

**THE RESERVE AT UTE CREEK HOMEOWNERS ASSOCIATION
RESPONSIBLE GOVERNANCE POLICIES
ADOPTED AUGUST 21, 2008 PURSUANT TO THE REQUIREMENTS OF
THE COLORADO COMMON INTEREST OWNERSHIP ACT (the "Act")**

I. INTRODUCTION

C.R.S. § 38-33.3-209.5 of the Act states:

38-33.3-209.5 Responsible governance policies. (1) To promote responsible governance, associations shall:

- (a) Maintain accurate and complete accounting records; and
- (b) Adopt policies, procedures, and rules and regulations concerning:
 - (I) Collection of unpaid assessments;
 - (II) Handling of conflicts of interest involving board members;
 - (III) Conduct of meetings, which may refer to applicable provisions of the nonprofit code or other recognized rules and principles;
 - (IV) Enforcement of covenants and rules, including notice and hearing procedures and the schedule of fines;
 - (V) Inspection and copying of association records by Lot owners;
 - (VI) Investment of reserve funds;
 - (VII) Procedures for the adoption and amendment of policies, procedures, and rules; and
 - (VIII) Procedures for addressing disputes arising between the association and Lot owners.

In order to implement these statutory requirements and other requirements of the Act The Reserve at Ute Creek Homeowners Association (the "Association") by resolution of the Board of Directors of the Association (the "Board") adopts the following governance policies as part of the Association Rules (the "Rules"). The Rules are provided for in The Declaration of Covenants, Conditions and Restrictions of The Reserve at Ute Creek recorded November 24, 1998 as Reception No. 1874326 and the recorded amendments and supplements thereto (collectively the "Declaration"). See Paragraph 1.43 of the Declaration. These Rules regarding responsible governance policies shall be deemed to supplement the Declaration, the Articles of Incorporation and the Bylaws of the Association, the Design Guidelines (referred to in ARTICLE SIX of the Declaration) and other Rules adopted by the Association. To the extent these Rules are inconsistent with the Declaration, Articles or Bylaws or the Design Guidelines, those documents shall control, as applicable, except where otherwise required by the Colorado Common Interest Ownership Act. The following Rules may be amended at any time by action of the Board.

II. POLICIES

A. COLLECTION OF UNPAID ASSESSMENTS.

The Common Expense Assessment (as defined in the Declaration) is assessed annually and is collected in one annual installment due on the first day of January of each year. Notices of the amount of the Common Expense Assessment and the payment due will typically be sent to all the Owners by the end of December of the prior year. The Common Expense Assessment is currently \$540 per lot and if it is paid in full on or before January 31 of the current year, the

Owner receives a discount in the amount \$40.00. If the Common Expense Assessment is paid after January 31 but on or before February 28 of the current year, it is not considered late but the full amount of the Common Expense Assessment, currently \$540.00, must be paid. If payment of the Common Expense Assessment is not received by the Association by February 1 of the current year, the Treasurer of the Association will send a duplicate invoice to the unpaid accounts before February 15 to encourage an Owner to make payment before Late Fees, Collection Fees and default interest are assessed against an Owner. In the event the Common Expense Assessment has not been paid by February 28 of the current year it shall be considered late and the Lot Owner shall be considered to be in default. In the event an Owner is in default in the payment of any Assessment, the Owner will be obligated to pay a Late Fee, a Collection Fee that is hereby deemed to be part of the Late Fee and default interest in such amount and at an interest rate as will be determined and set from time to time by the Board of Directors (the Board). As determined by the Board in conjunction with the adoption of these Rules, the Late Fee shall be \$150.00 plus \$56.00 as a Collection Fee for each late assessment and default interest rate shall be 21% per annum. Interest shall accrue and be due and owing from the Owner on any unpaid amount of the annual assessment or the Late Fee or Collection Fee until all amounts owed by the Owner are paid in full. At any time after a default, the Board may provide written notice of default, which shall be sent by certified mail, return receipt requested, to the Owner at the address of the Owner that has been registered with the Association pursuant to Paragraph 17.5 of the Declaration or, if none has been registered, then to the address of the subject Lot or such other address of record of the Owner. The Notice will be deemed to be effective five (5) days from the date of such mailing, irrespective of whether or when the letter is claimed, received for or otherwise delivered or received. The Notice shall specify (i) the due dates and principal amounts of the unpaid assessment(s), (ii) the Late Fee and the Collection Fee and (iii) the default interest as of a specified date and the per diem thereafter. The Notice shall demand payment in full within ten (10) days of the effective date of such notice and shall state that if payment is not so made, (i) the Association may file a notice of lien amount against the Lot and pursue other legal remedies, and (ii) that the Owner is liable for Costs of Enforcement as defined by the Declaration and which includes all fees, costs, expenses and attorneys' fee incurred by the Association in connection with the collection of the assessment. If the assessment default is not cured and paid in full, including late fees and default interest and other costs and expenses incurred by the Association, within such ten (10) day period, the Association may (i) record a notice of lien amount against the subject Lot and (ii) pursue any other remedy available under the Declaration or Colorado law, including suit against the Owner and foreclosure of the assessment lien and sale of the subject property. The Owner is liable for all court costs, attorneys' fees or other costs of collection which together with all unpaid assessments, Late Fees, Collection Fees and interest are secured by the Assessment Lien against the Owner and the Owner's Lot. All Owners should be aware that, where enforcement and collection is required, the Owner may be liable for substantial costs and attorneys fees of enforcement.

