

ELK TRAIL OWNERS ASSOCIATION

GOVERNANCE POLICIES AND PROCEDURES

1. Notice and Hearing and Enforcement Policy and Procedure
2. Policy Regarding Conduct of Meetings
3. Director Conflict of Interest Policy
4. Policy Regarding Dispute Resolution
5. Policy Regarding Inspection and Copying of Association Records
6. Policy Regarding Insurance
7. Policy Regarding Adoption and Amendment of Policies
8. Collection Policy
9. Compliance Policies
10. Policy Regarding Security Interest Protection

June 30, 2009

ELK TRAIL OWNERS ASSOCIATION, INC.
POLICIES AND PROCEDURES

The following Policies and Procedures have been adopted by the Elk Trail Owners Association, Inc. (“Association”) pursuant to C.R.S. 38-33.3-209.5, at a special meeting of the Board of Directors:

NOW, THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following Policies and Procedures for the governance of the Association.

General:

- (a) Failure by the Association to maintain or 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 independent and severable. The invalidity of any one or more of the provisions, sections, paragraphs, sentences, phrases, or words hereof by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, sections, paragraphs, sentences, phrases, or words, which shall remain in full force and effect.
- (c) As used herein, the term “Board” shall include any tribunal or committee appointed by the Board consistent with the Documents or consistent with the Colorado Revised Nonprofit Corporation Act.

POLICY 1
NOTICE AND HEARING AND ENFORCEMENT
POLICY AND PROCEDURES

1. Power. The Board of Directors shall have the power and duty to hear and make decisions regarding violations and written Complaints filed with the Board and impose fines or other sanctions, pursuant to these Policies and Procedures. 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 the Declaration of Covenants, Conditions, and Restrictions For Elk Trail (Declaration”), the Association’s Articles of Incorporation, Bylaws, Architectural Design Guidelines, and Rules and Regulations (collectively the “Documents”) promulgated thereunder, and to create a safe and harmonious living environment.

These enforcement provisions may be in addition to other specific provisions outlined in the Documents, and the Association is not required to follow these enforcement provisions before seeking such other remedies. The Association may choose a legal remedy or seek assistance from other enforcement authorities, such as police, fire, or animal control, as it deems appropriate.

2. Complaint. A proceeding to determine if the Documents have been violated and any enforcement measures and remedies that may apply shall be initiated by the filing of a written complaint with or by the Association’s Board. The complaint shall state the specific provision(s) of the Documents alleged to have been violated and as many specifics as are available as to time,

date, location and persons involved.

3. Notice of Complaint and Right to Hearing. Upon receipt of a complaint, if the Board determines that the allegations in the complaint are sufficient to constitute a violation of the Documents and that action is warranted, the Association shall send a notice to the person(s) (the "Respondent") alleged to have violated the Documents, by prepaid, first class United States mail addressed to the mailing address of the Respondent appearing on the records of the Association. The notice shall advise the Respondent of the following: (1) the details of the Complaint, or include a copy of the Complaint; (2) the action that may be taken; (3) his or her right to be heard, either orally or in writing, by the Board or by a tribunal or committee appointed by the Board at a meeting of the Board which is at least fifteen (15) days after the date of the notice; (4) the date on which the hearing will be scheduled; and (5) the Board's right to proceed with or without a hearing, at its discretion, to make its determination of the allegations contained in the Complaint based on all relevant facts and circumstances, if the Respondent fails to appear at the specified date and time or otherwise respond to the Complaint. The Board may determine that the Respondent's failure to respond or appear at the hearing constitutes a no-contest plea to the Complaint, and enforce the provisions of the Documents and impose and enforce fines as provided herein.

4. Hearing. Each hearing shall be held at the scheduled time, place and date, unless the Respondent has failed to respond or appear at the hearing. The Board may grant continuance(s) for good cause. The Board may: (a) exercise its discretion as to the specific manner in which a hearing shall be conducted; (b) question witnesses and review evidence; and (c) act as it may deem appropriate or desirable to permit the Board to reach a just decision. Neither the Complainant nor the Respondent must be in attendance at the hearing, but both are encouraged to attend. Any party may elect not to present evidence at the hearing. Action taken by the Board shall be fair and reasonable taking into consideration all of the relevant facts and circumstances. Each hearing shall be open to attendance by all Members of the Association.

5. Decision. If the Respondent does not appear but a written response is filed, the Board shall render its decision based on the information contained in the Complaint and the written response, considering all of the relevant facts and circumstances. If neither an appearance nor a written response is made, the Board need not conduct a hearing or make any further findings except that it may determine that the Respondent's failure to appear or respond constitutes a waiver of the right to a hearing, and a no-contest plea to the Complaint, and impose the sanctions provided for herein or enforce the provisions of the Documents, or both. If an appearance is made, after all testimony and other evidence has been presented to the Board at a hearing, the Board shall render its decision(s), taking into consideration all of the relevant facts and circumstances. Except as provided herein, the Board's decision shall have an effective date no sooner than five (5) days after the hearing. If the Board does not inform the Respondent of its decision at the time of the hearing, or if no hearing is held, the Board will provide a written notice of the decision to the Respondent's address of record via regular U.S. mail within five (5) days after the decision is made.

