

The Enclave Association, Inc.

Responsible Governance Policies

Re: The Law Under the Senate Bills: Colorado owner associations are required to have eight written responsible governance policies and procedures on the following topics, as of the dates indicated:

- i) Collections (1-1-06) [Source: SB 05-100]
- ii) Conflicts of Interest (1-1-06) [Source: SB 05-100]
- iii) Conduct of Meetings (1-1-06) [Source: SB 05-100]
- iv) Enforcement of Covenants and Rules (1-1-06) [Source: SB 05-100]
- v) Records, Inspection and Copying (1-1-06) [Source: SB 05-100]
- vi) Investment of Reserves (1-1-06) [Source: SB 05-100]
- vii) Adoption of Policies (1-1-06) [Source: SB 05-100]
- viii) Disputes Between the Association and Unit Owners. A copy of this policy must be made available to an owner on request. (1-1-07) [Source: SB 06-89]

Proposed policies

- i) Collections (1-1-06) [Source: SB 05-100]

The processes for the levy and collection of assessments are described throughout the Bylaws and Declaration, and more particularly in sections 6.1-6.7 of the Declaration and sections 10.2-10.4 of the Bylaws;

Adoption of New Collection Policies –

THE ENCLAVE ASSOCIATION

**AMENDED AND RESTATED POLICIES AND PROCEDURES AND
RULES AND REGULATIONS
REGARDING COLLECTION OF UNPAID ASSESSMENTS
(C.R.S. §38-33.3-209.5(1)(b)(I))**

The Board of Directors (the “Board”) of The Enclave Association, Inc., a Colorado nonprofit corporation (the “Association”) is charged with the responsibility of collecting assessments for common expenses from Owners pursuant to Articles V and VI of the Declaration for The Enclave Condominiums, recorded in the Pitkin County real property records (as further amended and supplemented from time to time, the “Declaration”) (collectively herein, all Regular and Supplementary Assessments, together with any other amounts due from Owners under the Declaration, “Assessments”).

The Board previously adopted a Collections Policy for Unpaid Assessments (the “Collections Policy”), and now desires to update and amend the existing Collections Policy to conform with C.R.S. §§ 38-33.3-209.5, 38-33.3-316 and 38-33.3-316.3. The following policy (the “Amended Collections Policy”) shall apply to the collection of unpaid Assessments:

A. Due Date. Annual Regular Assessments as determined by the Board and as allowed for in the Declaration shall be due and payable as follows: 30% October 1, 30% January 1, 20% April 1, and 20% July 1 of each year. Assessments not paid to the Association within thirty (30) days of the Due Date shall be considered past due and delinquent.

B. Late Fees and Interest. Any delinquent Assessment or installment thereof shall bear a late fee of \$50, together with interest from sixty (60) days after the Due Date until paid at the annual rate of Eighteen Percent (18%).

C. Return Check Charges. 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.

D. Notice of Delinquency. Within fifteen (15) days of the Due Date, the Board or Managing Agent shall issue a courtesy notice (the "Courtesy Notice") reminding such Owner the Due Date has passed and the account is late, and a late fee in the amount of \$50 is then due. If the account remains unpaid subsequent to the Courtesy Notice, the Board or Managing Agent shall issue a further courtesy notice (a "Notice of Delinquency") reminding such Owner that the Due Date has passed and the account is late, and a late charge of \$50 is due, together with an interest charge of no more than eighteen percent (18%) per annum of the Assessment then due, which the Board is authorized and directed to charge to and collect from any delinquent Owner on behalf of the Association. The Notice of Delinquency sent by the Board or Managing Agent to the delinquent Owner shall also state:

1. The total amount due, with an accounting of how the total was determined;
2. Whether the opportunity to enter into a payment plan exists pursuant to C.R.S. § 38-33.3-316.3 and instructions for contacting the Board or Managing Agent to enter into such a payment plan;
3. The name and contact information for the individual the Owner may contact to request a copy of the Owner's ledger in order to verify the amount of the debt; and
4. That action is required to cure the delinquency and that failure to do so within thirty (30) days may result in the Owner's delinquency account being turned over to the Association's attorneys, a lawsuit being filed against the Owner, the filing and foreclosure of a lien against the Owner's property, or other remedies available under Colorado law.

