

**RESPONSIBLE GOVERNANCE PRACTICES OF THE
CLEAR CREEK CONDOMINIUM ASSOCIATION
PURSUANT TO C.R.S. §38-33.3-209.5
ADOPTED AS OF _____, 2015
POLICIES AND PROCEDURES**

1. ADOPTION/AMENDMENT OF PROCEDURES

Any existing procedure may be amended or new procedure may be adopted by a vote of the Board of Directors at any scheduled or special Board meeting after being drafted and submitted to the membership for review and comment at least seven (7) days prior to adoption.

2. BOARD MEMBER CONFLICT OF INTEREST

Board members must declare any conflict of interest (defined as financial gain to Board member or parent, grandparent, spouse, child, sibling of Board member or spouse of any of those persons, or who is directly affected by any violation of any Rule or Regulation of the Association) in an open meeting. Said Board member is prohibited from voting on any issue when such issue exists; said Board member may not attend the meeting for the purpose of determining whether a quorum is present; and that Board member must recuse himself from discussing the issue. The Board shall annually review the Association's conflict of interest policies. The provisions of C.R.S. §7-128-501, as amended, are incorporated herein.

3. EXAMINATION OF ASSOCIATION RECORDS

Any member of the Association may contact the management company and have access during normal business hours to relevant, requested records within a reasonable length of time. Copies will be provided at a charge per statute. The "records" which shall be available for inspection shall be those described in C.R.S. §38-33.3-317, as amended.

4. COLLECTION POLICY

4.1. Due Dates. The annual assessment, as determined by the Association, shall be due and payable monthly in equal installments due on the first (1st) day of each month. Special assessments or 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 specified by the resolution authorizing such assessment or charge. All assessments or other charges not paid to the Association when due shall be considered past due and delinquent.

4.2. 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 paid within ten (10) days of the due date. Additionally, any assessment or other charge not paid within ten (10) days after the due date shall bear interest from the due date at the rate of Twenty-One Percent (21%) per annum. All such fees and interest shall be due and payable immediately, without notice, in the manner provided for payment of assessments.

4.3. 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. Such amount shall be in addition to any charges made by the bank due to the dishonored check. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. 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.

4.4. Attorneys' Fees on Delinquent Accounts. The Association shall be entitled to recover its reasonable attorneys' fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent owner, together with post-judgment and appellate attorneys' fees and costs incurred.

4.5. Application of Payments Made to the Association. The Association reserves the right to apply all payments received on account of any owner first to payment of any and all legal fees and costs (including attorneys' fees), then to costs and expenses of enforcement and collection, late charges, interest, 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. 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.

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

- (a.) The payment plan must allow the delinquent 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 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; and
- (e.) The Association may pursue legal action against the owner if the owner fails to comply with the terms of the payment plan.

4.7. Notice of Delinquency. After an installment of an assessment or other charge owed to the Association becomes thirty (30) days past due, 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 under the requirements and conditions set forth in Paragraph 4.6 above, 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 Notice of Delinquency shall be mailed to the owner at the Clear Creek Condominium unit address unless the owner has given notice, in writing, of an alternate address. The Association may, but shall not be required to, send periodic follow-up notices to the owner for as long as amounts remain past due on the owner's account.

4.8. 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 property of the delinquent owner. The lien shall include assessments, fees, charges, late charges, attorneys' fees, fines, and interest owed by the delinquent owner.

4.9. 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 shall be set up and monitored through the attorney. After consultation with the Executive Board 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 delinquent owner's property.

4.10. 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 Executive Board has formally resolved, by a recorded vote, to authorize the filing of a legal action against the specific owner's unit on an individual basis.

4.11. Referral of Delinquent Accounts to Collection Agencies. The Association may, but shall not be required, to assign delinquent accounts to one or more collection agencies for collection, subject, however, to the same terms and conditions as specified herein, including the payment plan and foreclosure authorization requirements.

4.12. Waivers. Nothing in this policy shall require the Association to take specific actions other than to notify owners of the adoption of this policy. 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.

4.13. Order of Remedies. Subject to the restrictions contained in Paragraph 4.10 above concerning foreclosure, the Association may pursue any actions or remedies, including, but not limited to, actions for personal judgment, foreclosure, or receivership, to collect amounts owed in any order or contemporaneously, and cumulatively, 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.

4.14. Delinquencies Constitute Covenant Violations. Any delinquency in the payment of assessments or other charges shall constitute a violation of the covenants contained in the Declaration and following notice and an opportunity to be heard, the Association shall be entitled to impose sanctions on the delinquent owner consistent with the Association's Notice and Hearing and Enforcement Policy and Procedures.

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

5. CONDUCT OF MEETINGS

5.1. All Regular and Special Meetings, Executive Committee, and Committee Meetings of the Association are open to the membership;

5.2. Notice of any unit owner meetings and meetings of the Board will be physically posted in a conspicuous place, and such notices shall be sent to all Members.

