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COLORADO REVISED STATUTES

*** This document reflects changes passed at the Second Regular Session and First Extraordinary Session of the Sixty-Eighth General Assembly of the State of Colorado (2012) ***

TITLE 38. PROPERTY - REAL AND PERSONAL
REAL PROPERTY

ARTICLE 33.3. COLORADO COMMON INTEREST OWNERSHIP ACT
PART 2. CREATION, ALTERATION, AND TERMINATION OF COMMON INTEREST COMMUNITIES

C.R.S. 38-33.3-209.5 (2012)

38-33.3-209.5. Responsible governance policies - due process for imposition of fines

(1) To promote responsible governance, associations shall:

(a) Maintain accurate and complete accounting records; and

(b) Adopt policies, procedures, and rules and regulations concerning:

(I) Collection of unpaid assessments;

(II) Handling of conflicts of interest involving board members, which policies, procedures, and rules and regulations must include, at a minimum, the criteria described in subsection (4) of this section;

(III) Conduct of meetings, which may refer to applicable provisions of the nonprofit code or other recognized rules and principles;

(IV) Enforcement of covenants and rules, including notice and hearing procedures and the schedule of fines;

(V) Inspection and copying of association records by unit owners;

(VI) Investment of reserve funds;

(VII) Procedures for the adoption and amendment of policies, procedures, and rules;

(VIII) Procedures for addressing disputes arising between the association and unit owners; and

(IX) When the association has a reserve study prepared for the portions of the community maintained, repaired, replaced, and improved by the association; whether there is a funding plan for any work recommended by the reserve study and, if so, the projected sources of funding for the work; and whether the reserve study is based on a physical analysis and financial analysis. For the purposes of this subparagraph (IX), an internally conducted reserve study shall be sufficient.

(2) Notwithstanding any provision of the declaration, bylaws, articles, or rules and regulations to the contrary, the association may not fine any unit owner for an alleged violation unless:

(a) The association has adopted, and follows, a written policy governing the imposition of fines; and

(b) (I) The policy includes a fair and impartial fact-finding process concerning whether the alleged violation actually occurred and whether the unit owner is the one who should be held responsible for the violation. This process may be informal but shall, at a minimum, guarantee the unit owner notice and an opportunity to be heard before an impartial decision maker.

(II) As used in this paragraph (b), "impartial decision maker" means a person or group of persons who have the authority to make a decision regarding the enforcement of the association's covenants, conditions, and restrictions, including its architectural requirements, and the other rules and regulations of the association and do not have any direct personal or financial interest in the outcome. A decision maker shall not be deemed to have a direct personal or financial interest in the outcome if the decision maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the association.

(3) If, as a result of the factfinding process described in subsection (2) of this section, it is determined that the unit owner should not be held responsible for the alleged violation, the association shall not allocate to the unit owner's account with the association any of the association's costs or attorney fees incurred in asserting or hearing the claim. Notwithstanding any provision in the declaration, bylaws, or rules and regulations of the association to the contrary, a unit owner shall not be deemed to have consented to pay such costs or fees.

(4) (a) The policies, procedures, and rules and regulations adopted by an association under subparagraph (II) of paragraph (b) of subsection (1) of this section must, at a minimum:

(I) Define or describe the circumstances under which a conflict of interest exists;

(II) Set forth procedures to follow when a conflict of interest exists, including how, and to whom, the conflict of interest must be disclosed and whether a board member must recuse himself or herself from discussing or voting on the issue; and

(III) Provide for the periodic review of the association's conflict of interest policies, procedures, and rules and regulations.

(b) The policies, procedures, or rules and regulations adopted under this subsection (4) must be in accordance with section 38-33.3-310.5.

HISTORY: Source: . L. 2005: Entire section added, p. 1377, § 7, effective January 1, 2006.L. 2006: (1)(a), (1)(b)(VI), and (1)(b)(VII) amended and (1)(b)(VIII) added, p. 1219, § 7, effective May 26.L. 2008: (2) and (3) added, p. 556, § 2, effective July 1.L. 2009: (1)(b)(IX) added, (HB 09-1359), ch. 257, p. 1164, § 1, effective August 5.L. 2011: (1)(b)(II) amended and (4) added, (HB 11-1124), ch. 105, p. 328, § 2, effective April 13.

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HUNTINGTON PINES HOMEOWNERS ASSOCIATION
BOARD OF DIRECTORS RESOLUTION

WHEREAS, Colorado Revised Statute 38-33.3-209.5(1)(b) requires that associations subject to the Colorado Common Interest Ownership Act shall promote responsible governance by adopting policies, procedures, and rules and regulations in regards to eight stated areas of administration;

AND WHEREAS, a copy of the proposed Policies was distributed to all members of the Association in advance of the Board meeting at which the Policies have been adopted;

AND WHEREAS, all members of the Association have been given the opportunity to provide comments and suggest changes to the Policies at the Board meeting at which the Policies have been adopted;


NOW, THEREFORE, the following Policies have been adopted by the Board of Directors (the "Board") of Huntington Pines Homeowners Association (the "Association") pursuant to Colorado law at a regular meeting of the Board held on August 18, 2009.

