

RESPONSIBLE GOVERNANCE POLICIES OF SOUTHERN BLUFFS OWNERS ASSOCIATION

2020 EDITION

MONTEZUMA COUNTY, COLORADO
City of Cortez

1. Pursuant to C.R.S. §38-33.3-209.5(1)(b)(I) and C.R.S. §38-33.3-209.5(5), regarding the **collection of unpaid assessments**, the Association has adopted this Policy:

1. All attempts to collect unpaid assessments shall conform to Colorado Law, the Declaration, and the Bylaws, which shall control in that order, and to which these Policies are a supplement.

2. For the purpose of collecting unpaid assessments of any type, the Association shall make a distinction between "developed" and "undeveloped" Lots as defined herein. This distinction shall be based solely on the availability of amenities, and not on discrimination against any class of Owners, nor on any other basis.

(a) "Developed" Lots are those with graded streets affording access and with all installed utilities.

(b) "Undeveloped" Lots are those without all of these amenities.

3. The Association shall have the right to defer collection procedures against undeveloped Lots with unpaid assessments, even while pursuing such procedures against developed Lots with unpaid assessments. For such deferment to occur, it shall (a) be authorized by the Membership when adopting a budget, for that year only; and (b) apply equally to every undeveloped Lot. The existence of past deferments shall not affect the validity of collection procedures when no deferment is authorized.

4. Billing for all assessments on both developed and undeveloped Lots shall be sent, in the manner provided in the Declaration [3.10], in a timely manner before the assessments are due; if this is not done, the assessment shall not become delinquent and there shall be no penalties for late payment.

5. Annual assessments are due by **June 30** and all assessments and penalties shall be paid by check or money order. At the request of an Owner, the Association shall permit periodic payments, with periodic due dates, to be made without penalty.

6. Any properly-billed assessment or part thereof not paid by its due date becomes delinquent thirty (30) days thereafter. Delinquent assessments accrue interest at the rate specified in the Bylaws [Section 7.2] from the due date until paid. Other penalties added to the amount due shall include a late charge of 1/3 of the delinquent assessment if payment is delayed by ninety (90) days or more, and may also include any bank charges for a returned check.

7. All delinquent assessments and penalties may be collected as provided in the Declaration [5.9], except that prior to referring a delinquent account to a collection agency or an attorney, a notice shall be sent to the Owner which includes the following:

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

(b) Whether the opportunity to enter into a payment plan exists and instructions for contacting the Association entity to obtain details of and 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 Association'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.

8. The Association may thereafter bring an action at law or in equity, or both, against any Owner obligated to pay the same or the Association may proceed to foreclose its lien against the particular Lot in the manner and form provided by CCIOA.

2. Pursuant to C.R.S. §38-33.3-209.5(1)(b)(II) and C.R.S. §38-33.3-209.5(4), regarding **conflicts of interest involving Board Members**, the Association has adopted this Policy:

1. Conflicts of interest involving Board Members are covered by Colorado Law, the Declaration, and the Bylaws, which shall control in that order, and to which these Policies are a supplement.

2. Notwithstanding more permissive provisions in Colorado Law and the Declaration, it is the policy of the Association, as evidenced in the Bylaws [Sections 4.1, 4.9, 5.2, 6.1], that there shall be no conflicts of interest involving Directors or certain other Officers. To achieve this objective, the Bylaws impose limits on who may be a candidate for such offices.

3. A conflict of interest exists when a person is in a position to derive personal, family or business benefit from actions or decisions made in their official capacity, whether or not such benefit actually occurs. In this Association, if a potential decision maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association, then he or she shall not be deemed to have a conflict of interest.

4. Should a conflict of interest arise involving a Director, or other Officer described in Section 6.1 of the Bylaws, placing the Director or Officer or his or her parent, grandparent, spouse, child, grandchild, or sibling into a position to derive personal or business benefit from actions or decisions the Director or Officer could make in his or her official capacity, such Director or Officer shall immediately resign, and the vacancy filled as described in the Bylaws without undue delay.

3. Pursuant to C.R.S. §38-33.3-209.5(1)(b)(III), regarding **conduct of meetings**, the Association has adopted this Policy:

1. The conduct of meetings is covered by Colorado Law, the Declaration, and the Bylaws, which shall control in that order, and to which these Policies are a supplement.