6. Enforcement. Attorney's Fees, and Fines/Sanctions. The provisions of these Policies and Procedures shall not limit, or be a condition precedent to, the Association's right to enforce the

Documents by any means available to the Association. The Association shall be entitled to reimbursement of all reasonable attorney's fees and costs incurred by the Association in connection with any enforcement action, including any proceeding under these Policies and Procedures. Without limiting the Association's remedies under the Documents, the Association may assess fines and suspend membership privileges in accordance with these Policies and Procedures. If the violation involves damage to Association property, the violator shall pay the costs of repair or replacement. The Board may revoke or suspend the violator's privileges for a period of time equal to the duration of the violation, except that any suspension of voting rights of a Member shall not exceed 60 days following any violation by such Member unless such violation is a continuing violation, in which case such suspension may continue for so long as such violation continues and for up to 60 days thereafter.

- (a) Except as specifically noted in subsection (b) below, and subject to provisions of subsections (c) through (f) below, fines may be levied for violations of the Documents as follows:

<u>Number of violations in a 12 month period</u>	<u>Fine Amount</u>
First violation:	Written Warning
Second violation:	\$50
Third violation:	\$100
Fourth violation:	\$200

- (b) Subject to provisions in sections (c) through (f) below, the following fine schedule shall apply for violations of Article III, Paragraphs 3 (Noxious or Offensive Activities), 15 (Animal Control), and 28 (Restrictions on Leasing) and all of Article IV (Public Safety) of the Rules and Regulations:

<u>Number of violations in a 12 month period</u>	<u>Fine Amount</u>
First violation:	\$50
Second violation:	\$100
Third violation:	\$200
Fourth violation:	\$500

- (c) Each subsequent day of continuing violation after a first violation notice has been served shall be regarded as a separate violation for purposes of determining fines, unless specifically abated by the Board.
- (d) A Member or guest who accumulates more than 4 violations within a 12 month period will be deemed to be a habitual offender. Without limiting the Board's ability to fine or suspend membership privileges in accordance with these Policies and Procedures, habitual offenders, continuing violations, or violations which have an indefinite commencement or termination date, shall all be subject to an additional fine of \$500 per month, or higher as determined by the Board, until the violation is corrected, and suspension of membership privileges as determined by the Board. Further, in the event of a determination by the Board of a willful, wanton or flagrant disregard for the provisions of the Documents, or based on the severity of the violation, the Board may impose such additional fines as are deemed reasonable by the

Board without regard to the schedule set forth above.

- (e) Notwithstanding the above, any Owner, Guest, contractor, or builder who commences or maintains any construction, alteration or other work on a Lot without Architectural Review Committee approval, or contrary to any approved plans, specifications or approvals of the Architectural Review Committee, shall be subject to an initial fine of One Thousand Dollars (\$1,000.00) per violation and additional fines of five hundred dollars (\$500.00) per day until the offending activity has ceased.
 - (f) In the event that any Guest violates the Documents and a fine is imposed, the fine shall first be assessed against the violator; provided, however, that if the fine is not paid by the violator within the time established by the Board, the Owner shall pay the fine upon notice from the Board. Fines imposed pursuant to these enforcement policies and procedures shall become an Assessment imposed against the record Owners real estate and enforceable as provided in the Declaration.
7. Violations or Offenses that Constitute a Present Danger. If, in its sole discretion, the Board deems that any violation is or may be an immediate or substantial threat to the health, safety or welfare of the community or an individual, the Board may impose any appropriate sanction as necessary to abate the threat to health, safety or welfare of the community or individual without prior compliance with Sections 1 through 6 above.

POLICY 2 POLICY REGARDING CONDUCT OF MEETINGS

Purpose: To establish a uniform and systematic protocol for conducting meetings of the Association, including Members' meetings and Board meetings; to ensure equitable participation by Members while permitting the Board to conduct the business of the Association; and to memorialize the circumstances under which the Board may convene into executive session.

1. Members' Meetings. All meetings of the Association are open to every Member, or to any person designated by a Member in writing as the Member's representative, and Members or designated representatives so desiring shall be permitted to attend, listen, and speak at an appropriate time during the deliberations and proceedings; except that at regular and special meetings of the Board, Members who are not Board members may not participate in any deliberation or discussion except as provided below.
2. Board Meetings. All regular and special meetings of the Board, or any committee thereof, shall be open to attendance by all Members or to any person designated by a Member in writing. At regular and special meetings of the Board, except as stated below, Members who are not members of the Board may not participate in any deliberation or discussion unless expressly so authorized by a vote of the majority of a quorum of the Board.
3. Members' Right to Speak at Board Meetings. At Board meetings, the Board shall permit Members or their designated representatives to speak before the Board takes formal action on an item under discussion, in addition to any other opportunities to speak, and the Board shall

provide for a reasonable number of persons to speak on each side of an issue. However, the Board may place reasonable time restrictions on those persons speaking during any meeting.

4. Agenda; Open Forum. The President of the Board of Directors, and in his absence, the Vice President, shall be chairman of all meetings. The agenda for all meetings shall follow the order of business specified by the Association's Bylaws, and if none, in accordance with the order of business determined by the Board. The agenda for Members' meetings shall include a Member Open Forum during which any Member or Member's designated representative who wishes to speak will have the opportunity to do so, subject to the remaining provisions of this policy. The agenda for Board meetings shall include a Member Open Forum, subject however, to the Board's right to dispense with or limit the Member Open Forum at the discretion of the Board, except that such limits on Member Open Forum shall always be subject to the provisions of paragraphs 2 and 3 of this policy.