B. HANDLING OF BOARD MEMBER CONFLICTS OF INTEREST.

C.R.S. § 38-33.3-310.5 of the Act provides:

38-33.3-310.5. Executive board - conflicts of interest - definitions.

(1) Section 7-128-501, C.R.S., shall apply to members of the executive board; except that, as used in that section:

(a) "Corporation" or "nonprofit corporation" means the association.

(b) "Director" means a member of the association's executive board.

(c) "Officer" means any person designated as an officer of the association and any person to whom the board delegates responsibilities under this article, including, without limitation, a managing agent, attorney, or accountant employed by the board.

C.R.S. § 7-128-501 provides:

7-128-501. Conflicting interest transaction.

(1) As used in this section, "conflicting interest transaction" means: A contract, transaction, or other financial relationship between a nonprofit corporation and a director of the nonprofit corporation, or between the nonprofit corporation and a party related to a director, or between the nonprofit corporation and an entity in which a director of the nonprofit corporation is a director or officer or has a financial interest.

(2) No loans shall be made by a corporation to its directors or officers. Any director or officer who assents to or participates in the making of any such loan shall be liable to the corporation for the amount of such loan until the repayment thereof.

(3) No conflicting interest transaction shall be void or voidable or be enjoined, set aside, or give rise to an award of damages or other sanctions in a proceeding by a member or by or in the right of the nonprofit corporation, solely because the conflicting interest transaction involves a director of the nonprofit corporation or a party related to a director or an entity in which a director of the nonprofit corporation is a director or officer or has a financial interest or solely because the director is present at or participates in the meeting of the nonprofit corporation's board of directors or of the committee of the board of directors that authorizes, approves, or ratifies the conflicting interest transaction or solely because the director's vote is counted for such purpose if:

(a) The material facts as to the director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the board of directors or the committee, and the board of directors or committee in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested directors, even though the disinterested directors are less than a quorum; or

(b) The material facts as to the director's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the members entitled to vote thereon, and the conflicting interest transaction is specifically authorized, approved, or ratified in good faith by a vote of the members entitled to vote thereon; or

(c) The conflicting interest transaction is fair as to the nonprofit corporation.

(4) Common or interested directors may be counted in determining the presence of a quorum at a meeting of the board of directors or of a committee which authorizes, approves, or ratifies the conflicting interest transaction.

(5) For purposes of this section, a "party related to a director" shall mean a spouse, a descendent, an ancestor, a sibling, the spouse or descendent of a sibling, an estate or trust in which the director or a

party related to a director has a beneficial interest, or an entity in which a party related to a director is a director, officer, or has a financial interest.

The Association and the Board of Directors shall utilize these statutory provisions and the provisions of the Bylaws to review and address any potential conflicts of interest relating to the officers and directors of the Association. In the event these statutory provisions are amended, the Board may modify or otherwise amend these conflict of interest provisions.

A director must disclose a conflict of interest during a board meeting in open session and cannot vote on the conflicting decision or contract. The conflicted director may participate in the discussion about a conflicting decision or contract unless a majority of the directors who are not conflicted determine such discussion would not be appropriate.

C. CONDUCT OF ASSOCIATION AND BOARD MEETINGS.

1. **NOTICE.** See ARTICLE FOUR of the Bylaws, in particular, Sections 4.4 and 4.5 of the Bylaws. The provisions of the Bylaws and the Act shall govern and control notice requirements for Association and Board meetings. In addition to those requirements the Board shall make reasonable efforts to the extent practicable to provide notices in the following manner:

- i. posting at reasonably visible public or common area locations as determined by the Board.
- ii. E-mail to any Owner for which the Association has an e-mail address. The Directors and Association shall reasonably endeavor to obtain and maintain a current list of e-mail addresses for all Owners. Any Owner expressly desiring such notice shall periodically provide and confirm to the Association a current e-mail address. Owners are encouraged to forward any e-mail notice to any other Owners for which they have an e-mail address.
- iii. Mail to the Owners at the address of the Lot or Unit, and any other address for which the Owner has provided a written request that notice be sent.
- iv. Notices of Owners meetings will also be posted on the Association's web site.

