

**HAWK'S NEST TOWN  
HOMES OWNERS  
ASSOCIATION**

**RESPONSIBLE GOVERNANCE  
POLICIES**

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The Hawk's Nest Town Homes Owners Association, a Colorado nonprofit corporation (the "Association"), for the purpose of complying with C.R.S. § 38-33.3-209.5, hereby adopts the following responsible governance policies, procedures, and rules and regulations. Unless otherwise defined herein, terms defined in the Condominium Declaration for Hawk's Nest Town Homes recorded in the real property records of Gunnison County, Colorado as Reception No. 558016, as amended (the "Covenants"), and the Association's Articles of Incorporation (the "Articles") and the Association's bylaws, as amended (the "Bylaws") shall have the same meaning herein. The Declaration, Articles, and Bylaws shall hereafter be collectively referred to as the "Governing Documents."

**Article 1: Collection of Unpaid Assessments – C.R.S. § 38-33.3-209.5(1)(b)(I) and C.R.S. § 38-33.3-209.5(5)(a):**

1. Assessments are due within 30 days of the date of notice for such assessment. If the assessments are not paid when due, then such assessments shall become delinquent.
2. Interest on delinquent assessments, including recovery of attorneys' fees incurred in pursuing delinquent assessments, is 18% per annum from the date the assessments became delinquent.
3. The Association charges a returned check charge of \$15.00, which may be waived by the Association for good cause shown. A late fee of \$25.00 per month is charged on all delinquent assessments.
4. Before the Association turns over a delinquent account of an Owner to a collection agency or refers it to an attorney for legal action, the Association must send the Owner a notice of delinquency specifying:
  - 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 Owner may contact to request a copy of the 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 thirty days may result in the 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 property, or other remedies available under Colorado law.
5. In accordance with C.R.S. § 38-33.3-316.3, a delinquent Owner may be eligible to enter into a payment plan, but not where:
  - A. The Owner does not occupy the Owner's Unit and has acquired the Owner's Unit as a result of a default of a security interest encumbering the lot or foreclosure of a lien by the Association; or
  - B. The Owner has previously entered into a payment plan with the Association; or

- C. The Association informs the delinquent Owner of the potential for a payment plan and the delinquent Owner does not agree to pay in accordance with the terms of the offered payment plan within 30 days of the Association informing the delinquent Owner of the potential for a payment plan and the terms of any such payment plan. The Association is under no obligation to negotiate or provide an opportunity for a payment plan of a greater duration than six months as provided below.
6. Any payment plan shall permit the delinquent Owner to pay off the deficiency in equal installments over a period of at least six months. The Board of Directors of the Association, in its sole discretion, may determine whether a payment plan should exceed six months in duration, and no Owner shall have any right to demand or request a payment plan for in excess of six months. An Owner's failure to remit payment of an agreed-upon installment, or to remain current with 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.
  7. Payments on a delinquent account of an Owner are applied to the most outstanding balances first and, where balances are equally outstanding, first to unpaid interest and other costs or fees, and then to unpaid principal.
  8. Unpaid assessments will be collected through enforcement of all rights, procedures and remedies under the Covenants in accordance with the remaining Governing Documents and applicable law. These rights, procedures and remedies include the Owner's delinquent account being turned over to a collection agency, a lawsuit being filed against the Owner, obtaining and foreclosing a judgment against the Owner, the filing and foreclosure of a lien against the Owner's property, or other remedies available under Colorado law. Delinquent Owners will be liable for all costs of collection, including without limitation attorneys' fees and court costs.
  9. In determining which methods of enforcement to employ, it shall be the policy of the Association that the person or persons making such decision on behalf of the Association take into consideration, to the extent legally permissible, the totality of the circumstances, including without limitation any history with the Owner.

**Article 2: Handling of Conflicts of Interest Involving Board Members – C.R.S. § 38-33.3-209.5(1)(b)(II)**

1. Pursuant to C.R.S. § 7-128-501, C.R.S. § 38-33.3-310.5, and C.R.S. § 38-33.3-209.5(4):
  - A. A "conflicting interest transaction" means: A contract, transaction, or other financial relationship between a nonprofit corporation and a director of the nonprofit corporation, or between the nonprofit corporation and a party related to a director, or between the nonprofit corporation and an entity in which a director of the nonprofit corporation is a director or officer or has a financial interest.

