

POLICIES AND PROCEDURES  
OF  
MINTURN TOWNE HOMES OWNERS  
ASSOCIATION, INC.

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MINTURN TOWNE HOMES OWNERS ASSOCIATION, INC.**

**WHEREAS**, the Colorado Common Interest Ownership Act (CCIOA), C.R.S. § 38-33.3-209.5, requires that associations adopt certain policies, procedures, and rules and regulations.

**WHEREAS**, the Minturn Towne Homes Owners Association, Inc. (the "Association") have previously adopted CCIOA Governance Policies and wish to amend and restate all previously adopted policies.

**WHEREAS**, the following Policies and Procedures have been duly adopted by the Board of the Association as required by CCIOA and are intended to supersede and replace all previously effective Policies in their entirety.

**WHEREAS**, the definitions set forth in the Declaration of Covenants Conditions, Restrictions and Easements for Minturn Towne Homes (the "Declaration"), as amended from time to time, shall apply to all capitalized terms contained in these Policies and Procedures, unless otherwise noted.

**WHEREAS**, The Policies and Procedures set forth below may be amended, modified, changed, deleted or added to by the Board or, if the Board so decides, a vote by the Owners.

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## **I. COLLECTION POLICY**

**Purpose:** To establish a uniform and systematic procedure for collecting assessments and other delinquent payments due to the Association, thus ensuring the financial well-being of the Association. All owners are obligated to pay all dues and assessments in a timely manner. Failure to do so jeopardizes the Association's ability to pay its bills and is unfair to its other owners who do pay. Accordingly, the Association, acting through the Board, must take steps to ensure timely payment of assessments.

A. *Due Dates.* The annual assessment as determined by the Association and as allowed for in the Declaration shall be due and payable in four (4) quarterly installments due on the installments due on the **1<sup>st</sup> day of each quarter**. Annual assessments not paid to the Association by the **45<sup>th</sup> day of the quarter** in which the payment is due shall be considered past due and delinquent. Any other type of assessment or other payments due to the Association shall be considered due on the date set by the Board and delinquent if not paid by the due date.

B. *Invoices.* The Board may, but shall not be required to, invoice an Owner to pay assessments or other delinquent payments of the Association.

C. *Interest and Late Fees.*

(1) *Interest.* Interest shall be assessed on any delinquent assessment and shall be assessed from the original due date. Delinquent annual assessments (i.e. those not paid by the 45<sup>th</sup> day of the month in which the payment is due), any other kind of assessments, and any other delinquent payments shall bear interest at the rate of **12% per annum** from the due date until paid. In no event shall interest be in excess of 21% per annum.

(2) *Late Fees.* Late fees shall be charged after 45 days past the due date on any delinquent payment in addition to interest. A late fee shall be charged in the amount of **\$25.00** on any delinquent assessment payment.

Any late charges and interest charges shall be due and payable immediately, without notice, in the manner provided for payment of assessments.

D. *Process for Delinquent Accounts.* After any annual assessments, other assessments, fines, or other delinquent payments due the Association become delinquent as provided above, the following process shall be followed:

(1) **Notice of Delinquency.** Before the Association turns over a delinquent account to an attorney or collection agency, the Association, by itself or by its manager or other agent, must send the delinquent owner a written notice specifying the following:

(A) The total amount due, with an accounting of how the total was determined;

(B) Whether the opportunity to enter into a payment plan exists and instructions for contacting the Association to enter into such a payment plan;

(C) The name and contact information for the individual the Unit owner may contact to request a copy of the Unit owner's ledger in order to verify the amount of the debt; and

(D) That action is required to cure the delinquency and that failure to do so within 30 days may result in the Unit owner's delinquent account being turned over to a collection agency, 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.

This notice shall be sent in accordance with the notice provisions of the Declaration and, in addition, emailed if the Owner has an email address on record with the Association.

This notice shall be referred to as the "Notice of Delinquency".

(2) **Referral to Attorney.** If payment in full is not received or a payment plan in compliance with this Policy is not entered into within 30 days after the Notice of Delinquency, the Association may, but shall not be required to, refer the account to the Association's attorneys for collection. Upon referral to the attorneys, the attorneys shall take all appropriate action to collect the accounts referred, including recording a lien if not done so by the Board. The Owner of the Unit with the delinquent account shall be responsible for, and pay as an assessment on such Unit, any attorney fees and costs incurred.

*E. Payment Plans.* This section sets forth the circumstances under which an owner is entitled to enter into a payment plan with the Association.

(1) **Availability.** Any Owner who becomes delinquent in payment of assessments may enter into a one-time payment plan with the Association by written agreement. The Association shall make a good-faith effort to coordinate with an Owner to set up a payment plan that meets the requirements of current law, unless the Association is not obligated to enter into a payment plan with the Owner. The Association shall not be obligated to enter into a payment plan with an owner if (a) the Owner has previously entered into a payment plan with the Association under this policy or (b) the Owner does not occupy the Unit and has acquired the property as a result of either: (i) a default of a security interest encumbering the property or (ii) foreclosure of the Association's lien.

(2) **Minimum Terms.** The Payment Plan Agreement must include the following:

- i. Payments for delinquent assessments must be concluded within six (6) months from the date the Owner enters into the plan, unless otherwise mutually agreed.
- ii. Payments will be divided into equal installments due on the 1<sup>st</sup> of each month, unless otherwise mutually agreed.