2. Meetings of both the Directors and the Members shall be conducted as specified in the Bylaws, as amended from time to time.

3. In addition, the Board may, at the recommendation of legal counsel, hold an executive or closed-door session, and may restrict attendance to Board Members and such other persons requested by the Board, during a regular or specially announced meeting or a part thereof. The

executive session and matters to be discussed shall be in accordance with C.R.S. §38-33.3-308(3) and (4).

4. Pursuant to C.R.S. §38-33.3-209.5(1)(b)(IV), C.R.S. §38-33.3-209.5(2) and C.R.S. §38-33.3-209.5(3), regarding **enforcement of rules**, the Association has adopted this Policy:

1. The Association's conduct in regard to enacting and enforcing rules is covered by Colorado Law, the Declaration, and the Bylaws, which shall control in that order, and to which these Policies are a supplement.

2. During times when the streets in Southern Bluffs are not under the control of the City of Cortez, they are private, and at such times the Association may enact rules governing access, traffic, deposition of trash, or other matters, which shall be effective when reasonable notice thereof is posted. These rules shall not alter or amend the Declaration; shall not be less restrictive than rules for similar public residential streets within the City of Cortez; and may be accompanied by a schedule of fines to Owners if they commit infractions. This schedule shall be posted in a prominent place in Southern Bluffs, and sent to all Owners from time to time. Such fines are collectable according to the following procedures, and shall be in addition to any fines specified in Section 4.B and 4.C (below), and in addition to any other civil or criminal penalties imposed by a government agency.

3. A property owner or Director (complainant) may document an alleged violation of any covenant or rule. This documentation should include property address, property owner (Owner) if known, date(s), detailed information about a violation believed to have occurred, and photo (if possible); and shall be presented to the President. The President shall arrange a meeting and accompany the complainant to meet with the alleged offender as soon as possible, where the complainant shall explain his or her concern and the violation he or she alleges. This first discussion about the alleged violation should be in the role of neighbors, not in the role of Officers. The President may participate in any discussion, but his or her role is not that of judge, jury or arbiter, but merely to document that the meeting took place and record the results. If the complainant does not accompany the President to this first meeting, the complaint shall be dismissed without record. If the Owner remedies the problem after it is brought to his or her attention by the complainant, no further action shall be taken. If the Owner refuses to meet, the President shall record this and the next step (Section 4, below) may be initiated.

4. If the Owner refused to meet (as described in Section 3, above), or does not remedy the alleged violation, the complainant may elect to pursue the matter and request the President to initiate proceedings. In this event, the President shall appoint a Review Panel (panel) consisting of one Director who is an active Member of the Association (as defined in the Bylaws [Section 3.1]) and two other Active Members, none of whom shall have any direct personal interest in the outcome. A panel member shall not be deemed to have a direct personal or financial interest in the outcome if the panel member will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association. Neither the President, the complainant nor the alleged offender shall serve on this panel. The panel shall have the power to act for the Association as described below. A panel member shall call or email the alleged offender, documenting the alleged violation, and inviting him or her to meet with them and the complainant. At this meeting (whether the alleged offender attends or not) the panel shall hear the complainant's and alleged offender's statements, if any, review the alleged violation, decide if enforcement procedures should be initiated, and record their decision. If the panel determines that enforcement procedures should not be initiated, they shall inform the complainant of their

decision, and no further action shall be taken. If the panel determines that enforcement procedures should be initiated, the process is as follows:

A. First Warning: A panel member will call or email the Owner to inform him or her that enforcement is under way, and shall request a written explanation and proposed correction of the violation within a reasonable time depending on the nature of the violation but not to exceed 30 days. If the Owner remedies the violation, no further action shall be taken. If the Owner does not respond (after it has been confirmed that the initial message has been received) and propose a solution, it will be assumed by the panel that a violation has occurred. If the Owner responds with any new explanation or documentation as to why it is not a violation, not previously heard by the panel, the panel will schedule another hearing on the matter at a mutually convenient time for the participants, at which the Owner may appear and present evidence. If no new evidence is presented, it will be assumed by the panel that a violation has occurred. Following the hearing, if one is held, the Board shall make a new determination as to whether a violation has occurred and notify the Owner of that decision. If the panel determines that a violation has occurred, and the Owner promptly remedies it, no further action shall be taken. If the panel determines that the Owner should not be held responsible for the alleged violation, the Association shall not penalize the Owner in any way. In any event, the panel shall record the outcome.