2. **OPEN BOARD AND ASSOCIATION MEETINGS.** All regular and special meetings of the Board and the Association will be open to attendance by all Owners and Owner's representatives. An "Owner's representative" shall mean a person designated in writing by a proxy or other document executed by an Owner and authorizing the Owner's representative to act for such Owner as designated in the authorization. Unless otherwise limited in scope, any such authorization shall remain in effect until withdrawn in writing by the Owner and the Board shall retain all such proxy's or other documents. All members are encouraged to attend and participate in the Board meetings or to provide written comments to the Board on pending issues prior to any such meeting. Association meetings shall be scheduled per the Declaration, Bylaws and as otherwise determined by the Board.

3. CONTENTS OF NOTICE/AGENDAS. The notice of any meeting of the Owners will state the time and place of the meeting, items on the agenda, the general nature of any proposed amendment to the Declaration or Bylaws, and any proposal to remove an officer or member of the Board. Any information on the agenda provided by the notice of Meeting shall not be deemed to exclude (i) other issues that the Board may wish to consider at Board meetings or (ii) other issues that the Board or Owners may wish to consider at Association meetings. Owners desiring further information or copies of an agenda should contact an officer of the Association.

4. PARTICIPATION BY OWNERS AT BOARD MEETINGS AND AT OWNERS MEETINGS. At an appropriate time determined by the Board of Directors, but before the Board votes on an issue under discussion at a Board meeting that requires a vote of the Board, an Owner or an Owner's representative desiring to speak on the issue will be reasonably permitted to speak regarding that issue. The Board may place reasonable time restrictions on persons speaking during the Board meeting. If more than one person desires to address an issue and there are opposing views, the Board shall provide for a reasonable number of persons to speak on each side of the issue. Similarly, at meetings of Owners, if it becomes necessary, as determined by the reasonable discretion of the President of the Association, the President may set reasonable limits on the time an Owner may speak and the number of Owners who may speak regarding a particular issue. While free and open discussion is encouraged and desired at all times, the President and the Board may always consider other concerns affected by such discussion, including but not limited to, the impacts of such discussion on the other Owners and persons present at any meeting and the need for other business to be conducted at a meeting. The President of the Association will be the presiding officer at all meetings of the Board and of the Owners and in the absence of the President, the Vice President will serve as the presiding officer of the meeting. If neither the President nor the Vice President is able to be present at a meeting, the President may designate another member of the Board of Directors to be the presiding officer for the meeting.

The Board may, in its discretion, hold private or confidential executive sessions in accordance with C.R.S. § 38-33.3-308 and other applicable Colorado law.

5. SECRET BALLOT. See Section 5.7 of the Bylaws. To the extent required, the Association will comply with C.R.S. § 38-33.3-110 regarding the need and procedure for a secret ballot. Uncontested elections of Board members, defined as elections in which the number of candidates is equal to or less than the positions to be filled, and all other votes taken at a meeting of the Owners shall be taken by such method as determined by the Board of Directors including acclamation, by hand, by voice or by ballot. Notwithstanding the above, at the discretion of the Board or upon the request of twenty percent (20%) of the Owners who are present at the meeting or represented by proxy, if a quorum has been achieved, a vote on any matter affecting the community on which all Owners are entitled to vote shall be by secret ballot.

6. RULES OF ORDER. The Board shall determine all procedures and disputes related to the conduct of its own meetings. The President or other presiding officer shall determine all procedures related to the conduct of Association meetings, provided such procedures are reasonable and non-discriminatory.

D. ENFORCEMENT OF COVENANTS AND RULES/INDIVIDUAL ASSESSMENTS/NOTICE AND HEARING/SCHEDULE OF FINES.

The Declaration contains certain covenants and other restrictions and requirements and authorizes the Board to adopt Rules for the regulation and management of the Planned Community, as defined in the Declaration. The Declaration creates restrictions on the use of Lots and the Common Areas, prohibits certain actions, and creates responsibilities and liabilities for Owners and other persons. The Declaration also provides that the Board may enforce the Declaration, and levy and collect Individual Assessments and recover Costs of Enforcement, including costs and attorney- fees against an Owner who violates the Declaration or the Rules. By statute, an Owner may be entitled to recover costs and attorney fees if the Association wrongfully deprives the Owner of certain rights.