- B. No loans shall be made by the Association to its directors or officers.
- C. A director shall disclose any conflicting interest transaction or possibility thereof by disclosing to the Board of Directors in an open meeting prior to any action being taken to which the conflict of interest relates the material facts as to the director's relationship or interest and as to the conflicting interest transaction.
- D. A board member must recuse himself or herself from discussing or voting on any issue for which a conflicting interest transaction exists or is proposed.
- E. The Board of Directors may authorize, approve or ratify the conflicting interest transaction duly disclosed in accordance with C.R.S. § 7-128-501.
- F. There shall be a periodic review of the Association's conflict of interest policies, procedures, and rules and regulations.

**Article 3: Conduct of Meetings – C.R.S. § 38-33.3-209.5(1)(b)(III)**

1. Annual and special meetings of the members of the Association and meetings of the Board of Directors shall be held in accordance with, and upon such notice as required by, Colorado law and the Governing Documents. The conduct of all meetings shall be in accordance with the Governing Documents. To the extent not otherwise provided by the Governing Documents or Colorado law, it shall be the policy of the Association that all Owners shall be provided a reasonable opportunity to speak and be heard at annual and special meetings of the Association and, where the interests of efficiency and an orderly and prompt meeting do not dictate otherwise as determined in the sole discretion of the Board of Directors, at meetings of the Board of Directors.
2. To the extent not otherwise provided for by the Governing Documents and applicable law, meetings shall be conducted generally in accordance with Robert's Rules of Order where applicable. Any non-compliance with Robert's Rules of Order shall not affect the validity of the actions taken at a meeting. Any objection to the conduct of a meeting premised upon the non-compliance with Robert's Rules of Order must specify the failure to comply with Robert's Rules of Order, explain how such failure may be remedied, and be raised at the time of such non-compliance.

**Article 4: Enforcement of Covenants and Rules, Including Notice and Hearing Procedures and the Schedule of Fines – C.R.S. § 38-33.3-209.5(1)(b)(III)**

1. All enforcement procedures shall comply with the Governing Documents and any applicable law.
2. In the absence of contrary procedures and provisions in the Governing Documents and the law, the procedures for enforcement of the Covenants and rules and regulations through imposition of fines shall be as follows:

- A. Prior to the imposition of any fines for any violation of any provision of the Governing Documents or any applicable law, it shall be the policy of the Association to attempt in good faith to contact in person, by telephone, by written communication (email, U.S. Mail, overnight courier, facsimile, posting on an Owner's house) or other means the Owner allegedly in violation. This good faith obligation is not intended to be a bar to any subsequent enforcement actions if such contact is not made. Failure to make such a contact shall not, in any way, prevent the Association from enforcement of the Governing Documents and correction of any violation.
  
  - B. If the matter is not resolved to the satisfaction of the Association through an initial contact, such Owner shall be provided with a written notice describing the alleged violation in sufficient detail to allow the Owner to determine the nature of the violation alleged if the Board of Directors decides to enforce such provision. Such notice shall (1) set a deadline for compliance if the noncompliance continues, (2) inform the Owner that the Owner may dispute that a violation exists or occurred and demand a hearing, and (3) set a deadline to demand a hearing. These deadlines shall be set by the Board of Directors in accordance with what the Board of Directors believes to be reasonable under the circumstances taking into consideration the nature of the alleged violation.
  
  - C. Any Owner who requests a hearing as provided above shall be afforded a fair and impartial hearing before a hearing board comprised of individuals that are impartial decision makers. The Board of Directors shall set the date and location of the hearing and provide notice of the date and location to the Owner a reasonable time in advance, considering the nature of the alleged violation. The Board of Directors shall select the impartial decision makers, which may consist of the Board of Directors. There shall be three impartial decision makers. An individual is an impartial decision maker if the individual has the authority to make a decision on a claimed violation and does not have a direct personal or financial interest in the outcome of the hearing. 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. The Owner must be given an opportunity to be heard at the hearing. The hearing board shall decide whether a violation exists or occurred, whether the Owner is the one who should be held responsible, and impose the applicable fine if a violation does exist or has occurred. The hearing board may rule orally at the hearing or through a written document provided to the Owner within 30 days of the hearing.
3. The schedule of fines for violations shall be as follows:
- |   |          |
|---|----------|
| A. First violation:                               | \$100.00 |
| B. Second violation:                              | \$200.00 |
| C. Third violation and all violations thereafter: | \$500.00 |



4. All fines are immediately due and payable when incurred. A fine becomes late if not paid within 30 days of being imposed and such late fines will bear interest at the rate of 18% per annum. A violation that is continuing in nature will incur a new fine each day that it persists beginning on the 5<sup>th</sup> calendar day after the Owner receives the written notice described in 2. B. above as if the violation were a new violation each day that it persists, but the violation shall be considered a single, continuing violation for purposes of notice and a hearing. A violation is continuing in nature if it creates noncompliance that will continue unless discontinued, remediated or otherwise terminated. An example of a continuing violation includes without limitation the construction of structures that violate the Covenants.
5. The Association may at any time, pursue all other legal remedies available as provided by the Governing Documents and applicable law. The failure to enforce any provision of the Governing Documents, these rules or other applicable law, shall not be deemed a waiver of the right to do so for any subsequent violations. Any non-compliance with the Governing Documents by any Owner, tenant of an Owner, guest of an Owner, family member of an Owner, or invitee or licensee of an Owner, will be the responsibility of the Owner. The Association may simultaneously impose fines and seek damages or other relief through judicial process.

