

## **VII. RECORDS POLICY**

### **1. Association Records Policy.**

- a. The Association shall retain and produce to Owners the records required by C.R.S. 38-33.3-317 and 38-33.3-209.4 (the "Statutory Records Law"), as well as any other records specifically set forth in the Association's Declaration or Bylaws. The Association's Board of Directors ("Board") may adopt, in its discretion, a List of Association Records setting forth the records which may be available for inspection.
- b. Owners may inspect those records as provided by the Statutory Records Law so long as the Owner is in good standing. For the purposes of this rule "good standing" of an Owner requires that the Owner has paid all assessments and other sums due to the Association and is not in violation in any of the Association's documents.
- c. The right to review the Association's records shall not include personal emails of officers and directors unless such persons authorize their use for the Association's purpose. The right to review includes only the existing records and it does not require the Association to create documents, and the Association is not obligated to compile or synthesize any information.

### **2. Examination Procedure.**

- a. Subject to the exclusions and limitations set forth herein, maintained records must be available for examination and copying by Owner or an owner's authorized agent. These documents may be made available by posting on the Association's website, which may be password protected to permit access only by Owners in good standing.
- b. Owners must submit a written request describing with reasonable particularity the records sought, at least ten (10) days prior to production of the documents to the Association's Secretary (currently see Exhibit XII, herein). The use of the attached "**Document Request Form**" is recommended as it will avoid delay, by insuring all requirements for requesting records are met (if completed properly); and it has the mandatory wording for requests made for records described in Sections 3 and 4 below.

- c. The requested records will be made available as reasonable time available to copy and provide to the requesting member, or at the next regularly scheduled Board meeting, if the meeting occurs within thirty (30) days after submission of the request. Owners who desire to examine Association records must make a mutually acceptable appointment with the Secretary and designate the estimated amount of time requested for records examination.
- d. The Association may impose a reasonable charge, which may be collected in advance to cover the costs of labor, including labor to use, retrieve, observe, copy and deliver records, and/or legal counsel expenses, if required to produce such records, and the cost of material for copies of Association records. Maintaining the Association Records is an important function of the Association, and in order to ensure that records are not tampered with, removed or destroyed, an agent of the Association or other person designated by the Board may remain present while Owners examine Association records, and the Association may charge for any labor of such individual.
- e. The Owner shall not remove any document from the Association's records, nor shall the Owner remove records from the Association's place of business. Certain records may be copied, at the Owner's expense. During an inspection, the Owner may designate such records for copying by use of tab, clip, or Post-It note upon the pages desired, but may not otherwise alter the records (for example, no folding, pencil or pen marks, etc.). The Secretary, on behalf of the Association, will make the copies.
- f. Reasonable effort will be made to accommodate the Owner within a reasonable period of time. If possible, the custodian shall make an appointment with the Owner at a place and a time convenient to both parties to conduct the inspection. All appointments for inspection will be limited to one (1) hour unless otherwise agreed by the Board member; if additional time is needed, additional appointments will be made.
- g. All persons inspecting or requesting copies of records shall conduct themselves in a businesslike manner and shall not interfere with the normal operation of the place where the inspection or copying is taking place.

- h. Copies should be available within twenty (20) working days of receipt of the request, unless the condition or voluminous nature of the records makes this time frame impractical. In such cases, the copies should be made available as soon as is practical.
- i. Depending on the number of pages requested, the records custodian may request that the Owner return at a later date to pick up the requested copies, in order to allow personnel to set aside time to reproduce the documentation requested.
- j. A right to copy records under this Rule includes the right to receive copies by photocopying or other means, including the receipt of copies through an electronic transmission if available, upon request by the Owner. Any applicable charges shall be collected in advance.
- k. All persons inspecting or requesting copies of records shall conduct themselves in a businesslike manner and shall not interfere with the operation of the normal location where the inspection or copying is taking place.

3. **Records that may be withheld from inspection and copying.**

The following records may be withheld to the extent that they are (or may concern) the following:

- a. Architectural drawings, plans, and designs, unless released upon the written consent of the legal owner of the drawings, plans, or designs;
- b. Contracts, leases, bids, or records related to transactions to purchase or provide goods or services that are currently in or under negotiation;
- c. Communications with legal counsel that are otherwise protected by the attorney-client privilege or the attorney work product doctrine;
- d. Disclosure of information in violation of law;
- e. Records of an executive session of an executive board; or
- f. Records of individual properties other than those of the requesting owner.