- iii. During the six-month period of the Payment Plan Agreement, or other agreed term, the Owner is required to remain current and prompt in payment of future, regular and special assessments as they become due.

(3) Default. If an Owner fails to make any payment pursuant to the Payment Plan Agreement, including any payment of future, regular and special assessments as they become due, the Association may proceed with legal action and other appropriate remedies against the Owner for collection without further notice.

*F. Remedies Available to Association Pursuant to Governing Documents and Colorado law.* The legal remedies available to the Association to collect a delinquent Owner's account include, subject to compliance with the requirement of a Notice of Delinquency:

- (1) The delinquent account may be turned over to an attorney or a collection agency,
- (2) A lien may be filed against the Unit,
- (3) A lawsuit may be filed against the Owner personally,
- (4) The lien against the Unit may be foreclosed upon,
- (5) An action may be brought for appointment of a receiver,
- (6) The Association may enforce the right to assignment of rents from any tenant to pay rents directly to the Association,
- (7) Owner may be denied the use of any common elements,
- (8) Any person or entity holding a security interest of record affecting the subject Unit may be notified of the delinquency,
- (9) Owner's voting rights may be suspended, and/or
- (10) Any other remedies available pursuant to the Governing Documents and Colorado law.

*G. Liens and Foreclosure.* The Board, by itself, the Manager, or the attorney may record a Notice of Lien against the Unit of any delinquent Owner in accordance with the terms and provisions of the Declaration and Colorado law. Foreclosure of the Association's lien may only be initiated if the balance of the assessments and charges secured by the lien is an amount that equals or exceeds 6 months of common expense assessments based upon a periodic budget adopted by the Association and the Board has formally resolved, by recorded vote, to authorize the filing of a foreclosure action against the specific Unit on an individual basis.

*H. Attorney Fees and Costs.* The Association shall be entitled to recover its reasonable attorney fees and any costs incurred in the collection of assessments or other delinquent payments due the Association from a delinquent Owner and these fees shall be due and payable immediately when incurred, upon demand, and treated as and collectible as an assessment.

*I. Returned Check Charges.* In addition to any and all charges imposed under the Governing Documents of the Association, a fee of **\$20.00** 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 return check charge shall be considered an assessment due and payable immediately, upon demand. This return check charge shall be in addition to any late fees or interest incurred by an Owner. Any returned check shall cause an account to be considered delinquent if full payment is not timely made by the due date. 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 fiscal year, 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.

J. *Other Fees.* In the event the Association incurs any type of fees for the handling and processing of a delinquent account which fee is incurred specifically for an individual account, such fees shall be the responsibility of the specific Owner and collectible as an assessment.

K. *Application of Payments.* All payments received on an account of any Owner or the Owner's Unit shall be applied in the following order: (1) to payment of any and all legal fees, including attorney fees, costs, and lien fees (2) costs of enforcement and collection, (3) interest, (4) late fees, (5) returned check charges, (6) fines and other amounts owing or incurred with respect to such Owner pursuant to the governing documents and Colorado law, (7) delinquent special, default, or other type of assessment other than annual, (8) the longest outstanding delinquent annual assessments, and finally to (9) current assessments outstanding.

L. *Rental Interception.* The Association may, without court order, notify the tenant of any Unit where the Owner is delinquent in the payment of assessments that rents shall be paid to the Association effective immediately and continue until such time as the Owner's account is current. Such notice shall be delivered in writing to both the tenant and the Owner. All funds received by the Association from the tenant shall be credited to the Owner's account as set forth herein. Any overpayments shall be forwarded to Owner.

M. *Appointment of a Receiver.* The Association may seek the appointment of a receiver by the Court if an Owner becomes delinquent in the payment of assessments. The receiver shall be a disinterested person who shall manage the delinquent Owner's Unit pursuant to the court's order. The purpose of a receivership is to obtain payment of assessments, prevent waste and deterioration of the Owner's Unit, and prevent negative impact on the common elements and other owners' properties.

N. *Notices.* Any letters or notices to be sent to a delinquent Owner shall be sent in accordance with the notice provisions in the Declaration.

O. *Referral of Delinquent Accounts to Collection Agencies.* The Board may, but shall not be required to, refer delinquent accounts to one or more collection agencies for collection. Upon

referral to a collection agency, the agency shall take all appropriate action to collect the accounts referred.

P. *Ongoing Evaluation.* Nothing in this procedure shall require the Board to take specific actions other than those required by Colorado law. The Board has the option and right to continue to evaluate and determine the best course of action for each delinquency on a case-by-case basis and deviate from this Policy, so long as the minimum requirements of law are met. 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 of the Association. In addition, the Board is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Board may determine appropriate under the circumstances.

## II. CONFLICTS OF INTEREST POLICY

The Board has adopted the following policies and procedures regarding handling of conflicts of interest involving board members:

### *A. Definitions.*

(1) "Conflicting interest transaction" means a contract, transaction, or other financial relationship between the Association and a Board Member, or between the Association and a party related to a Board Member, or between the Association and an entity in which a Board Member of the Association is a Board Member or officer or has a financial interest.