5. Limits on Right to Speak. The Board shall have the right to determine the length of time of the Open Forum. The chairman of the meeting may place reasonable limitations upon the time given to each member seeking to comment, to allow sufficient time for as many members as possible to comment within the time permitted. Unless otherwise determined by the chairman, the time limit will be three minutes per member. The chairman shall, to the best of his/her ability, allocate time to each Member for comment so as to allow as many Members as possible to speak within the time permitted. Each Member will only be allowed to speak more than once during Open Forum at the discretion of the Board. No member may speak a second time until all members wishing to speak have had an opportunity to speak once.

6. Sign-Up Sheets. A sign-up sheet will be made available to members immediately prior to the meeting. Any Member wishing to comment at the ensuing meeting may add his/her name to the sign-up sheet. Subject to the remaining provisions of this policy, Members will be recognized for comment at the meeting in the same order as their names appear on the sign-up sheet. All Members wishing to comment who have not placed their names on the sign-up sheet will nonetheless be permitted to speak, time permitting.

7. Attorney/Client Privileged Communications. Upon the final resolution of any matter for which the Board received legal advice or that concerned pending or contemplated litigation, the Board may elect to preserve the attorney-client privilege in any appropriate manner, or it may elect to disclose such information, as it deems appropriate, about such matter in an open meeting.

8. Recording of Meetings. Note taking is permitted, however, video or audio recording of all or any portion of any meeting by Members is prohibited.

9. Member Conduct. No Member is entitled to speak until recognized by the chairman. There shall be no interruption of anyone who has been recognized by the chairman except by the chairman. 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 chairman and not other individual participants. All comments are to be restricted to the agenda item being discussed. Courteous behavior is mandatory.

10. Curtailment of Member Conduct. Should the chairman determine that any Member has spoken for the allocated amount of time or longer, or determine that the Member is in violation of the provisions of this policy, the chairman shall have the authority to instruct that member to yield the floor, and that member will be obligated to comply with the chairman's instruction.

11. Disruptive or Unruly Behavior. If a member refuses to stop talking after his/her allotted time has ended, or otherwise disrupts the meeting, or is otherwise in violation of the provisions of this policy, the following procedure will be followed:

- (a) The chairman will issue an oral warning that if the member continues to speak, disrupt the meeting, or otherwise act in violation of the provisions of this policy, either the meeting will be adjourned or law enforcement/security will be called to remove the individual.
- (b) If the member continues to speak, disrupt the meeting, or otherwise act in violation of the provisions of this policy, the chairman will call a recess and speak directly to the member, reiterating that either the meeting will be adjourned or law enforcement/security will be called to remove the individual.
- (c) If the member still refuses to cooperate, the chairman may choose whether to adjourn the meeting to another time or to call law enforcement/security.

12. Executive Session. 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 the Act, as amended from time to time, or other applicable law. The matters to be discussed at such an executive session are limited to:

- (a) 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;
- (b) 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;
- (c) Investigative proceedings concerning possible or actual criminal misconduct;
- (d) Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;
- (e) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy;
- (f) Review of or discussion relating to any written or oral communication from legal counsel.

Prior to the time the members of the Board convene in executive session, the chairman shall announce the general matter of discussion as enumerated in paragraphs (a) to (f) above. No rule or regulation of the Board shall be adopted during an executive session. A rule or regulation may be validly adopted only during a regular or special meeting or after the Board goes back into

regular session following an executive session.

**POLICY 3
DIRECTOR CONFLICT OF INTEREST POLICY**

Purpose: To adopt a policy governing the handling of conflicts of interest among Board members;

1. In any contract, transaction, or other financial relationship between the Association and a Board member of the Association, 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 director or officer or has a financial interest, then, in advance of entering into that contract, transaction or other financial relationship, 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. For purposes of this policy, a party related to a Board member shall mean a spouse, a descendent, an ancestor, a sibling, the spouse or descendent 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 director, officer, or has a financial interest.

2. 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.

3. The interested Board member may be counted as present when determining whether a quorum of the Board exists.

4. 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 Association, solely because (a) the conflicting interest transaction involves a Board member or a party related to a Board member or an entity in which the Board member is a director or officer or has a financial interest, or (b) the Board member is present at or participates in the meeting of the Associations Board or of a committee of the Board that authorizes, approves, or ratifies the conflicting interest transaction, or (c) the Board member's vote is counted for such purpose if:
 - (i) The material facts as to the Board members relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board or the committee, and the Board 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
 - (ii) The material facts as to the Board member's relationship or interest and as to the conflicting interest transaction are disclosed or are known to the Board members entitled to vote thereon, and the conflicting interest transaction is specifically authorized, approved, or ratified in good faith by a vote of the Board members entitled to vote thereon; or
 - (iii) The conflicting interest transaction is fair as to the Association.

**POLICY 4
POLICY REGARDING DISPUTE RESOLUTION**

Purpose: To provide a more efficient means of resolving disputes or claims involving the Association and/or the Association's governing documents and to reduce the costs and fees associated with dispute resolution.

1. Dispute Resolution Procedures. Except as provided herein, the following procedures will be followed in all disputes or claims involving the Association and/or the Association's governing documents.