B. Second Warning: If a violation has occurred and has not been remedied within a reasonable time, the panel will send a registered letter to the Owner in the name of the Association, imposing a \$25 fine, again requesting a plan to abate the violation, notifying the Owner that failure to remedy the violation will result in a larger fine and possible legal action. If the Owner remedies the violation, the fine will be collected and no further action taken. The panel will report the outcome to the Association.

C. Final Warning: If after the second warning no response is received within 10 days, the panel's authority to act ends, and the Association will then have the option to increase the fine to no more than \$1,000 and/or file action to enforce the covenant or rule.

5. Pursuant to C.R.S. §38-33.3-209.5(1)(b)(V), regarding **inspection and copying of Association records by Owners**, the Association has adopted this Policy:

1. The Association will maintain, retain and produce Association records in accordance with the procedures and requirements set forth in the Colorado Not-for-Profit Corporation Act, Colorado Common Ownership Interest Act and this policy, which conforms to C.R.S. 38-33.3-209.4, 209.5 and 317, and shall apply to the inspection and copying of the Association's records.
2. All Association records must be maintained in a form that allows conversion into written form in a reasonable time.
3. The records required by C.R.S. §§ 38-33.3-209.4, 209.5 and 317 **will be maintained** at the Association's principal office and shall be considered the sole records of the Association for purposes of document retention and production to owners.
4. An owner or owner's authorized agent may inspect and copy Association records during normal business hours if the owner or authorized agent has submitted a written request, describing with reasonable particularity the records sought, at least ten days prior to the inspection or production of documents. The Association may not condition the production of

records upon the statement of a proper purpose.

5. A membership list or any part thereof may not be obtained or used by any person for any purpose prohibited by C.R.S. § 38-33.3-317.

6. Records maintained by the Association **may be withheld** from inspection and copying pursuant to C.R.S. § 38-33.3-317(3).

7. Records maintained by the Association are not subject to inspection and copying, and **must be withheld**, pursuant to C.R.S. § 38-33.3-317(3.5).

8. The Association will impose a reasonable charge, which may be collected in advance and will cover costs of labor and material, for copies of Association records. The charge may not exceed the estimated cost of production and reproduction of the records.

9. A right to copy records under this Policy includes the right to receive copies by photocopying or other means, including the receipt of copies through an electronic transmission if available, upon request of an owner. The Association is not obligated to compile or synthesize information.

6. Pursuant to C.R.S. §38-33.3-209.5(1)(b)(VI), regarding **investment of reserve funds**, the Association has adopted this Policy:

1. The Association's reserve funds shall be managed and invested by the Board, acting both individually and collectively

a) in good faith;

b) with the care an ordinarily prudent person in a like position would exercise under similar circumstances; and

c) in a manner each Director reasonably believes to be in the best interests of the Association.

2. Management and investment of reserves shall be guided by the following:

a) The overall investment goal shall be sufficient security to prevent substantial losses, rather than the highest yields regardless of substantial risks.

b) There shall be sufficient liquidity to make funds available for reasonably foreseeable needs without long-term borrowing, which shall be reserved for totally unforeseeable needs.

c) Those assets of the Common Reserve (defined in Section 9 of these Policies) which originate from Member assessments shall be invested only in instruments and accounts that are FDIC-insured.

7. Pursuant to C.R.S. §38-33.3-209.5(1)(b)(VII), regarding **adoption and amendment of Policies, Procedures and Rules**, the Association has adopted this Policy:

1. The Association's conduct in regard to adopting and amending Policies, Procedures and Rules (hereinafter "Acts") is covered by Colorado Law, the Declaration, and the Bylaws, which shall control in that order, and to which these Policies are a supplement.
 2. Whatever body has the power to adopt an Act in the legitimate exercise of its duties under its controlling authority shall also have the power to amend and repeal its Acts. Amending or repealing an Act shall be subject to neither more nor less control from any other body than is adopting it. Amending some Acts requires greater majorities or additional procedures than adopting them; when this is the case, it shall be as specified in the adopting body's controlling authority. If no such provision exists, then an Act can be amended or repealed in the same manner as it was adopted.
 3. Regarding these Responsible Governance Policies, if adopted by the Association at a properly called Members' Meeting with a quorum, by a majority of votes cast, then they can be amended or repealed at any Members' Meeting by following the three provisions listed in Section 10.1 of the Bylaws.
-