E. Circumstances and Terms of Payment Plan. Unless the Owner does not occupy the Unit and has acquired the Unit as a result of (a) a default of a security interest encumbering the Unit or (b) foreclosure of the Association's Lien, the Association shall make a good-faith effort to coordinate with the Owner to set up a payment plan. However, in the event the Association and the Owner have previously entered into a payment plan, the Association is under no obligation to negotiate another payment plan. Any payment

plan must permit the Owner to pay off the deficiency in equal installments over a period of at least six (6) months. The Owner shall sign a document describing the payment plan and the effective date of the first payment. In the event an Owner fails to comply with the terms of his or her payment plan, the Association may immediately begin pursuing legal action against such Owner. An Owner's failure to remit payment of an agreed-upon installment, or to remain current with the regular Assessments as they come due during the six-month period, constitutes a failure to comply with the terms of his or her payment plan.

F. Lien for Assessments. The Association may record a Notice of Delinquent Assessment or Charge against the property of any delinquent Owner in accordance with the terms and provisions of the Declarations, Articles and/or Bylaws. The Association may foreclose on its lien if the balance of Assessments secured by its lien equals or exceeds six months of common expense assessments based on the Association's budget and the Association's board has formally resolved, by a recorded vote, to authorize the filing of a legal action against the specific Unit on an individual basis.

G. Legal Remedies. If, after the expiration of the period specified in the Notice of Delinquency, an account remains delinquent and without a payment plan embodied in a signed agreement, or in the event of a default under the terms of such agreement, Association counsel is authorized to take such further action as counsel, in consultation with the Board, believes to be in the best interest of the Association, including but not limited to any one or more of the following:

1. Filing suit against the delinquent Owner for money due pursuant to the Declaration and Colorado law;
2. Instituting a judicial action for foreclosure of the Association's lien pursuant to the Declaration and Colorado law;
3. Filing a proof of claim in bankruptcy; and/or
4. Filing a court action seeking appointment of a receiver.

H. Application of Payments. Any payments received on account of a delinquent Owner shall be applied to payment of any and all attorneys' fees and costs, expenses of enforcement and collection, interest charges, return check charges, lien fees and other costs owing or incurred with respect to such Owner pursuant to the Declaration, prior to application of the payment to any Assessment due or to become due with respect to such Owner.

I. Voting Rights. In addition to the steps outlined above, the Association may elect to suspend the voting rights of any Owner whose account is past due at the time of such voting.

This Amended Collections Policy was adopted to be made effective the 1st day of January, 2014 by resolution of the Board of Directors of The Enclave Association, Inc., a Colorado nonprofit corporation.

ii) Conflicts of Interest (1-1-06) [Source: SB 05-100]

Any Association member may allege that any other Association member has a Conflict of Interest on any point of order raised at any duly noticed Regular or Special meeting of the general membership. The alleging member may make a motion that the member accused of having a Conflict of Interest be asked by the Board of Directors to voluntarily recuse himself or abstain from voting on the matter at hand without comment as to the validity or lack thereof regarding the accusation. If the motion passes, the Board will then make the request. If the member accused of having the Conflict of Interest voluntarily recuses himself or abstains from voting on the matter at hand, the minutes will so reflect this choice. However, if the member accused of having the Conflict of Interest does not voluntarily recuse himself or abstain from voting, the Board President may request that any motion on that point of order be continued, until the dispute may be resolved, using the processes described in the Bylaws for voting at a meeting of the members. The Board President may also, at his discretion, call for a vote of the membership on that point of order upon which the accusing member has alleged that any other member has a Conflict of Interest to include the votes of all members present.

Any Board member may allege that any other Board member has a Conflict of Interest on any point of order raised at any duly noticed Regular or Special meeting of the Board of Directors. The alleging member may make a motion that the member accused of having a Conflict of Interest be asked by the rest of the Board of Directors to voluntarily recuse himself or abstain from voting on the matter at hand without comment as to the validity or lack thereof regarding the accusation. If the motion passes, the Board will then make the request. If the member accused of having the Conflict of Interest voluntarily recuses himself or abstains from voting on the matter at hand, the Board minutes will so reflect this choice. However, if the member accused of having the Conflict of Interest does not voluntarily recuse himself or abstain from voting, the Board President may request that any motion on that point of order be continued, until the dispute may be resolved, using the processes described in the Bylaws for voting at a Board meeting. The Board President may also, at his discretion, call for a vote of the membership on that point of order upon which the accusing Board member has alleged that any other Board member has a Conflict of Interest to include the votes of all Board members present;

iii) Conduct of Meetings (1-1-06) [Source: SB 05-100]

The rules for Conduct of Meetings are described throughout the Bylaws and Declaration and more particularly in sections 5.2-5.9 of the Declaration and sections 3.1-8.4 of the Bylaws;

iv) Enforcement of Covenants and Rules (1-1-06) [Source: SB 05-100]