**Article 5: Inspection and Copying of Association Records by Owners – C.R.S. 38-33.3-209.5(1)(b)(V)**

1. It shall be the policy of the Association to make all appropriate documents readily available to satisfy reasonable requests by Owners. Owners shall be provided with reasonable access to all Association documents to which they are legally entitled a right to inspect to the fullest extent permitted by law. In the absence of greater rights provided by any applicable law, Owners shall be afforded such inspection opportunity within a reasonable period of time, which shall presumptively mean the documents are made available at the next scheduled Association or Board of Directors meeting after a request provided that the request is made at least five business days prior to the meeting.
2. All requests for inspection and/or copying must be in writing and identify the documents sought either specifically by document or by applicable category of documents.
3. All costs of copying shall be paid by the Owner requesting the copies. The Association may copy the documents itself or may send the documents away for copying in its sole discretion.
4. The Association's membership list or other member information shall not be used for solicitation, including financial and political solicitation, and shall not be used for any commercial purpose. The Association's membership list or other member information shall not be sold to any person or entity. Any Owner that requests an opportunity to review or copies of membership lists or information agrees to comply with this provision of these rules. The Association may pursue any Owner for damages or injunctive relief

or both, including without limitation attorneys' fees, for abuse of the inspection and copying rights.

5. Presumptively, all financial records, meeting minutes, member information, resolutions, covenants, design review guidelines, policies, rules, and annual reports, if any, shall be available to Owners for copying and inspection upon appropriate written request. Attorney-client confidential documents are not available for inspection and/or copying. Similarly, any other documents that are confidential under any other constitutional, statutory or judicial provision and any documents the disclosure of which would constitute an unwarranted invasion of individual privacy, shall not be available for copying and/or inspection.
6. Nothing herein shall in any way limit any right to inspection or copying of records provided by the Bylaws or Covenants and to the extent that the Bylaws or Covenants provide greater inspection or copying rights than what is provided herein, such provisions of the Bylaws and Covenants shall be honored.

**Article 6: Investment of Reserve Funds – C.R.S. § 38-33.3-209.5(1)(b)(VI)**

1. All reserve funds shall be invested in accordance with the provisions of C.R.S. § 38-33.3-303(2.5) and C.R.S. § 7-128-401 in a manner that the directors believe is in the best financial interests of the Association taking into consideration the existing and anticipated needs of the Association. Such reserve funds may be held in an interest bearing account.

**Article 7: Procedures for Adoption and Amendment of Policies, Procedures, and Rules – C.R.S. § 38-33.3-209.5(1)(b)(VII)**

1. The Board of Directors of the Association shall have the authority to adopt and amend these rules and policies to the extent such adoption or amendment does not conflict with the Governing Documents. Such adoption or amendment shall take place at an open Board of Directors' meeting and be documented in the minutes.

**Article 8: Procedures for Addressing Disputes Arising Between the Association and Members – C.R.S. § 38-33.3-209.5(1)(b)(VIII)**

1. To the extent feasible, an Owner should attempt to address and resolve any dispute the Owner has with the Association through written correspondence with the Association, a private meeting with the appropriate individual on behalf of the Association, or discussion at an appropriate meeting. Any Owner that provides a written grievance to the Association shall be provided an opportunity to be heard at the next scheduled Board of Directors' meeting, if such grievance is received at least 30 business days before such meeting, or shall be responded to in writing by the Association within 30 days of being received if not sooner addressed at a meeting or otherwise.



**Article 9: Reserve Studies, Funding and Related Matters**

1. In the event that the Association obtains a reserve study, the Association's annual budgeting shall include such matters from the reserve study as the Board of Directors believe appropriate and feasible.

SECRETARY'S CERTIFICATION: The undersigned, being the President of the Association, certifies that the foregoing was adopted by the Board of Directors of the Association at a duly called and held meeting of the Board of Directors on 8-1-2017, 2017, and in witness thereof, the undersigned has subscribed his or her name.

Hawk's Nest Town Homes Owners  
Association, a Colorado nonprofit  
corporation



By: Matt Reed, President