(2) "Party related to a Board Member" means a spouse, a descendant, an ancestor, a sibling, the spouse or descendant of a sibling, an estate or trust in which the Board Member or a party related to a Board Member has a beneficial interest, or an entity in which a party related to a Board Member is a Board Member or officer or has a financial interest.

### *B. Policy.*

(I) Loans. No loans shall be made by the Association to its Board Members or officers. Any Board Member or officer who assents to or participates in the making of any such loan shall be liable to the Association for the amount of the loan until it is repaid.

(2) If any contract, decision, or other action taken by or on behalf of the Board would financially benefit any Board Member or Party related to a Board Member, then, in advance of entering into that contract, making the decision or taking the action, that interested Board Member shall declare at an open meeting of the Board, that a conflict of interest exists and shall describe in detail all of the particular facts of the conflict of interest.

(3) After the interested Board Member makes such a declaration, the interested Board Member may participate in a discussion of the matter giving rise to the conflict of interest. However, the interested Board Member may not vote on the issue giving rise to the conflict of interest.

(4) Interested Board Members may be counted in determining the presence of a quorum at a meeting of the Board or of a committee that authorizes, approves or ratifies the conflicting interest transaction.

(5) The conflicting interest transaction may not be void or voidable by an Owner or the Association, acting by vote of the Board, if:



i. The facts about the conflicting interest transaction are disclosed to the Board, and a majority of the disinterested Board Members, even if less than a quorum, in good faith approves the conflicting interest transaction;

ii. The facts about the conflicting interest transaction are disclosed to the Owners entitled to vote on the matter, and the conflicting interest transaction is authorized in good faith by a vote of the Owners entitled to vote on the matter; or

iii. The conflicting interest transaction is fair to the Association.

(6) These policies and procedures regarding handling of conflicts of interest involving board members shall be reviewed no less than annually by the Board.

### **III. CONDUCT OF MEETINGS POLICY**

The Board has adopted the following policies and procedures regarding the conduct of meetings, subject to the Declaration and Bylaws:

*A. Owner Meetings.* All meetings of the Owners are open to every Owner or to any person designated by an Owner in writing as the Owner's representative, and Owners or designated representatives so desiring shall be permitted to attend, listen, and speak at an appropriate time during the deliberations and proceedings.

*B. Board Meetings.* All meetings of the Board are open to every Owner or to any person designated by an Owner in writing as the Owner's representative. At an appropriate time determined by the Board but before the Board votes on an issue under discussion, Owners or their designated representatives shall be permitted to speak regarding the issue. The Board may place reasonable time restrictions on persons speaking during the meeting, to allow sufficient time for as many Owners as possible to comment within the time permitted. Unless otherwise determined by the President or acting chair, the time limit will be three (3) minutes per Owner. Owners will only be allowed to speak more than once at the discretion of the Board. If more than one person desires to address an issue and there are opposing views on that issue, the Board shall provide for a reasonable number of persons to speak on each side of the issue.

*C. Executive Session of Board.* Notwithstanding the foregoing, the Board or a committee thereof may hold an executive or closed-door session and may restrict attendance to Board Members and other persons specified by the Board; provided that any such executive or closed-door session may only be held in accordance with the provisions and requirements of CCIOA, as amended from time to time, or other applicable law. Matters for discussion by an executive or closed session are limited to:

- (1) Matters pertaining to employees of the Association or the managing agent's contract or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the Association;
- (2) Consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;
- (3) Investigative proceedings concerning possible or actual criminal misconduct;
- (4) Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;
- (5) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy;

(6) Review of or discussion relating to any written or oral communication from legal counsel.

Prior to the time the Board Members convene in executive session, the President or acting chair shall announce the general matter of discussion as enumerated in paragraphs (1) to (6) above. No rule or regulation shall be adopted during an executive session.

*D. Owner Conduct at Board or Owner Meetings.* No Owner is entitled to speak until recognized by the chair. There shall be no interruption of anyone who has been recognized by the chair, except by the chair. Specific time limits set for speakers shall be strictly observed. Personal attacks, whether physical or verbal, and offensive language will not be tolerated. All comments are to be directed to the chair and not other individual participants. All comments are to be restricted to the agenda item being discussed.

*E. Curtailment of Owner Conduct at Board or Owner Meetings.* Should the President or acting chair determine that any Owner has spoken for the allocated amount of time or longer, or determine that the Owner is in violation of the provisions of this policy, the President or acting chair shall have the authority to instruct that Owner to yield the floor, and that Owner will be obligated to comply with the President's or acting chair's instruction.

#### IV. ENFORCEMENT POLICY

The Board has adopted the following policies and procedures regarding enforcement of any Governing Document of the Association (typically, covenants in the Declaration and/or Rules and Regulations), including notice and hearing procedures and a schedule of fines:

The Board may determine enforcement action on a case-by-case basis, and take other actions as it may deem necessary and appropriate to assure compliance with any covenant, rule, or other provision and to create a safe and harmonious living environment. The Board may choose a legal remedy or seek assistance from other enforcement authorities, such as police, fire, or animal control, as it deems appropriate.

I. **Not Applicable to Collection.** These Policies and Procedures shall govern the enforcement of the provisions of the Governing Documents other than those adopted for collection of unpaid assessments which are addressed elsewhere in the Association's Governing Documents and by a separate Collection Policy.