4. **Limitations as to use of membership list.**

No membership list may be obtained or used for any of the following purposes without written consent of the executive board:

- a. For a purpose unrelated to an Owner's interest as a Property Owner;
- b. For the purpose to solicit money or property unless such money or property will be used solely to solicit votes of the Owners in an election to be held by the Association;
- c. For any commercial purpose; or
- d. For sale to or purchase by any person.

5. **Records that must be withheld.**

The following records are not subject to inspection or copying:

- a. Personnel, salary, or medical records relating to specific individuals; or
- b. Personal identification and account information of Owners, including bank account information, telephone numbers, electronic mail addresses, driver's license numbers, and social security numbers.

6. **Document Request Form.**

It is the obligation of every Owner to hold all information requested pursuant to Sections 3 and 4 above in appropriate confidentiality so that information is not released to other parties or misused by others. As a result, any Owner requesting an ownership list or records that may be withheld must furnish a sworn statement to verify:

- a. that he/she will not use the list for the purposes stated in Subparagraph b. through d. of Section 4 above; and
- b. that in the event any information described in Section 3 above is requested and is used for any improper purpose, he/she will be responsible for any and all damages, penalties and costs incurred by the Association, including attorney fees, and shall be

subject to all enforcement procedures available to the Association through its Governing Documents and/or Colorado law.

7. **Seller Disclosures.**

- a. Upon written request complying with this Rule, an Owner who is selling his/her property shall either provide to the buyer or authorize the Association to provide to the buyer, upon payment in advance of the Association's usual fee pursuant to C.R.S. 38-33.3-317(4), all of the Association's Governing Documents and financial documents, required by the most recent available version of the Contract to Buy and Sell Real Estate promulgated by the Colorado Real Estate Commission as of the date of the contract.
- b. To request written copies of the above records, the Owner or the Owner's agent must follow the rules and procedures listed under Section 2 above, and must pay in advance the copying charges described in Section 2(e) above. If records are available on a website, the Owner or Owner's agent should use that website to obtain the records.
- c. Furthermore, the Owner has the responsibility to obtain from the buyer a signed acknowledgement of receipt of the required information and disclosure statement. The Owner is then responsible for delivering the signed acknowledgement to the Association as soon as possible after it is acquired. ***The Association uses reasonable efforts to provide copies, but shall have no liability for the information provided, nor for compliance with any deadlines or other contractual requirements.***

8. **Enforcement of Rule.**

- a. Any violation of this Rule shall cause the immediate suspension of the inspection or copying until the violator agrees in writing to comply with this Rule, as well as other remedies such as fines. The Board or its representatives may take any available legal action to enforce this Rule.
- b. The Association will not honor any requests for inspection or copying that do not comply with this Rule, but the Association may send a written notice to the person who made the request

indicating the nature of any noncompliance. Anyone who receives an oral request for inspection or copying should refer the person making the request to this Rule, and the Association or its representatives will have no further obligation to respond until it receives a proper written request.

- c. The Board shall be entitled to resolve any dispute regarding the Association's records based upon the Board's reasonable business judgment.
- d. **The Association shall not be liable for the disclosure or copying of any records which are required to be provided by statute or judicial proceeding. The Association does not warrant or represent the accuracy, completeness, or any other matter in the records provided.**
- e. The Board may, in its discretion, adopt a records retention and/or deletion procedure for any and all records, except as otherwise restricted by law.

**Adopted by the Board, this 4th day of August, 2018, effective immediately.**

**LIST OF ASSOCIATION RECORDS  
FOR POSSIBLE EXAMINATION AND COPYING**

The following Association records may be available for examination and copying to the extent in existence and control by the Association, and in compliance with the Association's Records Rule:

1. Declaration of Covenants, Conditions and Restrictions of the Association (the "Declaration"), which shall include the recording date and recording number of the Declaration;
2. Articles of Incorporation;
3. Bylaws;
4. Policies, Procedures, Rules and Regulations, and Resolutions adopted by the Association under C.R.S. 38-33.3-209.5 and other Rules or Policies, relating to the characteristics, qualifications, rights, limitations, and obligations of Owners;
5. Detailed records of receipts and expenditures affecting the operation and administration of the Association; records of claims for construction defects and amounts received pursuant to settlement of those claims;
6. Minutes of all meetings of its Owners and the Board, a record of all actions taken by the Owners or the Board without a meeting, and a record of all actions taken by any committee of the Board;
7. Written communications among, and the votes cast by, Board Members that are directly related to an action taken by the Board without a meeting pursuant to Section 7-128-202, C.R.S. or directly related to an action taken by the Board without a meeting pursuant to the Association's Bylaws;
8. The names of the Owners in a form that permits preparation of a list of the names of all Owners and the physical mailing addresses at which the Association communicates with them, showing the number of votes each Owner is entitled to vote;
9. Financial statements as described in Section 7-136-106, C.R.S., for the current and past three fiscal years and tax returns of the Association for the past seven years, to the extent available;
10. A list of the names, electronic mail addresses, and physical mailing addresses of its current Board Members and Officers;
11. Association's most recent annual report delivered to the Secretary of State, if any;
12. Financial records sufficiently detailed to enable the Association to comply with Section 38-33.3-316 (8) concerning statements of unpaid assessments;
13. The Association's most recent reserve study, if any;
14. Current written contracts to which the Association is a party and contracts for work performed for the Association within the immediately preceding two years;
15. Records of Board or committee actions to approve or deny any requests for design or architectural approval from Owners;
16. Ballots, proxies, and other records related to voting by Owners for a minimum of one year after the election, action, or vote to which they relate;

17. Resolutions adopted by its Board relating to the characteristics, qualifications, rights limitations, and obligations of Owners or any class or category of Owners;
18. All written communications within the past three years to all Owners generally as Owners;
19. The date of the Associations' fiscal year;
20. The Association's operating budget for the current fiscal year;
21. A list (organized by property type) of the Association's current regular and special assessments;
22. The results of any financial audit or review for the immediately preceding fiscal year;
23. A list of all Association insurance policies; and
24. The name, address and phone number of the Association and its managing agent, if any.



**Document Request Form**

Name of Requesting Owner: \_\_\_\_\_

Requested Date and Time for Examination: \_\_\_\_\_

Property Address: \_\_\_\_\_

Daytime Phone: \_\_\_\_\_ Email: \_\_\_\_\_

Check here if you want to examine documents and then list those documents:

\_\_\_\_\_  
\_\_\_\_\_

Check here if you are requesting copies of specific documents that you want the HOA to locate (rather than searching the documents yourself); and list the requested documents:

\_\_\_\_\_  
\_\_\_\_\_

Pursuant to Colorado State Law and the Association’s procedure regarding Owner access, inspection and copying of the Association’s documents, I agree to pay in advance the cost of copying and labor, as set by the Association’s records custodian. Payment must be received at time of examination, paid by certified funds or money order (no cash). I further agree that if the cost exceeds the estimate, I will pay the additional charges at the time of inspection or prior to copying and delivery of records. \_\_\_\_\_ (initial)

I understand that examination of books and records of this Association will be made available during normal business hours in accordance with state law at a time and place designated by the Association. I estimate that the inspection will require \_\_\_\_\_ hours. I understand that this Document Request Form must be submitted at least ten (10) days prior to inspection. I understand that I will pay as noted above, the labor costs for retrieving, copying and/or witnessing the examination of books and records of this Association.

**I agree that I am solely responsible for any legal liability or damages arising from or relating to my use of the information; and that the Association assumes no liability or responsibility for the information provided, nor its use or misuse, and that the Association does not warrant or represent the accuracy, completeness, or any other matter in the materials provided.** \_\_\_\_\_ (initial)

**If a request is made herein for records described in Sections 4 or 5 of the Records Rule, my reason for requesting that information is as follows:**

\_\_\_\_\_  
\_\_\_\_\_

By my separate signature, I certify that my request for the membership list of the Association is for a purpose related to my ownership in the Association, and that this request is not for commercial purposes or for any solicitation of money or Property, except for solicitation of money or Property to be used solely to solicit votes of the owners in an election to be held by the HOA; and this list shall not be sold to or purchased by any person.

\_\_\_\_\_ (Signature)

**By my separate signature, I agree that any information described in Sections 4 or 5 of the Records Rule shall not be used in violation of that Rule, and I agree to indemnify the Association from any claims or expenses resulting from the use of such information, in the event the records provided to me by the Association are used in violation of this Form; in such case, I will be responsible for any and all damages, penalties and costs incurred by the Association, including attorney fees, and I shall be subject to all enforcement procedures available to the Association through its governing documents and/or Colorado law.**

Signature of Requesting Owner: \_\_\_\_\_

Date: \_\_\_\_\_