- A. Prior to proceeding with any claim, the party asserting the claim ("Claimant") shall give written notice of such claim to all opposing parties ("Respondent"), which notice shall state plainly and concisely:
 - (i) the nature of the claim, including all persons involved and Respondent's role in the claim;
 - (ii) the legal or contractual basis of the claim (i.e. the specific authority out of which the Claim arises); and
 - (iii) the specific relief and/or proposed remedy sought.
- B. After the Respondent receives the notice of claim, the parties shall make every reasonable effort to meet in person and confer for the purpose of resolving the claim by good faith negotiation. Such efforts may include inspections of the Claimant's or the Respondent's Lot for purposes of evaluating any alleged violation. Any party may be represented by attorneys and independent consultants to assist in the negotiations and to attend meetings.
- C. If the parties do not resolve the claim through negotiations within sixty (60) days after submission of the claim to the Respondent, the Claimant shall have an additional sixty (60) days to submit the Claim for mediation. In the event the parties are unable to agree on a mediator, a mediator shall be appointed upon application of either party to the District Court of Lake County. In such event, the Claim shall be deemed to be submitted upon filing the petition for appointment of the mediation.
- D. If the Claimant fails to submit the claim to mediation within such time, or fails to appear at the mediation, the claimant shall be deemed to have waived the claim, and Respondent shall be released and discharged from any and all liability to Claimant on account of such claim; provided, nothing herein shall release or discharge Respondent from any liability to any person other than Claimant.
- E. Any settlement of the Claim through mediation shall be documented in writing by the mediator and signed by the parties. If a termination of the mediation occurs, the mediator shall issue a written statement advising that the parties are at an impasse.
- F. Unless otherwise agreed, each party shall bear its own costs of the mediation, including attorneys fees, and each party shall share equally all charges of the mediator.
- G. Upon termination of mediation if no resolution is reached, if Claimant desires to pursue the claim, Claimant shall thereafter be entitled to initiate final, binding arbitration of the claim with the American Arbitration Association or such other forum as may be agreed upon by the parties. Any award rendered may be entered in and enforced by any court having jurisdiction over the claim. Unless otherwise mutually agreed to by the parties to

the claim, there shall be one arbitrator who, to the extent feasible, shall have expertise in the area(s) of dispute. In the event the parties are unable to agree upon an arbitrator within thirty (30) days after written notice, the presiding judge of the District Court in Lake County shall appoint an arbitrator qualified as set forth above upon application of a party.

- H. The award of the arbitrator shall be accompanied by detailed written findings of fact and conclusions of law. In any arbitration, the arbitrator shall award the substantially prevailing party its reasonable costs and attorneys' fees. Except as may be required by law or for confirmation of an award, neither a party nor the arbitrator may disclose the existence, content, or results of any arbitration without the prior written consent of all parties to the claim. Any award shall be enforceable in accordance with C.R.S. 13-22-201 et. seq., as amended from time to time.

2. Exclusions. Unless all parties thereto otherwise agree, the following disputes or claims shall not be subject to the provisions of this policy:

- A. An action by the Association relating to the collection or enforcement of the obligation to pay assessments or other charges set forth in the Association's governing documents; and
- B. An action by the Association to obtain a temporary restraining order or preliminary injunction (or equivalent emergency equitable relief) and such other ancillary relief as the court may deem necessary in order to enjoin any immediate threat to persons or property; and
- C. Any action between or among unit owners, which does not include the Association as a party, if such action asserts a claim which would constitute a claim for relief independent of the Association's governing documents; and
- D. Any action in which any indispensable party is not the Association, its officers, directors, or committee members, or a person subject to the Association's governing documents, or their officers, directors, partners, members, employees and agents; and
- E. Any action to enforce a settlement agreement or arbitration award made under the provisions of this policy.

3. Judicial Enforcement. If the parties agree to a resolution of any claim through negotiation or mediation in accordance with this policy, and any party thereafter fails to abide by the terms of such agreement, then any other party may file its action in court to enforce such agreement without the need to again comply with the procedures set forth in this policy. In such event, the party taking action to enforce the agreement shall be entitled to recover from the non-complying party (or if more than one non-complying party, from all such parties as the court may determine) all costs incurred in enforcing such agreement, including without limitation, reasonable attorneys fees and court costs.

4. Statute of Limitations. No claim may be initiated after the date when institution of legal or equitable proceedings based on such claim would be barred by the applicable statute of limitation or statute of repose.

POLICY 5

POLICY REGARDING INSPECTION AND COPYING OF ASSOCIATION RECORDS

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. The Association shall keep as permanent records the following documents:
 - (a) Minutes of all meetings of Owners and the Board
 - (b) A record of all actions taken by the Owners or the Board by written ballot or written consent in lieu of a meeting.
 - (c) A record of all actions taken by a committee of the Board in place of the Board on behalf of the Association.
 - (d) A record of all waivers of notices of meetings of Owners and of the Board or any committee of the Board.
 - (e) A record of Owners in a form that permits preparation of a list of the names and addresses of all Owners, showing the number of votes each Owner is entitled to vote.
 - (f) All tax returns filed on behalf of the Association

In addition to the above, the Association shall keep a copy of each of the following records at its principal office:

- (a) Articles of Incorporation, Declaration, and Bylaws.
 - (b) Resolutions adopted by the Board.
 - (c) The minutes of all Owners meetings and records of all actions taken by Owners without a meeting for the past three (3) years.
 - (d) All written communications within the past three (3) years to Owners generally as Owners.
 - (e) A list of the names and business or home addresses of the Association's current directors and officers.
 - (f) The Association's most recent annual report.
 - (g) All financial audits or reviews conducted pursuant to Section 38-33.3-303(4)(b) during the immediately preceding three years.
2. So the Association can have the desired books, records and personnel available, a written notice of intent to inspect must be submitted to the Association's Manager or to the Board of Directors at least ten (10) business days prior to the requested inspection. The notice must describe with reasonable particularity which records are to be inspected and the purpose of the inspection.