2. **Persons Subject to Enforcement.** All owners and their tenants, guests, licensees, and invitees shall be subject to the Association's Governing Documents and enforcement thereof. In the event that any tenant, guest, licensee, and/or invitee associated with a Unit other than an Owner violates the Declaration, Rules or Regulations or any other governing documents related to the Association and a fine or penalty is imposed, upon proper notice to the Owner and opportunity to be heard as provided herein, the fine shall also be deemed assessed against the Unit as an assessment.

3. **Power of Board.** The Board and/or a committee of the Board shall have the power to (a) impose fines after notice and opportunity for a hearing as provided for herein (if unpaid, the balance shall be considered an assessment and collectable as such, including the right to lien the Unit for the same), (b) to suspend an Owner's right to vote, and (c) to suspend the Owner's right to use the Common Area.

4. **Attorney Fees.** If a fine is issued under the procedure set forth below and the owner fails to remedy the violation(s), the violation(s) may be turned over to the Association's attorney to take appropriate legal action. In any case, the Board may seek and receive advice and counsel from an attorney for enforcement, including the preparation of and issuance of notices, and the Owner shall be responsible for all attorney fees and costs incurred related to the violation, regardless of whether the violation is subsequently cured.

5. **Procedures.** The following procedures are applicable to violation of a Governing Document:

a. Informal Notice. The Board and/or Manager has the authority to request that another Owner or the Owner's licensee or invitee cease or correct any act or omission which appears to be a violation of the Governing Documents. Such informal request may be made but is not required before the formal notice process is initiated and may be made by phone call or email in the discretion of the Board and/or Manager.

b. Written Complaint. If any Owner, member of the Board, or the Manager believes there is a violation, it shall send a written complaint to the Board. The written complaint shall set forth in ordinary and concise language the acts or omissions which the complaining party believes occurred and shall include as many specifics as are available as to time, date, location and persons involved, so that the complaint may be investigated and verified.

c. Notice of Violation. Whether or not a written complaint is provided to the Board, should the Board or any committee of the Board determine that a violation may have occurred, as soon as reasonably practicable following such determination, their designee shall send to the Owner a written notice of alleged violation (the "Notice of Violation"). The Board may also, at its option, provide a copy of the Notice to any non-owner violator. The Notice of Violation shall contain:

- i. A description of the Alleged Violation;
- ii. A statement that the Alleged Violation must cease within such period of time as the Board or committee deems reasonable based upon the nature of the Alleged Violation.
- iii. The proposed or potential fines or other sanctions to be imposed if the Alleged Violation is not ceased within the time period required;
- iv. The name, address, and telephone number of a person to contact to request the hearing; and
- v. **A statement that the proposed fine and/or sanction shall be imposed as contained in the Notice unless a hearing is requested in writing within 14 days of the date of the Notice with a statement of the reason for the challenge.**

If a challenge is not timely made as provided for in this section and the violation remains uncured, the fine and/or other sanction shall be imposed immediately subsequent to 14 days from the date of the Notice and there shall be no due recourse for the Owner as to the fine and sanctions so imposed.

d. Hearing. If a timely request for a hearing is received to challenge any violation, a hearing before the Board shall be held within fourteen (14) days following the Owner's request for a hearing. The Board shall set the hearing at a time and date convenient to the Board, with good faith consideration of the availability of the Owner, and will provide written notice of the date and time of the hearing to the Owner who is subject to being sanctioned, provided that the Presiding Officer may grant continuances for good cause. The

notice of the hearing shall be provided not less than three (3) calendar days before the date of the hearing. The notice requirement shall be deemed duly satisfied if an Owner who is subject to being sanctioned appears at the hearing.

At the beginning of each hearing, the presiding officer shall introduce the case by describing the violation and the procedure to be followed during the hearing. The Board may duly limit the amount of time that the Owner has to provide his or her case against the Alleged Violation.

Each party or designated representative, may, but is not required to, make an opening statement, present relevant evidence and testimony, present witnesses, and make a closing statement. The parties must comply with any time limits imposed.

If the Board so allows, the hearing may be by telephone conference, with costs of same to be paid by the Owner. Any Board member may appear by telephone. The Owner may appear by telephone if requested and authorized by the Board. Unless otherwise determined by the Board or committee or requested by the Owner that is alleged to have committed the Alleged Violation, all hearings shall be open to attendance by all members of the Association.

e. Decision. After all testimony and other evidence have been presented to the Board at a hearing, the Board shall render its written findings and decision, immediately or if further discussion is necessary, within 5 business days after the hearing. If a violation is confirmed by the Board, it may impose a fine in its reasonable discretion, and may follow the fine schedule set forth below. A decision shall be by a majority of the members of a quorum of the Board present at the hearing. The minutes of the hearing shall contain a general written statement of the results of the hearing and the sanction, if any, imposed. The decision of the Board or committee, as applicable is final and non-appealable. The Board may also issue and present for recording with the Eagle County Clerk and Recorder, a Notice of Finding of Violation. Upon satisfactory compliance with the Association's Governing Documents, the Notice of Finding of Violation may be released by the Association issuing and recording a Release of the Notice of Finding of Violation.

