a default of a security interest encumbering the unit; or
  - ii. foreclosure of the Association's lien;
- c. The Association is not required to offer a payment plan or negotiate such a plan with an owner who has previously entered into a payment plan with the Association;
- d. The owner's failure to remit payment of an agreed-upon installment, or to remain current with regular assessments as they come due during the period of the payment plan, constitutes a failure to comply with the terms of the payment plan.
- e. The Association may pursue legal action against the owner if the owner fails to comply with the terms of the payment plan.

9. Notice of Delinquency. After an installment of an assessment or other charge owed to the Association becomes delinquent, and before the Association turns the delinquent account over to a collection agency or refers it to the Association's attorneys for legal action, the Association shall cause a Notice of Delinquency to be sent to the owner who is delinquent in payment. The Notice of Delinquency shall specify the following:

- a. the total amount due, with an accounting of how the amount was determined;
- b. whether an opportunity to enter into a payment plan exists and the instructions for contacting the Association or its manager to enter into such a payment plan;

- c. the name and contact information for the person the owner may contact to request a copy of the owner's ledger in order to verify the amount owed;
- d. that action is required to cure the delinquency and the specific action required to cure the default; and
- e. that failure to cure the delinquency within thirty (30) days may result in the delinquent account being turned over to a collection agency or the Association's attorney, a lawsuit being filed against the owner, the filing and foreclosure of a lien against the owner's unit, or other remedies available under Colorado law.

The Association may, but shall not be required to, send additional notices to the owner, either before or after the Notice of Delinquency set forth in this Paragraph, for as long as amounts remain past due on the owner's account. However, the Association is only required to send one (1) Notice of Delinquency provided for in this Paragraph.

10. Notices. Any notices shall be mailed to the owner via U.S. regular mail at the unit address unless the owner has given notice, in writing, to the Association of an alternate address. The Association may, but shall not be required to, send notices via certified mail. If an owner has provided written notification to the Association of a valid email address, the Association may, but shall not be required to, also send notices to the owner via email transmission.

11. Liens. If payment in full of any assessment or other charge is not received by the deadline stated in the Notice of Delinquency, the Association may cause a notice of lien to be filed against the unit. The lien shall include assessments, fees, charges, late charges, attorneys' fees, fines, interest and other charges pursuant to C.R.S. §38-33.3-316(1).

12. Referral of Delinquent Accounts to Attorneys. After the deadline stated in the Notice of Delinquency has expired, the Association may, but shall not be required to refer delinquent accounts to its attorneys for collection. Upon referral to the attorneys, the attorneys shall take all appropriate action to collect the accounts referred. After an account has been referred to an attorney, the account shall remain with the attorney until the account is settled, has a zero balance or is written off. All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney. After consultation with the Board of Directors or the Association's managing agent, the attorneys shall be entitled to exercise all available remedies to collect the amounts due, including judicial foreclosure and appointment of a receiver of the owner's property.

13. Foreclosure of Lien. Notwithstanding any provision of this policy to the contrary, the Association may only foreclose the lien if:

- a. The balance of the assessments and charges secured by the lien equals or exceeds six (6) months' worth of regular assessments based on the periodic budget adopted by the Association; and
- b. The Board of Directors has formally resolved, by a recorded vote, to authorize the filing of a legal action against the specific unit on an individual basis.

14. Waivers. Nothing in this policy shall require the Association to take specific action(s) other than to notify owners of the adoption of this policy. The failure to provide notice to an owner in accordance with the provisions of this policy, with the exception of the offer of a payment plan if applicable, shall not constitute a defense or condition precedent to any action to collect the debt. The Association has the option and right to continue to evaluate each delinquency on a case-by-case basis. The Association may grant a waiver of any provision herein upon petition in writing by an owner showing a personal hardship.

Such relief granted an owner shall be appropriately documented in the files with the name of the person or persons representing the Association granting the relief and the conditions of the relief. In addition, the Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association may determine appropriate under the circumstances, except as may be prohibited by Colorado law.

15. Order of Remedies. Subject to the restrictions contained in the “Foreclosure of Lien” Paragraph above, the Association may pursue any actions or remedies, including, but not limited to, actions for personal judgment, foreclosure or receivership (on an *ex parte* basis or otherwise and for purposes of collecting the lien balance coming due to the association both pre-judgment and post-judgment in any judicial proceeding), to collect amounts owed in any order, and in the case of a foreclosure by the holder of another security interest in the owner’s property, may immediately proceed to file actions for personal judgment, foreclosure or receivership (on an *ex parte* basis or otherwise) without the necessity of following the procedures set forth above.

16. Severability. If a provision of this policy is or becomes illegal, invalid or unenforceable, that shall not affect the validity or enforceability of any other provision of this policy.

17. Superseding Previous Policies. This policy shall replace and supersede any previous rules and regulations or policies of the Association addressing the collection of past due assessments.

AVILA PARK CONDOMINIUM  
ASSOCIATION, INC.

By: 

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President