5.3. The Association will use electronic means of giving notice of unit owner and Board meetings. The Association will e-mail meeting notices to unit owners who request it and provide the Association with their e-mail addresses.

5.4. The Board will allow a unit owner or his representative to comment at any Board meeting, but not participate in deliberations prior to its taking formal action on an item under consideration; however, the Board may place reasonable time restrictions on the person speaking.

5.5. If the proposed action to be taken by the Board is by a consent resolution, advance notice of such proposed action shall be sent to each Member by electronic mail with an opportunity to comment by electronic mail to such proposed action.

5.6. Votes for contested positions for Board members at the Annual Meeting will be taken by secret ballot. At the discretion of the Board, or if requested by 20% of unit owners present or represented by proxy, if a quorum has been achieved, secret ballots will be used for a vote on any other matter on which all unit owners are entitled to vote. A committee of unit owners, rather than candidates of Board members, is to count ballots.

5.7. Proxies are not valid if obtained through fraud. The Association may reject votes, ballots, or proxies if the person tabulating votes as a reasonable basis to doubt their validity. The person who rejects a vote, ballot, or proxy is not subject to damages. All actions of the Association regarding such rejections are valid unless a court determines otherwise.

6. ENFORCEMENT OF COVENANTS

The Association has a written policy for enforcement of rules, covenants, and policies. Violations will be issued according to the same. Owners have a right to appeal by registering a written complaint. Owners will be afforded a hearing before the Board of Directors. After discussion of the appeal, the Board will vote to uphold or rescind the original decision.

7. INVESTMENT OF RESERVE FUNDS

The Association will:

- 7.1. Follow cash or modified accrual accounting practices;
- 7.2. Hold Reserve funds separately;
- 7.3. Invest Reserve funds in conservative accounts; and
- 7.4. Deposit the majority of funds in fully insured accounts.

8. ALTERNATIVE DISPUTE RESOLUTION POLICY

8.1. Whenever a dispute arises between the Association and any owner, the Association and the owner are encouraged to try to resolve the dispute by methods other than court action [litigation].

8.2. When the Association is collecting past-due assessments or dues, the Association or its Managing Agent sends warning or "delinquency letters" to the owner to inform the owner of the amount owed and to encourage the owner to pay without litigation. If the Association is enforcing its governing documents, the Association will give notice to the owner of the alleged violation in an effort to avoid litigation by having the owner comply with the governing documents.

8.3. If the Association and the owner agree, their dispute may be submitted to mediation before any lawsuit is filed. The written, signed agreement submitting their dispute to mediation shall state who the mediator will be, that the parties will pay their share of the mediator's fees, and will provide a time limit for conducting the mediation. If no mediation is held within that time period, and no agreement extending the time is signed, either side is free to file suit.

8.4. If the dispute is resolved through mediation, the parties shall sign a written settlement agreement. The settlement agreement will usually state that the agreement will be enforceable by the courts in the event either side violates the terms of the agreement.

8.5. Mediation shall not be used in situations involving imminent threat to the peace, health, or safety of the community.

8.6. Mediation is highly recommended but not mandatory before proceeding with litigation. If either the Association or the owner chooses not to attempt a resolution of their dispute through mediation, the party may file a lawsuit to resolve the issue.

9. IMPOSITION OF FINES

Prior to the imposition of a fine for violation of these Rules, the manager shall first submit a report to the Board describing the facts and circumstances of the violation. The Board shall advise the Unit Owner of the nature of the violation, the fine which may be imposed, and that the owner shall have the right to appear and be heard before the Board at a specified time and date to determine whether a violation actually occurred.

10. RULES AND REGULATION ENFORCEMENT

10.1. Upon a first violation of any one or more of the Rules and Regulations other than specifically stated herein, the manager shall notify the Unit Owner. The notice will describe the nature of the violation, the date, and a fine of \$50.00 will be assessed.

10.2. Upon a subsequent violation or the failure to remedy a previous violation, the Association may correct the violation by (a) correct the violation and assess the costs against the Unit Owner; (b) assess a fine against the Unit Owner in the amount of \$100.00 for each additional violation; (c) abate or enjoin such violation or the continuance thereof by appropriate legal proceedings; and/or (d) in the case of pet violations, revoke the Association's consent to keep pet or pets on the Property and, in such event, the pet or pets shall be promptly removed.

10.3. Except for the violation of Firewood Cutting, all Rules and Regulations adopted by the Association which provide for the imposition of a fine upon a violation shall be by the terms of these regulations.

10.4. **Fines and Damages – Collection:** All fines and damages assessed by the Association, together with all costs and attorneys' fees incurred by reason of any violation of these Responsible Governance Practices shall be a special expense, which shall be deemed a special assessment against the Unit and collectible in the manner provided in the Covenants.

10.5. **Application:** Unit owners shall be responsible for compliance with these Responsible Governance Practices by tenants, guests, and occupants of their Unit. However, the manager shall use reasonable efforts to notify Owners of violations by occupants of their unit.