6. **Fines.** The amount of the initial fine and any subsequent fines shall be in the Board's sole and reasonable discretion. Fines may deviate based on type of violation, severity, and effect on other owners and may be issued per day or per occurrence. Subject to the provisions hereof, the following constitutes the fine schedule for any violation of the Governing Documents of the Association, other than nonpayment of assessments and dues, which the Board may follow:

1. First offense: Minimum fine of \$100.00; up to \$100.00 per day.
11. Second offense: Minimum fine of \$500.00; up to \$500.00 per month.
111. Third offense: Minimum fine of \$1,000.00; up to \$1,000.00 per month.

The total amount of any fines levied on account of any single recurring violation will not exceed the amount of \$5,000.00. Once the amount of the fines imposed regarding the same violation reaches \$5,000, no further fine shall be imposed. Thereafter, the Board shall discuss and determine, in its sole discretion, whether to proceed with further enforcement methods, such as an injunction by the Court, or to proceed with alternative dispute resolution with the Owner under the Association's ADR Policy.

Any fines levied pursuant to this policy and not paid within ten (10) calendar days from the mailing of the notice of the fine, after the procedures above have occurred and been followed, shall act as a lien upon the offending Owner's Unit and said lien may be enforced in the same manner as a lien for unpaid assessments in accordance with the Declaration, including the recovery of all attorney fees and costs incurred in collecting the lien.

7. **Cure.** After the violation has been cured by the Owner, it is the responsibility of the Owner to notify the Board or Manager that the violation has been remedied and to arrange for verification of said remedy to cease the incurrence of fines. The Association will continue fines until otherwise confirmed by a Board Member or the Manager and noted in writing to the Owner for records.

8. **Service of Notices.** Service of all notices required or permitted hereunder shall be made as follows:

- i. If to an Owner and any person associated with a Unit who is in violation, notice shall be by personal delivery or, by U.S. mail, postage prepaid, addressed to the last registered address of the Owner as contained in the Association records and by email to the Owner if the Owner has an email address on record with the Association. The Notice may also be posted on the Residence front door if the Board deems appropriate.
- ii. If to the Association, by personal delivery or U.S. mail, postage prepaid, addressed to the Association in care of its registered agent and also to its principal office mailing address, both as maintained with the Colorado Secretary of State. Any notice to the Association shall be emailed to the Association if an email address is provided to the Owner for such purpose.

9. **Violation of Law.** Any violation of any state, municipal or local law, ordinance or regulation pertaining to the ownership, occupation or use of any of the Units is hereby declared to be a violation of the Governing Documents and shall be subject to any and all of the enforcement procedures set forth herein.

10. **Remedies.** In addition to the fines provided for herein, it is hereby declared to be the intention of the Association to enforce the provisions by of the Governing Documents by any and all means available to the Association at law or in equity, and to seek recovery and

reimbursement of all attorney's fees, Association expenses and costs incurred by the Association in connection therewith. The remedies set forth herein are cumulative and non-exclusive.



## **V. RECORDS POLICY**

The Board has adopted the following policies and procedures regarding the inspection and copying of records pursuant to the provisions of C.R.S. §38-33.3-209.S(V) and C.R.S. §38-33.3-317.

Purpose: To establish uniform procedures for the inspection and copying of Association records by Association Members; to establish the type of records kept by the Association or its agent; and to establish the cost of copying Association records.

**1. Record Maintenance Requirements:** The Association shall keep and maintain the following documents as the sole records of the Association for purposes of document retention and production to Owners:

- A. Records specifically defined in the Association's Declaration or Bylaws.
- B. Records expressly required to be available within 90 days after the end of each fiscal year as required by C.R.S. §38-33.3-209.4(2) as follows:
  - (a) The date on which its fiscal year commences;
  - (b) The operating budget for the current fiscal year;
  - (c) A list, by unit type, of the association's current assessments, including both regular and special assessments;
  - (d) The annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
  - (e) The results of its most recent available financial audit or review;
  - (f) A list of all association insurance policies, including, but not limited to, property, general liability, association director and officer professional liability, and fidelity policies. Such list shall include the company names, policy limits, policy deductibles, additional named insureds, and expiration dates of the policies listed.
  - (g) All the association's bylaws, articles, and rules and regulations;
  - (h) The minutes of the Board and member meetings for the fiscal year immediately preceding the current annual disclosure; and
  - (i) The association's responsible governance policies adopted under section 38-33.3-209.5.

The items listed in this Section 1.8. are available at no cost to the owners and costs of distribution shall be accounted for as a common expense. The items may be posted on an internet web page with accompanying notice to owners of the web address.

C. Records expressly required by C.R.S. §38-33.3-317 as follows:

- (a) Detailed records of receipts and expenditures affecting the operation and administration of the association;
- (b) Records of claims for construction defects and amounts received pursuant to settlement of those claims;
- (c) Minutes of all meetings of its owners and board, a record of all actions taken by the

owners or board without a meeting, and a record of all actions taken by any committee of the board;