RESPONSIBLE GOVERNANCE POLICIES

- I. Collection of unpaid assessments: No new policy is adopted at this time since this issue is adequately covered in existing Rules and Regulations of the Association.
- II. Handling of conflicts of interest involving board members: Any Board member having any business, economic interest or other conflict of interest (including the perception of conflict) regarding any transaction undertaken by the Association, shall fully disclose the extent of his or her involvement and conflict to the Board prior to entering of such business or economic transaction. The Board shall vote on such transaction, and may allow such transaction notwithstanding the conflict of interest of one or more Board member(s), if in the judgment of the voting members the transaction serves the interest of the Association. Any Board member with the conflict of interest may not vote regarding such transaction. The minutes of the Board meeting shall fully record the following: the name of the Board member(s) with the conflict of interest; the nature of the conflict of interest; a summary of the Board's deliberation on the transaction; and the details of the final vote.
- III. Conduct of meetings: No new policy is adopted at this time since this issue is adequately covered in existing Articles III and VI of the By-Laws of the Association.
- IV. Enforcement of covenants and rules: No new policy is adopted at this time since this issue is adequately covered in existing Rules and Regulations of the Association.
- V. Inspection and copying of Association records by homeowners: No new policy is adopted at this time since this issue is adequately covered in existing §5.6 of the Master Declaration of the Association and Article X of the By-Laws of the Association.

- VI. Investment of reserve funds: Investment of all Association funds shall be made with the primary goals of safety, liquidity, and preservation of capital. The Board shall select specific investments as it deems most appropriate to achieve these goals.
- VII. Procedures for the adoption and amendment of policies, procedures, and rules: No new policy is adopted at this time since this issue is adequately covered in existing §8.5 of the Master Declaration of the Association.
- VIII. Procedures for addressing disputes arising between the Association and unit owners: Disagreements between an Association homeowner and the Association that pertain to Association administration and governance not involving an imminent threat to peace, health, or safety of the community shall undergo the following dispute resolution process:
- Step 1) Negotiation: Any homeowner may initiate a request for negotiation by stating in writing the nature and details of disagreement in a letter to the Board. Upon receipt of such request, the Board shall, in timely fashion, make a reasonable attempt to convene a meeting between the homeowner and the Board to negotiate a good faith resolution of the disagreement. During the negotiation process, the parties will communicate directly with one another in an effort to reach an agreement that serves the interests of all parties.
- Step 2) Mediation: If the dispute is not resolved by negotiation in a reasonable time, the parties shall agree to participate in a process of mediation. The mediation shall be conducted by a board of three mediators. Each mediator shall be a property owner in Huntington Pines. One mediator shall be chosen by the homeowner in the dispute; one shall be chosen by the Board, but cannot be a current Board member; and the third mediator shall be chosen by the first two mediators.
- Step 3) Judicial: If the dispute is not resolved by mediation, each party shall retain the right to seek judicial resolution.

HUNTINGTON PINES HOMEOWNERS ASSOCIATION

Signature: 
Name: Christopher J. Todd
Title: President

HUNTINGTON PINES HOMEOWNERS ASSOCIATION
BOARD OF DIRECTORS RESOLUTION

WHEREAS, Colorado Revised Statute 38-33.3-209.5(1)(b)(ix) provides that associations subject to the Colorado Common Interest Ownership Act shall promote reasonable governance by adopting policies, procedures, and rules and regulations in regards to the preparation of a reserve study.

AND WHEREAS, a copy of the proposed policy was distributed to all members of the Association in advance of the Board meeting at which the Policy has been adopted;

AND WHEREAS, all members of the Association have been given the opportunity to provide comments and suggest changes to the Policy at the Board meeting at which the Policy has been adopted;

NOW, THEREFORE, The following policy has been adopted by the Board of Directors (the "Board") of Huntington Pines Homeowners Association (the "Association") pursuant to Colorado law at a regular meeting of the Board held on September 16, 2010.

RESERVE STUDY POLICY

1. The Board shall commission a reserve study at least once every five (5) years with regard to all property owned and maintained by HPHOA.
2. An internally conducted reserve study shall be sufficient; however, at any time the Board may determine that a professional study is reasonably warranted.
3. The reserve study shall include both physical analysis and financial analysis, and shall include projected sources of funding for the work.
4. Upon completion of the reserve study, the Board shall prioritize needs and make reasonable and fiscally responsible reserve funding decision based on what they believe is in the best interests of HPHOA as well as in conformance with the expressed consensus of the members of HPHOA.
5. The reserve study shall be reviewed annually before preparation of the annual budget with particular attention to previously established priorities and financial considerations.

HUNTINGTON PINES HOMEOWNERS ASSOCIATION

Signature: Jan Hockenberry
Name: Jan Hockenberry
Title: HOA President