The Enforcement of Covenants and Rules is described throughout the Declaration and Bylaws, and more particularly in sections 4.12 -4.13 of the Declaration and section 6.10 of the Bylaws;

v) Records, Inspection and Copying (1-1-06) [Source: SB 05-100]

The Members rights to inspect, examine, and copy the Records of the Association are described throughout the Bylaws and Declaration and more particularly in section 4.7 of the Declaration and sections 8.3-8.5 of the Bylaws;

vi) Investment of Reserves (1-1-06) [Source: SB 05-100]

The Association invests its cash reserve balances in FDIC insured bank accounts, money market instruments, or short-term Certificates of Deposit;

vii) Adoption of Policies (1-1-06) [Source: SB 05-100]

The Adoption of Policies is described throughout the Bylaws and Declaration and more particularly in sections 4.12-4.13 and 7.1-7.13 of the Declaration and section 6.10 of Bylaws;

viii) Disputes Between the Association and Unit Owners. A copy of this policy must be made available to an owner on request. (1-1-07) [Source: SB 06-89]

Unit Owners, or members, may only submit written correspondence to the Board of Directors formally describing any Dispute Between the Association and Unit Owners. If the Board determines that the Dispute has merit or lack thereof, the Board will so respond in writing to the member who has brought the issue before the Board.

The Board will attempt to resolve the Dispute to the satisfaction of the reporting member via oral and written discussion. If the Dispute remains unresolved after these mutual efforts within a 60-day period, the Board will end oral and written discussions on the matter with the member. At all times the Board will follow the processes described in the Bylaws and the Declaration regarding its conduct in the matter, including, but not limited to, obtaining the advice of counsel on how best to proceed in order to protect the interests of all of the members and the Association.

Other specifications contained in Colorado State laws are noted below:

- ix) “All members of the executive Board shall have available all information related to the responsibilities and operation of the Association obtained by any other member of the Board.” This requirement is met by language throughout the Declaration and the Bylaws, and more particularly in sections 6.1-6.10 of the Bylaws and sections 5.4-5.9 of the Declaration;
- x) “The Board may not act on behalf of the Association to amend the Declaration, to terminate the common interest community, or to elect members of the executive Board or determine the qualifications, powers and duties, or terms of office of Board members, but the Board may fill vacancies in its membership for the unexpired portion of any term.” Filling of vacancies is described throughout the Bylaws, and more particularly in sections 5.1-5.7 of the Bylaws;
- xi) “Committees of the Association shall be appointed pursuant to the governing documents of the Association. Or, if the governing documents contain no applicable provisions... The person appointed after August 15, 2009, to preside over any such committee shall meet the same qualifications as are required by the governing documents of the association for election or appointment to the executive board of the association.” The processes describing Committees of the Association are found throughout the Bylaws, and more particularly in sections 5.1 and 5.8 of the Bylaws;

- xii) “An association may not prohibit display of an American flag, but may adopt rules regarding placement and manner. (b) An association may not prohibit display of a military service flag, but may adopt rules regarding size and manner. (c) An association may not prohibit display of political signs from 45 days before to 7 days after an election. An association may regulate the size and number of signs, but must permit at least one sign 36”x48” or as allowed by ordinance, whichever is smaller. (d) An association must permit the parking of a vehicle used for firefighting, law enforcement or ambulance or emergency medical services if the vehicle is necessary for employment. (e) An association must permit an owner to remove landscaping around a unit for fire mitigation. (f) An association may not require the use of cedar shakes or other flammable roofing materials. C.R.S. § 38-33.3-106.5.”
- xiii) The Association must register annually with the HOA Information and Resource Center, as of January 1, 2011.
- xiv) **REPLACEMENT RESERVE STUDY AND FUNDING POLICIES**
- a. Reserve study was performed by a third party provider.
- b. The association has performed a reserve study on September 30, 2009.
- c. The association has performed a reserve study based on:
- Both a Physical analysis – condition of existing common elements and future needs; and a Financial analysis – ability to raise and maintain funds for reserve needs.
- d. The association will update the **financial analysis** of the reserve study every year. The updates will be performed by a third party provider, and will be approved by the Association Board at each annual budget meeting.
- e. The association will update the **physical analysis** (if applicable) of the reserve study every year. The updates will be performed by a third party provider, and will be approved by the Association Board at each annual budget meeting.
- f. Reserve funding goals are based on:
- Baseline Funding* – Funding method is to keep the reserve cash balance above zero. This means that while each individual component may not be fully funded, the reserve balances does not drop below zero during the projected period.

- g. The association has a plan for funding the work recommended in the study: Yes – reserve funds will be provided through Regular Assessments; Special Assessments, if needed; and/or Borrowing/Debt, if needed.