- (d) Written communications among, and votes cast by, Board members that are:
  - (i) directly related to an action taken by the board without a meeting pursuant to the Colorado Revised Nonprofit Corporation Act (C.R.S. §7-128-202); or
  - (ii) directly related to an action taken by the board without a meeting pursuant to the Association's Bylaws;
- (e) 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 **(the "Membership List")**;
- (f) The Association's current Declaration, covenants, Bylaws, Articles of Incorporation, Rules and Regulations, responsible governance policies and other policies adopted by the board;
- (g) Financial statements for the past 3 years and tax returns of the Association for the past 7 years, to the extent available;
- (h) A list of the names, email addresses and physical mailing addresses of the current board members and officers;
- (i) The most recent annual report delivered to the Secretary of State, if any;
- (j) Financial records sufficiently detailed to enable the Association to provide an owner, or other person designated under C.R.S. §38-33.3-316(8), with a written statement stating the amount of unpaid assessments currently levied against the owner's unit; **Important: A written request for a statement of unpaid assessments sent pursuant to C.R.S. §38-33.3-316(8) must be provided by the Association within 14 days of receipt of the written request.**
- (k) The Association's most recent reserve study, if any;
- (l) Current written contracts to which the Association is a party and contracts for work performed within the past 2 years;
- (m) Records of board or committee actions to approve or deny any requests for design or architectural approval from owners;
- (n) Ballots, proxies and other records related to voting by owners for 1 year after the election, action or vote to which they relate;
- (o) Resolutions adopted by the board relating to the characteristics, qualifications, rights, limitations, and obligations of members; and
- (p) All written communications within the past 3 years sent to all unit owners generally as unit owners.

## **2. Availability of Association Records to Owners:**

### **A. Terms Applicable to Inspection by the Owner or Production and Copying of Records for Owner**

- (a) All records maintained by the Association must be available, except as provided in Sections 2.8. and 3 below and subject to the fees outlined in Section 4 below, for an in- person examination by a requesting Owner or their authorized agent<sup>1</sup> or for production

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<sup>1</sup> The Association may request that anyone acting as an owner's authorized agent provide written proof of the owner's designation of the individual as their authorized agent.

of copies to the requesting Owner or their authorized agent. The owner or authorized agent shall be referred to hereinafter as the "Requesting Owner."

- (b) Any Owner who wishes to inspect or request copies of any of the required records must first submit a written request with the following information:
- i. Name, mailing address, phone number and email address of Requesting Owner and, if applicable, authorized agent,
  - ii. Description with reasonable particularity of the exact records sought,
  - iii. Whether the Requesting Owner wishes to conduct an in-person inspection or is requesting copies be made and provided, or both.
  - iv. If the Membership List is being requested, state a purpose directly related to the Requesting Owner's interest over his or her unit.
  - v. If requesting copies, affirmation that the Requesting Owner will pay a required advance fee allowed in Section 4 below for copying charges plus labor costs.
  - vi. State a date and time, at least ten (10) calendar days from the date of delivery that the Owner wishes to inspect or receive copies of the records.

The written request must be sent by U.S. Mail to the mailing address of the Association, delivered in person to the Board President at a meeting or in person to the manager, or sent by email to a valid email address of the Board President or the manager

- (c) The Association, by its Board or Manager, shall respond to the Requesting Owner no longer than seven (7) days after the Association receives the written request per sections (d) and (e) below.
- (d) *Physical Inspection.* If Requesting Owner has requested physical inspection of the records, the response shall advise the owner of the date, time and location of the inspection. The Board or Manager and Requesting Owner shall work in good faith to find a mutually agreeable date and time. Examination shall occur between normal business hours. Alternatively, at the sole discretion of the Board or the Association's manager, the examination shall occur at the next regularly scheduled Board meeting if the meeting occurs within 30 days after the request. Further, at the discretion of the Board or the Association's manager, certain records may only be inspected in the presence of a Board member or employee of the manager. No records may be removed from the location of inspection without the express written consent of the Board.
- (e) *Copies Request.* If Requesting Owner has requested copies of the records, the response shall state the fees required under Section 4 and request a response as to where to deliver the requested documents to the owner upon payment. The Requesting Owner may request to receive copies of records through electronic transmission (email or facsimile), if available and if the request is not too voluminous to send in such method in the sole discretion of the Board or Manager. Alternatively, at the sole discretion of the Board or the Association's manager, the delivery of copies shall occur at the next regularly scheduled Board meeting if the meeting occurs within 30 days after the request.
- (f) Regardless of any provision in the declaration, bylaws, articles, or rules and regulations of the Association to the contrary, the Association may not require a statement of proper purpose from the owner in order to produce the requested documents (C.R.S. §38-33.3- 317(2)(a)).

**B. Terms Applicable Specifically to the Membership List:**

- (a) In order for any person to obtain the Membership List (as defined in 1.C.(e) above), or any part thereof, they must show to the Board that the purpose is directly related to the owner's interest over his/her unit. If the purpose of obtaining or using the Membership List is unrelated to the requesting owner's interest as a unit owner, consent from the Board is mandatory for use for an unrelated purpose.
- (b) Without consent of the Board, the Membership List may not be:
  - 1. Used to solicit money or property unless such money or property will be used solely to solicit votes from unit owners in an election to be held by the Association;
  - 2. Used for any commercial purpose; or
  - 3. Sold to or purchased by any person.

**3. Restrictions on Availability of Records**

**A. Records That May Be Withheld:** Records maintained by the Association may be withheld in the sole discretion of the Board to the extent that they are or concern:

- (a) Architectural drawings, plans, and designs, unless a written consent from the legal owner of the drawings, plans, or designs is obtained;
- (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 that are 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 Board; or
- (f) Individual units other than those of the requesting owner.