3. All records shall be inspected at the principal office of the Association by appointment only, during normal business hours.

Notwithstanding the above, at the discretion of the Board, all records may also be inspected at the next Board meeting if such meeting occurs within thirty (30) days after the request to inspect has been received.

4. At the discretion of the Association's Board, 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

office without the express written consent of the Board of Directors. Further, if a Member requests to inspect records, the Association may photocopy and provide the requested records to the Member in lieu of the Member's inspection of the records if consented to by the Member.

5. The Association may charge a fee, not to exceed the Association's actual cost per page for copies of the Association records.

6. Consistent with individual Member's right to privacy, attorney-client confidentiality and other considerations, the following records will not be made available without the express written consent of the Board of Directors:

- (a) Confidential personnel records.
- (b) Confidential litigation files and matters covering consultation with legal counsel concerning disputes that are subject of pending or imminent court proceedings or are privileged or confidential between attorney and client.
- (c) Files dealing with investigative proceedings concerning possible or actual criminal misconduct.
- (d) Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.
- (e) Inter-office memoranda, preliminary data, working papers and drafts, and general information or investigations which have not been formally approved by the Board of Directors.
- (f) Members' personal contact information including, but not limited to, telephone numbers or e-mail addresses, except the Association will, upon request, provide Members' names and addresses.

7. In determining whether records may be inspected, the Association shall consider, among other things:

- (a) Whether the request is made in good faith and for a proper purpose;
- (b) Whether the records requested are relevant to the purpose of the request;
- (c) Whether disclosure is for an illegal or improper purpose, or would violate a constitutional or statutory provision or public policy; and
- (d) Whether disclosure may result in an invasion of personal privacy, breach of confidence or privileged information as set forth above.

8. Without the written consent of the Board of Directors, membership lists may not be:

- (a) Obtained or used by any person for any purpose unrelated to the Association or the property subject to the Declaration;
- (b) Used solely to solicit money or property unless such money or property will be used solely to solicit the votes of the unit owners in an election to be held by the Association;
- (c) Used for any commercial purpose; or
- (d) Sold to or purchased by any person.

9. The Association reserves the right to pursue any individual for damages or injunctive relief or both, including reasonable attorneys fees, for abuse of these rights, including, but not limited to, use of any records for a purpose other than what is stated in the notice of intent to inspect.

POLICY 6 INSURANCE

To the extent reasonably available, the Board of Directors may obtain and maintain insurance coverage as set forth in this Policy.

Property Insurance Coverage : The Association may obtain property insurance on the Common Elements for broad form covered causes of loss and on all personal property owned by the Association. The Board of Directors is authorized to obtain appraisals periodically for the purpose of establishing replacement cost of the property, and the cost of such appraisals shall be a Common Expense.

Liability Insurance : Commercial General Liability insurance shall be maintained in an amount determined by the Board of Directors, but not less than \$500,000. Reasonable amounts of "umbrella" liability insurance in excess of the primary limits may also be obtained. This insurance shall cover all occurrences commonly insured against for death, bodily injury and property damage arising out of or in connection with the use, ownership or maintenance of the Common Elements and the activities of the Association; and may also include, if applicable, such other risks as may be customary with respect to projects similar in construction, location and use.

Recommended Provisions The insurance policies carried pursuant to the above may provide that:

- A. Each Owner is an insured person under the policy with respect to liability arising out of the Owner's interest in the Common Elements or membership in the Association;
- B. The insurer waives the right to subrogation under the policy against an Owner or member of the household of an Owner;
- C. No act or omission by an Owner, unless acting within the scope of the Owner's authority on behalf of the Association, will void the policy or be a condition to recovery under the policy;
- D. If, at the time of a loss under the policy, there is other insurance in the name of an Owner covering the same risk covered by the policy, the policy of the Association provides primary insurance; and
- E. The insurer shall issue certificates or memoranda of insurance to the Association and, upon request, to any Owner or holder of a Security Interest. Unless otherwise provided by statute, the insurer issuing the policy may not cancel or refuse to renew it until thirty (30) days after notice of the proposed cancellation or nonrenewal has been mailed to the Association, each Owner and each holder of a Security Interest to whom a certificate or memorandum of insurance has been issued at their last known addresses.

Fidelity Bonds : The Association may obtain and maintain, to the extent reasonably available, fidelity bond insurance coverage for any Owner or Association employee who either handles or is responsible for funds held or administered by the Association. The bond or insurance shall name the Association as obligee, and shall contain waivers of any defense based upon the exclusion of persons who serve without compensation from any definition of "employee" or similar expression. The bond or coverage shall include a provision that calls for ten (10) day's

written notice to the Association, before the bond can be cancelled or substantially modified for any reason. The Association may also require any independent contractor who manages the Association to obtain and maintain fidelity bond insurance coverage in the amount required by law or to the extent that it is reasonably available, unless they are covered under the Association's fidelity bond insurance coverage.