(1) Subject to the requirements of the Act, the Declaration and the Bylaws, the procedures set forth in Exhibit 1 attached hereto and incorporated herein by this reference will govern the Board's enforcement of the covenants and the Rules.

(2) By the adoption of the Rules, the Board hereby establishes the schedule of fines set forth on Exhibit 2 attached hereto and incorporated herein by this reference. The Board may amend the schedules of fines from time to time in its discretion, in accordance with the procedures for adopting and amending Rules set forth herein.

(3) In addition to Fines, the Board of Directors, after Notice and Hearing has the right to levy Individual Assessments against an Owner as provided for in Paragraphs 5.4(b), 6.16, 7.5, 7.14, 7.15, 7.16, 7.17, 9.2, 9.6, 10.2, 11.1, 11.2 and 11.4 of the Declaration.

(4) Enforcement actions available to the Association are provided for in the Act, the Declaration, the Bylaws, the Design Guidelines and the Association Rules. In any case, a violating Owner may be liable to the Association for all costs and expenses incurred by the Association, including reasonable attorney fees, to compel compliance with the Declaration or the Association Rules, and all monies due to the Association shall be included in the amount of the Assessment Lien against the Owner's Lot pursuant to the Declaration and the Act. Owners are cautioned to comply promptly, as, in the event of any enforcement proceeding, the Costs of Enforcement for which an Owner is liable may be substantial.

E. INSPECTION AND COPYING OF RECORDS.

The Association's current records (those which are from at least the three calendar years previous to the current calendar year) relating to minutes of meetings and certain financial information and the Association's governing documents will be available from the Association's secretary.

See Section 9.3 of the Bylaws regarding an Owner's rights to inspect and copy records.

In accordance with C.R.S. § 38-33.3-317(2), Association records including membership lists shall not be used by any Owner for:

- (i) any purpose unrelated to an Owner's interest as an Owner;
- (ii) the purpose of soliciting money or property unless such money or property will be used solely to solicit the votes of the Owners in an election to be held by the Association;
- (iii) any commercial purpose; or
- (iv) for the purpose of giving, selling, or distributing such Associations records to any person.

F. INVESTMENT OF RESERVE FUNDS.

With regard to the investment of reserve funds of the Association, the officers and members of the Board of Directors shall make investment decisions in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the director or officer reasonably believes to be in the best interests of the Association in accordance with the Colorado Revised Nonprofit Corporation Act and Section 6.12 of the Bylaws.

The purpose of the Association's reserve fund is to obtain, build-up and maintain adequate funds for the periodic maintenance, repair and replacement of portions of the Common Areas and to have adequate funds for a cash reserve for emergencies and other unanticipated contingencies.

Generally reserve funds shall be invested in a mixture of short term and long-term investments in FDIC insured institutions or other investments guaranteed by the U.S. Government. While the Association will always seek a reasonable rate of return on the investment based on the current market, safety of principal and accessibility of monies without undesired penalties will always be primary considerations.

The Board may periodically hire or consult with a qualified investment counselor to assist the Association in formulating investment strategies.

The Board will obtain reserve studies on a regular basis, but not less often than every five years, to determine the adequacy of current and the amounts of future reserve funds needed or desired for the Association.

The Board may not invest Association funds in any business, property or investment in which any officer or director (including and aggregated with the interests of any relative or affiliate thereof) holds any interest except where (i) where such investment is a share or interest in a company or fund traded on recognized national exchange and (ii) the interest of such officer or director (including and aggregated with the interests of any relative or affiliate thereof) is less than 1% of the total ownership in such business, property or investment.

G. ADOPTION AND AMENDMENT OF ASSOCIATION RULES.

The other Rules adopted by the Association and these governance policies procedures and rules (collectively the “Rules”) may be amended from time to time by the Board of Directors. At such time as the Board proposes adopting Association Rules, the Board shall provide written notice of the proposed Association Rules to all Owners. The notice will also be posted on the Association’s website, if there is one. The notice shall include a copy of the text of the proposed Association Rules and the date of the Board of Directors meeting at which the Board proposes to adopt the Association Rules which date shall be not less than thirty days following the date the notice of the proposed Association Rules is sent to the Owners. The notice will also request that the Owners review the proposed Association Rules and provide comments on them to the Board at or in advance of the Board meeting specified in the notice.

The records of the Association kept by the Secretary of the Association will contain a notebook containing all the currently adopted Association Rules and the Association Rules will also be posted on the Association’s website, if there is one.