In determining whether the records listed in (a)-(f) above may be inspected or provided, the Board shall consider, among other things: (1) Whether disclosure is for an illegal or improper purpose, or would violate a constitutional or statutory provision or public policy; and (2) Whether disclosure may result in an invasion of personal privacy, breach of confidence or privileged information as set forth above.

**B. Records that Must Be Withheld:** Records maintained by the Association must be withheld to the extent that they are or concern:

- 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, email addresses, driver's license numbers, and social security numbers; except that an Owner or resident may provide the Association with prior written consent to the disclosure of, and the

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Association may publish to other Owners and residents, the person's telephone number, electronic mail address, or both. The written consent must be kept as a record of the Association and remains valid until the person withdraws it by providing the Association with a written notice of withdrawal of the consent. If a person withdraws his or her consent, the Association is under no obligation to change, retrieve, or destroy any document or record published prior to the notice of withdrawal. An Owner's or resident's written consent and/or notice of withdrawal of the consent may be given by such person electronically to the Association so long as such person's electronic transmission to the Association contains a statement or reasonable indication that such person intends the electronic transmission to constitute effective notice to the Association of such person's consent or withdrawal of consent.

**4. Charges and Fees:** The Association will charge a reasonable fee, which shall be required to be paid by the Requesting Owner in advance, to cover costs of labor and material for copies of association records. However, the charge may not exceed the estimated cost of production and reproduction of the records. The cost per page and the labor costs shall be no less than \$.10 per page and \$25/hour for the time it takes the authorized person copying the documents for the requesting owner to do so. If the documents take less than one hour to copy, the minimum labor fee is \$25.00. Any delivery fees will be passed through directly to the Requesting Owner.

**5. Association Obligation:** The Association is not obligated to compile or synthesize information.

**6. Commercial Purposes:** Records maintained by the Association, and the information contained therein, shall not be used for commercial purposes.

**7. Abuse of Rights:** The Association reserves the right to pursue any individual for damages or injunctive relief or both, including reasonable attorney fees, for violation or abuse of these rights.

**VI. POLICY RE: INVESTMENT OF RESERVES:**  
**Standard of Care for Board Members Investing Reserve Funds**

The Board has adopted the following policies and procedures regarding the investment of reserve funds:

A. Board Members and officers must meet the standards of care outlined in the Colorado Revised Nonprofit Code when investing Association reserve funds. The standards require Board Members and officers to act:

- (I) in good faith;
- (2) with the care an ordinarily prudent person in a like situation would exercise under similar circumstances; and
- (3) in a manner the Board Member or officer reasonably believes to be in the best interest of the Association.

B. In discharging their duties, Board Members and officers may rely on other people on matters that the Board Members or officers reasonably believe are within that person's professional or expert competence.

C. All cash and investments owned by the Association must be invested in Permitted Investments, as defined below, at all times. All Permitted Investments owned by the Association must have a maturity date not more than 12 months from the date of purchase by the Association. "Permitted Investments" shall consist only of the following:

- (1) Checking accounts at banks located in Eagle County, Colorado at amounts which are FDIC insured.
- (2) Savings accounts at banks located in the United States of America at amounts which are FDIC insured.
- (3) Certificates of Deposit at banks located in the United States of America at amounts which are FDIC insured.
- (4) Securities issued by the United States Treasury or any agency of the United States government.

D. A summary of all investments and investing activity will be presented at each Annual Owners' Meeting.

**VII. POLICY RE: ADOPTION AND AMENDMENT**  
**OF**  
**POLICIES AND PROCEDURES, RULES AND REGULATIONS**

The Board has adopted the following policies and procedures regarding the adoption and amendment of policies, procedures, and rules:

The Board may from time to time adopt and amend the policies and procedures and the rules and regulations concerning the Community, except the new policy, procedure, rule or amendment shall not amend the terms of the Declaration which may only be amended as provided therein. Such amendments are valid and enforceable against an Owner only if:

- (a) Their purpose is to promote the convenience, safety, or welfare of the Owners;
- (b) They are reasonably related to the purpose for which they are adopted;
- (c) They are not retaliatory or discriminatory in nature;
- (d) They are sufficiently explicit in prohibition, direction, or limitation of the Owner's conduct to fairly inform him of what he must or must not do to comply.

In order to adopt or amend a policy, procedure, or rule and regulation, the Board shall approve the same in accordance with the Bylaws and send notice of the newly-adopted policy, procedure, rule and regulation to the Owners via first class mail or email (if the Owner has provided an email address to the Association) and post on the Association's website. If the Board in its sole discretion determines that an Owner comment period is beneficial to the adoption, the Board shall provide notice of the proposed policy, procedure, or rule and regulation to all Owners with a stated number of days for comment and wait the stated number of days prior to Board adoption. No policy, procedure, or rule and regulation shall be effective until sent to the Owners, unless otherwise required by law.

## **VIII. ALTERNATIVE DISPUTE RESOLUTION POLICY**

The Board has adopted the following policies and procedures regarding addressing disputes arising between the Association and an Owner or Owners:

The following policy regarding Alternative Dispute Resolution is applicable except in the case of the Association's collection of assessments or enforcement of the covenants, bylaws, or rules and regulations of the Association by the Association of which it will be applicable in the Board's sole discretion.

No lawsuit between an Owner or Owners and the Association, its Board members and officers, may be commenced and maintained until such matter has followed this Policy.