Owner Policies : An insurance policy issued to the Association does not preclude Owners from obtaining insurance for their own benefit.

Workers Compensation Insurance : The Board of Directors may obtain and maintain Workers Compensation Insurance if required to meet the requirements of the laws of the State of Colorado.

Directors' and Officers' Liability Insurance : The Board of Directors may obtain and maintain directors' and officers' liability insurance, if reasonably available, covering all of the directors and officers of the Association. This insurance will have limits determined by the Board of Directors.

Other Insurance: The Association may carry other insurance which the Board of Directors considers appropriate to protect the Association.

Premiums : Insurance premiums for insurance carried by the Association shall be a Common Expense.

Procedures : The Board of Directors may adopt written nondiscriminatory policies and procedures for claims adjustment and responsibility for deductibles. To the extent the Association settles claims for damages to real property, it shall have the authority to assess negligent Owners causing such loss or benefiting from such repair or restoration all deductibles paid by the Association. If more than one (1) Lot is damaged by a loss, the Association, in its reasonable discretion, may assess each Owner a pro rata share of any deductible paid by the Association.

General Provisions : Association insurance may be carried in blanket policy form naming the Association as insured, or naming its designee as trustee and attorney-in-fact for the Association. The policies may contain:

- A. A standard noncontributory Security Interest Holder's clause in favor of each holder of a First Security Interest, and may provide that it cannot be cancelled or materially altered by either the insured or the insurance company until thirty (30) days' prior written notice is given to the insured and each Eligible Mortgagee.
- B. Waivers of any defense based on invalidity arising from any acts or neglect of an Owner where such Owner is not under the control of the Association. Upon request, the Association may furnish a certified copy or duplicate original of such policy or renewal thereof, with proof of premium payment and a certificate identifying the interest of the Owner in question to any party in interest, including Security Interest Holders of First Security Interests.

Insurance Proceeds : Any loss covered by the property insurance policy described above shall be adjusted by the Association, and the insurance proceeds for that loss shall be payable to the Association, and not to any Owner or Security Interest Holder. The Association shall hold any insurance proceeds in trust for the Association, Owners and lienholders as their interests may appear. The proceeds must be disbursed first for the repair or restoration of the damaged property, and the Owners, Association and lienholders are not entitled to receive payment of any portion of the proceeds unless there is a surplus of proceeds after the property has been completely repaired or restored. If hazard insurance proceeds are distributed to the Owners, the distribution shall be as the parties with interests and rights as determined or allocated by record. The Association may designate a Trustee for the receipt, administration and disbursement of funds derived from insured losses, condemnation awards, special assessments for uninsured losses and other sources.

POLICY 7

POLICY REGARDING THE ADOPTION AND AMENDMENT OF POLICIES

Purpose: To adopt a policy setting forth procedures for the adoption and amendment of policies, procedures, and rules.

1. Pursuant to the Association's governing documents and Colorado Revised Statutes 38-33.3-302, the authority to create, adopt, enforce, amend and repeal policies, procedures, rules and regulations (hereinafter collectively referred to as a "Rule") lies with the Board of Directors of the Association. The Board may adopt certain Rules as may be necessary to facilitate the efficient operation of the Association, including clarification of ambiguous provisions in other documents. The Board has the right, but not the obligation, prior to adopting any new Rule, to conduct an informational meeting of the owners and solicit their input regarding any new or existing Rule.
2. When the Board, in the exercise of its discretion, determines that a Rule should be adopted, amended or repealed, as appropriate, it shall do so at a meeting of the Board. At the meeting at which the Board intends to adopt the proposed Rule, at an appropriate time determined by the Board, but before the Board votes on the adoption of the Rule, members or their agents shall be permitted to speak regarding the Rule. If more than one person desires to address the Rule and there are opposing views, the Board shall provide for a reasonable number of persons to speak in favor of and against the Rule.
3. The Board shall then give notice of the adoption, amendment, or repeal of the Rule in writing by first class mail, postage prepaid, to each Member of the Association at the address for notices to Members as provided for in the Association's Declaration or Bylaws, and shall publish the Rule by any reasonable means available, including but not limited to posting the Rule in the community or on its website, if any, by e-mail, mail, newsletter, or personal delivery. The Rule, along with all other Rules of the Association, shall be available for inspection and copying in accordance with the Association's policy regarding inspection and copying of Association records.
4. Any owner's failure to receive the Rule shall not be a defense to any attempt by the

Association to enforce the Rule or to levy fines, expenses, or attorneys fees as a result of a violation of the Rule.

POLICY 8 COLLECTION POLICY

Purpose: To establish a uniform and systematic procedure for collecting assessments and other charges of the Association, thus ensuring the financial well being of the Association.

Collection Philosophy: All members are obligated by the Declaration of Covenants, Conditions, and Restrictions For Elk Trail (“Declaration”) to pay all dues and assessments in a timely manner. Failure to do so jeopardizes the Association’s ability to pay its bills. Failure of members to pay assessments in a timely manner is also unfair to its other members who do. Accordingly, the Association, acting through the Board of Directors shall take steps to ensure timely payment of assessments.