H. ALTERNATIVE DISPUTE RESOLUTION.

Paragraph 17.8 of the Declaration provides that except for matters requiring injunctive relief and matters concerning the collection of Assessments, all matters regarding the interpretation, application and enforcement of the Declaration shall be resolved by binding arbitration as further provided in the Declaration. The provisions of the Declaration and the Bylaws shall govern and control the enforcement of the covenants and the Rules.

At all times the Board will encourage neighborly resolution of disputes through alternative dispute resolution such as mediation or if that fails by arbitration as required by the Declaration. It is expected that in the event of any dispute the parties will initially conduct good faith negotiations and attempt to resolve the dispute as good neighbors; and, if that is not successful, that the parties will submit the dispute to mediation on terms agreeable to the parties, provided that unless otherwise agreed to, each party to a dispute shall pay an equal share of the costs of the mediator conducting the mediation proceeding. The Board may adopt additional dispute resolution procedures to further implement these provisions. All disputes between the Association and Owners (other than disputes or claims specifically exempted from alternative dispute resolution, including the collection of Assessments or other monies owed to the Association) must be addressed and resolved in compliance with any alternative dispute resolution procedures set forth in the Declaration or adopted by the Association.

I. RECORD KEEPING POLICIES AND REQUIREMENTS.

See ARTICLE NINE and ARTICLE FOURTEEN of the Bylaws.

J. INSURANCE CLAIM SUBMISSIONS.

ARTICLE NINE of the Declaration requires that the Association maintain certain insurance policies, as set forth therein. Such insurance covers only the Common Areas and does

not cover various personal property and other items within an Owner's Lot. Each Owner is urged to review the insurance provisions of the Declaration and each Owner shall be responsible to procure all insurance desired to protect the Owner or the Owner's property. To the extent that a loss occurs that is covered by Association insurance, pursuant and subject to C.R.S. § 10-4-110.8(5)(a), an Owner may file a claim against the policy of the Association to the same extent, and with the same effect, as if the Owner were an additional named insured on such policy after written notice to the Board of Directors that the Owner wishes to file a claim. In accordance with C.R.S. § 10-4-110.8(5)(a) the Owner must first notify the Board of Directors, in writing, of the nature of the claim and provide a description of the events that gave rise to the claim and thereafter shall allow the Board of Directors at least fifteen (15) days to respond and a reasonable opportunity to inspect the damage. The Board of Directors shall investigate the Owner's claim, ascertain whether the claim falls within the scope of the Association's insurance coverage and obligations and provide a response as promptly as possible to the Owner within said 15 day period or such longer period time as may be agreed to between the Owner and the Board of Directors.

K. MISCELLANEOUS PROTECTED ACTIVITIES.

Notwithstanding the Declaration, certain activities are protected by state statute, including specified actions related to xeriscaping, flags and flagpoles, political signs, emergency vehicles, nonflammable roofing materials and reasonable modifications to a unit or common elements as necessary to afford a person with disabilities full use and enjoyment the unit in accordance with the Federal "Fair Housing Act of 1968" 42 U.S.C. SEC. 3604(f)(3)(A), all as generally set forth in C.R.S. §§ 38-33.3-106.5 and 37-60-126. All Rules and Regulations and actions of the Board shall comply with such requirements. Each Owner is encouraged to become familiar with protected activities under the referenced statutes.

L. ARCHITECTURAL REVIEW POLICY AND PROCEDURES.

The Declaration provides that no Improvements may be made within the Planned Community without the consent and approval of the Design Review Committee. "Improvements" for this purpose includes virtually all physical changes to the property, including initial building construction; changes to existing structures; painting or re-roofing; construction or changes to outbuildings; fences; landscaping; affixed recreational equipment; site modification; and any other changes. **IF YOU MAKE OR CONSTRUCT ANY IMPROVEMENT WITHOUT THE REQUIRED APPROVAL, THE IMPROVEMENT WILL BE SUBJECT TO REMOVAL AT YOUR EXPENSE.** The Declaration and the Design Review Guidelines include specific policies, procedures and requirements for the design approval process, including submissions, review, decisions and appeals. Each application requires payment of an application and review fee as established from time to time by the Design Review Committee. The Design Review Committee or Board of Directors has also established Design Guidelines that contain more specific policies, some of which may reflect government requirements. Please review ARTICLE SIX of the Declaration and the Design Guidelines. These documents will also be posted on the website of the Association or you can obtain copies by contacting the Board of Directors. The Design

Guidelines may be amended by the Design Review Committee and/or the Board of Directors from time to time.

EXHIBITS

EXHIBIT 1: ENFORCEMENT PROCEDURES

EXHIBIT 2: FINE SCHEDULE