A. *Meeting with Board.* In the event of any dispute involving the Association and an Owner, it is the intention of the Board to resolve the dispute informally and without the need for litigation. The Owner or the Board shall notify the other in writing of the claim, stating (i) the nature of the Claim, including the date, time, location, persons involved, (ii) the basis of the claim (i.e. the provisions of the Declaration, the Bylaws, the Articles, Rules or Regulations or other authority out of which the claim arises); (iii) what the claimant wants the other to do or not do to resolve the claim; and (iv) that claimant wishes to resolve the claim by mutual agreement and is willing to meet in person with the other at a mutually agreeable time and place to discuss in good faith ways to resolve the claim.

The parties shall make every reasonable effort to meet either in person or by conference call to resolve the claim by good faith negotiation.

B. *Non-Binding Mediation.* Mediation is an attempt to bring about a peaceful settlement or compromise between parties in dispute through the objective intervention of a neutral party. If a meeting is unsuccessful or does not occur, all claims or disputes shall be initially submitted to non-binding mediation in good faith. The parties shall jointly appoint a mediator and will share equally in the cost of mediation. If the parties cannot agree on a mediator within 10 business days of the initial notice to mediate from any party, a mediator shall be selected by and from the Judicial Arbitrator Group (JAG) or, if not available, other arbitration/mediation company. If mediation does occur, it shall be completed within 60 days from the date of request.

Notwithstanding the foregoing, the parties involved do not waive their rights to seek and obtain extraordinary judicial relief, including a temporary restraining order or temporary injunction, if such relief is necessary before a mediation may be held to protect or preserve a party's legal rights, or for the Association to protect or preserve the health, welfare or safety of the Association, the Common Area, Units, or Owners.

If mediation is unsuccessful or does not occur, the parties are free to pursue all legal rights and remedies in a court of law.



C. This policy is an agreement of the Association and Owners to mediate all claims except the stated exceptions and is specifically enforceable under the applicable law of the State of Colorado.

D. *Costs.* If the claims are resolved through negotiation or mediation as provided above, each party shall bear all of its own costs incurred in resolving the claim, including its attorney fees, unless the parties otherwise agree. If the claims are not resolved through negotiation or mediation, the prevailing party shall receive as a part of its award from the opposing party all of its costs, including attorney fees, and any expenses incurred as a result of the dispute resolution procedures of this policy.

E. *Deviations.* The Board may deviate from the procedures set forth in this policy if in its sole discretion such deviation is reasonable under the circumstances.

## **IX. RESERVE STUDY POLICY**

The Board has adopted the following policies and procedures regarding reserve studies:

A. *Reserve Study.* The Association, on an annual basis, has an informal reserve review conducted on its behalf by its Manager or the Board. The Board shall obtain, if necessary, or update its reserve study based on funds necessary for the Association to maintain, repair, replace and improve such portions of the Community as required to be so done by the Association. The reserve study shall be updated no less than every three (3) years. The reserve study and updates may be internally conducted or outsourced to a professional provider of services.

B. *Parameters of the Reserve Study and Updates.*

- a. All reserve studies and updates shall be based on both a physical analysis and a financial analysis.
- b. All reserve studies and updates shall include a component inventory, a condition assessment based on a site inspection, and life valuation estimates. These factors shall be used to determine the fund status and funding plan.
- c. Updates shall include a physical inspection if maintenance has been deferred, if there has been significant deterioration in the components beyond what was expected, or if there has been significant weather impact on the components.

C. *Funding Goal.* The goal of funding the reserve is to attain and maintain the reserves at or near a percentage that is reasonable for the proper operation of the Association in the determination of the Board.

D. *Sources of Funding.* Funding shall occur as deemed appropriate and necessary by the Board. The funding of the reserves shall be accomplished by either or both of the following:

- a. Regular Assessments; or
- b. Special Assessment.

E. *Deviations.* The Board may deviate from the procedures set forth in this policy if in its sole discretion such deviation is reasonable under the circumstances.

**MISCELLANEOUS PROVISIONS APPLICABLE TO ALL POLICIES**

- A. Failure by the Association, the Board or any person to enforce any provision of these Policies and Procedures shall in no event be deemed to be a waiver of the right to do so thereafter.
- B. The provisions of these Policies and Procedures shall be deemed to be independent and several, and the invalidity of any one or more of the provisions hereof or any portion thereof. By judgment or decree of any court of competent jurisdiction, shall in no way affect the validity or enforceability of the remaining provisions, which provisions shall remain in full force and effect.
- C. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular and the use of any gender shall include all genders.
- D. The captions to the sections are inserted herein only as a matter of convenience and for reference, and are in no way to be construed so as to define, limit or otherwise describe the scope of these policies and procedures or the intent of any provision hereof.
- E. Amendment: These Policies and Procedures may be amended, modified, changed, deleted or added to by the Board and shall be done in accordance with the Policy Regarding Adoption and Amendment of Policies and Procedures, Rules and Regulations.

MINTURN TOWNE HOMES OWNERS ASSOCIATION, INC.

By: Michael Gottino  
Michael Gottino, President

Attestation by Secretary:

These CCIOA policies and procedures were duly adopted by the Board on 12.01.23, effective immediately and such vote is attested to by the Secretary of the Minturn Towne Homes Association, Inc

By: Stevenson Smith  
Stevenson Smith, Secretary