8. Pursuant to C.R.S. §38-33.3-209.5(1)(b)(VIII), regarding **resolution of disputes between the Association and its Members**, and in view of C.R.S. §38-33.3-124(1)(b), the Association has adopted this Policy:

1. Except as otherwise provided, in the event of any dispute involving the Association and an Owner, the Owner is invited and encouraged to meet with the Board to resolve the dispute informally and without the need for litigation. If the Owner requests to meet with the Board, the Board shall make a reasonable effort to comply with the Owner's request.
 2. If the dispute cannot be resolved informally, it is the general policy of the Association to encourage the use of Alternative Dispute Resolution to resolve disputes involving the Association and an Owner. Alternative Dispute Resolution ("ADR") is defined as a procedure for settling a dispute by means other than litigation, such as mediation or binding or non-binding arbitration.
 3. Except for the Exempt Disputes defined in this Policy, the Association and the Owner shall attempt to resolve the dispute using ADR methodologies prior to filing suit. Nothing in this Policy shall be construed to require any specific form of alternative dispute resolution, such as mediation or arbitration, or require the parties to meet. Neither the Association nor the Owner waives any right to pursue whatever legal or other remedial actions available to either party.
 4. The following disputes shall be exempt from the provisions of this Policy:
 - a. Any action by the Association against an Owner to collect Assessments or other sums due to the Association, including foreclosure proceedings, which shall be governed by the policy regarding the collection of delinquent assessments; and
 - b. Any action by the Association to enforce any provisions of the Association's covenants or rules which shall be governed by the policy regarding enforcement of covenants and rules; and
 - c. Any claim of the Association which if not pursued by the filing of a lawsuit would be deemed barred due to the applicable statute of limitations.
-

9. Pursuant to C.R.S. §38-33.3-209.5(1)(b)(IX), regarding **a reserve study**, the Association has adopted this Policy:

1. The provisions of this Policy shall be in addition to and shall supplement the provisions of Colorado law, the Declaration and the Bylaws, and shall control also the collection, management and use of Reserves for the Association's commonly owned elements.

2. The Board of Directors (hereinafter the "Board") shall conduct a reserve study at least every **six (6)** years, and at such other times as it deems necessary, to determine the necessity and amount of reserves required to maintain, improve, repair, replace and restore the Association's commonly owned elements. The study may be performed by a qualified third party reserve study professional with sound credentials and appropriate insurance to address the Association's needs, or it may be conducted internally. The first such study shall be completed within **two (2)** years after the adoption of this Policy. The Board shall also create and maintain the Common Reserve Fund (hereinafter the "Common Reserve"), which shall be separate from other reserves maintained by the Association, which shall hold all funds gathered to maintain, improve, repair, replace and restore the Association's commonly owned elements.

3. The reserve study shall be based on a physical analysis and a financial analysis, and include projected sources of funding for the Common Reserve. It shall be reviewed by the Board annually prior to budget preparation to determine if the Common Reserve is sufficient. The Board shall have the authority to take any reasonable steps it deems necessary to build and maintain the Common Reserve as described in Section 4.

4. The Board's goal in managing the Common Reserve shall be to build it to a level not less than **75%** nor more than **120%** of the required amount disclosed by the reserve study, and then maintain it there. The period allocated to building the Common Reserve to the required minimum shall not be less than **twelve (12)** years from the date this Policy is adopted. The Common Reserve may be funded from common or special assessments, interest or investment income, grants, loans, or such other sources as may be or become available, and in accordance with such funding plans as are established by the Board. Its assets shall be invested in accordance with the Association's Policy for Investment of Reserve Funds.

5. Funds in the Common Reserve shall be used for major capital expenses, repairs, replacements, maintenance, restoration and improvements of the Association's commonly owned elements, as determined by the Board or by the membership. It may serve as a revolving fund for these purposes, but it shall not be used to cover shortfalls in other funds or accounts of the Association without the consent of a 2/3 majority of Members voting in a properly-called Members' meeting with a quorum present.

6. Beginning with the first annual budget prepared after the adoption of this Policy, there shall be an annual line item included in each budget of the Association for a contribution to the Common Reserve, in an amount not less than **10%** of the operating budget, whenever the Common Reserve is at less than **120%** of the required amount disclosed by the reserve study.