1. **Due Dates.** The Annual Common Expense Assessment, as determined by the Association, shall be levied on an annual basis and shall be due and payable by February 1st of each calendar year. Special Assessments or other charges may be assessed or made from time to time by the Association in accordance with the Declaration and are due and payable as specified by the resolution authorizing such Special Assessment or charge. Assessments or other fees not paid to the Association by the tenth day of the month in which they are due shall be considered past due and delinquent.
2. **Interest Charges.** Any Assessment not paid within ten (10) days after the due date thereof shall bear interest from the due date at the rate of eighteen percent (18%) per annum. All such charges shall be due and payable immediately, without notice, in the manner provided for payment of assessments.
3. **Return Check Charges.** A twenty dollar (\$20.00) fee shall be assessed against an owner in the event any check or other instrument attributable to or payable for the benefit of such owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to, insufficient funds. Notwithstanding this provision, the Association shall be entitled to all additional remedies as may be provided by applicable law. If two or more of an owner’s checks are returned unpaid by the bank within any twelve month period, the association may require that all of the owner’s future payments, for a period of one year, be made by certified check or money order.
4. **Attorney Fees on Delinquent Accounts.** The Association shall be entitled to recover its reasonable attorney fees and collection costs incurred in the collection of assessments or other charges due the Association from a delinquent owner.
5. **Application for payments made to the Association.** The Association reserves the right to apply all payments received on account of any owner first to payment of any and all legal fees and costs (including attorney fees), then to costs and expenses of enforcement and collection, late charges, interest, returned check charges, lien fees, and other costs owing or incurred with

respect to such owner, and any remaining amounts shall be applied to the assessments due with respect to such owner.

6. Collection Letters.

- (a) After an installment of the common assessment or other charge owed to the Association becomes one month past due, the Association shall cause a notice of delinquency to be sent to the unit owner who is delinquent in payment.
- (b) If payment in full is not received within fifteen (15) days after the notice of delinquency, the Association may, but shall not be required to send a notice of default to the owner.

7. Liens. If payment in full of any assessment or other charge is not received within two months after it became due, the Association may cause to be filed a notice of lien against the property of the delinquent owner. The lien shall include fees, charges, late charges, attorney fees, fines and interest owed by the delinquent owner.

8. Referral of Delinquent Accounts to Attorneys. If payment in full is not received within two months after its due date, the Association may, but shall not be required to refer delinquent accounts to its attorneys for collection. Upon referral to the attorneys, the attorneys shall take all appropriate action to collect the accounts referred. After an account has been referred to an attorney, the account shall remain with the attorney until the account is settled, has a zero balance or is written off. All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney. After consultation with the Board of Directors or the Association's managing agent, the attorneys shall be entitled to exercise all available remedies to collect the amounts due, including judicial foreclosure and appointment of a receiver of the delinquent owner's property.

9. Referral of Delinquent Accounts to Collection Agencies. The Association may, but shall not be required to assign delinquent accounts to one or more collection agencies for collection.

10. Waivers. Nothing in this Resolution shall require the Association to take specific actions other than to notify homeowners of the adoption of these policies and procedures. The Association has the option and right to continue to evaluate each delinquency on a case by case basis. The Association may grant a waiver of any provision herein upon petition in writing by an owner showing a personal hardship. Such relief granted an owner shall be appropriately documented in the files with the name of the person or persons representing the Association granting the relief and the conditions of the relief. In addition, the Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association may determine appropriate under the circumstances.

11. Order of Remedies. The Association may pursue any actions or remedies, including actions for personal judgment, foreclosure or receivership, to collect amounts owed in any order or contemporaneously, and cumulatively, and in the case of a foreclosure by the holder of another security interest in the owner's property, may immediately proceed to file actions for personal

judgment, foreclosure or receivership without the necessity of following the procedures set forth in paragraphs 6, 7 and 8 above.

12. Delinquencies Constitute Covenant Violations. Any delinquency in the payment of assessments shall constitute a violation of the covenants contained in the Declaration, and without notice and an opportunity to be heard being required, the Association shall be entitled to impose sanctions on the delinquent owner consistent with the Association's Notice and Hearing and Enforcement Policy and Procedures.

POLICY 9 COMPLIANCE POLICIES

Purpose: The following policies are adopted in conformity with certain sections of the Colorado Common Interest Ownership Act that are mandatory for all Common Interest Communities. This Common Interest Community is exempt from other requirements of the Act because of its small size, and does not opt to participate in any non-mandatory provisions of the Act.

Xeriscape. The Board shall not adopt any regulation or take any action that prohibits xeriscape, prohibits the installation or use of drought-tolerant vegetative landscapes, or requires cultivated vegetation to consist exclusively or primarily of turf grass, all as more specifically set forth and defined in Section 37-60-126, C.R.S. The existing Lodgepole Pine forest is native and drought tolerant, and any replacement of forest areas with other vegetation requires the advance written approval of the Board. Any xeriscape or other landscape plan is subject to Architectural Review and approval before implementation.

Patriotic Expression. The Association shall not prohibit the display of the American flag by a Member on that Member's property, either in a window of the Member's residence or on an attached flagpole as allowed in the Rules and Regulations, if the American flag is displayed in a manner consistent with the federal flag code, P.L. 94-344; 90 stat. 810; 4 U.S.C. 4 to 10 and the rules of this Association. The Association may adopt reasonable rules regarding the size, placement and manner of display of the American flag. The Association rules may regulate the location and size and construction details of flags and flagpoles, but shall not prohibit the installation of a compliant flag or flagpole, nor limit the size to less than nine inches by sixteen inches.

Patriotic Expression. The Association shall not prohibit the display by a Member of a service flag bearing a star denoting the service of the Member or a member of the Member's immediate family in the active or reserve military service of the United States during a time of war or armed conflict. The Association may adopt reasonable rules regarding the size and manner of display of service flags; except that the maximum dimensions allowed shall be not less than nine inches by sixteen inches.

Political Expression. The Association shall not prohibit the display of a political sign by a Member; except that the Association may prohibit the display of political signs earlier than forty-five days before the day of an election and later than seven days after an election day. The Association shall permit at least one political sign per political office or ballot issue that is contested in a pending election, with the maximum dimensions of thirty-six inches by forty-eight inches, on a Member's Lot. As used in this subparagraph, "political sign" means a sign that carries a message intended to influence the outcome of an election, including

supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue.

Parking of Emergency Vehicles. The Association shall not prohibit the parking of a motor vehicle by a Lot occupant on a driveway or Guest parking area if the vehicle is required to be available at designated periods at the occupant's residence as a condition of employment and all of the following criteria are met:

1. The vehicle has a gross vehicle weight rating of ten thousand pounds or less;
2. The occupant is a bona fide member of a volunteer fire department or is employed by a primary provider of emergency fire fighting, law enforcement, ambulance, or emergency medical services;
3. The vehicle bears an official emblem or other visible designation of the emergency service provider; and
4. Parking of the vehicle can be accomplished without obstructing emergency access or interfering with the reasonable needs of other Lot Owners to use streets and driveways within the common interest community.

Fire Prevention - Vegetation Removal. The Association shall not prohibit the removal by a Lot owner of trees, shrubs, or other vegetation to create defensible space around a dwelling for fire mitigation purposes, so long as such removal complies with a written defensible space plan created for the property by the Colorado state forest service, an individual or company certified by a local governmental entity to create such a plan, or the fire chief, fire marshal, or fire protection district within whose jurisdiction the unit is located, and is no more extensive than necessary to comply with such plan. The Association has an approved plan with the Colorado State Forest Service and the Leadville-Lake County Fire Department. If an Owner desires a different plan, the Lot owner shall register such plan with the Association along with other construction application documentation, and the plan shall become part of the Architectural Design Review process, and the Owner shall obtain written approval before the commencement of any work. The Association may require changes to the plan if the Association obtains the consent of the person, official, or agency that originally created the plan, or alternatively may require changes to the building design. All work shall comply with all applicable Association standards regarding such work, and with contractor regulations, if any.

Fire Prevention - Roofing Materials. The Association shall not prohibit the replacement by a Lot owner of cedar shakes or other flammable roofing materials with nonflammable roofing materials for fire prevention or fire suppression purposes. The Association may adopt reasonable standards for the color, appearance, and general type of nonflammable roofing materials that are used to replace flammable roofing materials.

POLICY REGARDING SECURITY INTEREST PROTECTION

Section 14.1. Purpose : This Policy establishes certain standards for the benefit of the holders, insurers and guarantors of certain Security Interests. This Policy is supplemental to, not a substitution for, any other provisions of the Documents.

Section 14.2. Notice of Actions : Upon written request to the Association, identifying the name and address of the Eligible Mortgagee or insurer or guarantor of the First Security Interest and the residence address of the property which is subject to such First Security Interest, the

Association shall give written notice to each Eligible Mortgagee of any delinquency in the payment of Common Expense assessments owed by an Owner which remains uncured for a period of ninety (90) days and whose Lot is subject to a first Security Interest held, insured or guaranteed by that Eligible Mortgagee;

Section 14.3. Inspection of Books : The Association shall maintain current copies of the Declaration, Bylaws, Rules and Regulations, books, records and financial statements. The Association shall permit any Eligible Mortgagee to inspect the books and records of the Association by prior appointment during normal business hours, in accordance with the Policy Regarding Inspection and Copying of Association Records.

Section 14.4. Financial Statements : The Association shall provide any Eligible Mortgagee who submits a written request with a copy of an annual financial statement. It shall be provided within ninety (90) days following the statement preparation for each fiscal year of the Association. This financial statement shall be audited by an independent certified public accountant if any Eligible Mortgagee requests it, in which case the Eligible Mortgagee shall bear the cost of the audit.

Section 14.5. Attendance at Meetings : Any representative of an Eligible Mortgagee may attend and address any regularly scheduled meeting which an Owner may attend and address, but the Association shall not be required to provide for participation by Eligible Mortgagees in telephone meetings, nor to provide notification of meetings to Eligible Mortgagees.

Elk Trail Owners' Association, Inc.

By: William Klauber
William Klauber, President

These Policies and Procedures were adopted by the Board of Directors on the 30th day of June, 2009, effective the 30th day of June, 2009, and are attested to by the Secretary of the Elk Trail Owners Association, Inc.

Robert Klauber
Robert Klauber, Secretary