

# RESOLUTION

## ADOPTING POLICIES AND PROCEDURES

**SUBJECT  
AND**

**PURPOSES:** Compliance with Colorado law and to provide policies and procedures for The Pinery (as a common interest community).

**AUTHORITY:** The Declarations, Articles of Incorporation, and Bylaws of the Pinery Homeowners' Association, Inc. ("PHA") and Colorado law.

**EFFECTIVE  
DATE:**

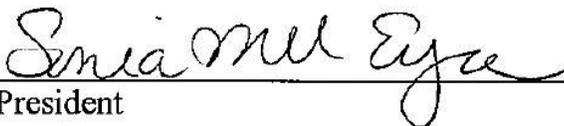
November 17, 2021.

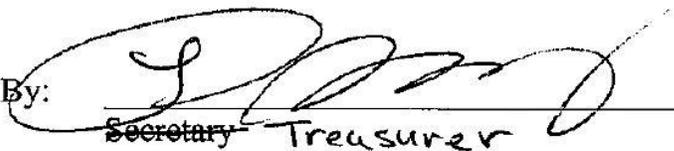
**RESOLUTION:** The PHA adopts the attached policies and procedures as required of Colorado common interest communities under the Colorado Common Interest Ownership Act.

**PRESIDENT'S**

**CERTIFICATION:** The undersigned, being the President and Secretary of the PHA, certify that the attached Resolution was adopted by the Board of Directors of the PHA, at a duly called and held meeting of the Board of Directors on November 17, 2021, and in witness thereof, the undersigned has subscribed his/her name.

**THE PINERY HOMEOWNERS' ASSOCIATION, INC.**

By:   
President

By:   
~~Secretary~~ Treasurer

**THE PINERY HOMEOWNERS'  
ASSOCIATION, INC.**

**POLICIES AND PROCEDURES**

**November 17, 2021**

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# THE PINERY HOMEOWNERS' ASSOCIATION, INC.

## POLICIES AND PROCEDURES

### 1. INTRODUCTION AND DEFINITIONS

Compliance with Colorado law. These policies and procedures have been adopted by the Board of the PHA to comply with Colorado law.

Definitions. Unless otherwise defined terms initially capitalized or terms defined in the Bylaws or the Declarations may have the same meaning in these policies and procedures.

Supplement to Law. The provisions of these policies and procedures shall be in addition to and in supplement of the terms and provisions of the Declarations, the Bylaws and the law of the State of Colorado governing the community.

### 2. POLICIES ON COLLECTION OF UNPAID DUES, SUMS, CHARGES OR ASSESSMENTS OF THE PHA

Due Dates. The annual dues, as allowed for in the Bylaws, shall be due and payable on the first day of each year. Dues or other charges not paid in full to the PHA by April 1<sup>st</sup> of each year shall be considered past due and delinquent. Assessments or other charges not paid in full to the PHA by April 1<sup>st</sup> (as to the annual dues) or as agreed to or billed by the PHA as to other charges shall incur late fees and interest, but only as provided below.

Personal Obligation. The annual dues shall be the personal obligation of the Owner(s) of the Lot or property for which such dues or charges are unpaid.

Late Charges and Interest Charges. Commencing January 1, 2010, the PHA may impose, on an annual basis, a \$10.00 late charge for each Owner who fails to timely pay his/her annual dues. This late charge shall be and is a "common expense" for each delinquent Owner .

Commencing January 1, 2010, the PHA may impose interest from the date due at the rate of 18% per annum on the amount owed for each Owner who fails to timely pay their annual dues or other charges when due.

PHA Lawsuits for Non-payment of Annual Dues. The PHA may pursue a lawsuit against an Owner who has assessments or other charges due to the PHA, based on the obligation to pay the Association as set forth in the Bylaws. Before any collection lawsuit, the PHA Board shall weigh the costs/benefits of a collection lawsuit.

Notice to Owners Before Referral for Collection. Before the PHA turns over a delinquent account of an Owner to a collection agency or refers it to an attorney for legal action, the PHA must send a notice to the Owner. The notice must inform the Owner:

- of the total amount due, with an accounting of how the total was determined
- whether the opportunity to enter into a payment plan exists, as provided in this collection policy, and how the Owner may contact the PHA to enter into a payment plan (is a payment plan is available)
- of the name and contact information for the individual the Owner may contact to request a copy of the Owner's ledger to verify the amount of the debt
- that payment is required to cure the delinquency
- that failure to pay within 30 days may result in the Owner's delinquent account being turned over to the attorneys for the PHA or a collection agency
- that a lawsuit on the Owner's obligation to pay may be filed against the Owner
- that other remedies available under Colorado law may be sought by the Association, if permitted under the PHA's governing documents.

Payment Plans. The PHA will make a good faith effort to coordinate with delinquent Owners to set up a payment plan. A delinquent Owner may negotiate a payment plan to pay off a deficiency in equal installments over a minimum period of six months or such longer period as authorized by the Board of Directors. If an Owner fails to comply with the terms of the payment plan, because the Owner fails to remit payment of an agreed-upon installment or fails to remain current with regular assessments as they come due during the payment plan term, the PHA may pursue legal action. The PHA is not obligated to negotiate a payment plan with an Owner who has previously entered into a payment plan. Further, the PHA is not obligated to enter a payment plan if the Owner does not occupy the property and has acquired the property as a result of a default of a security interest encumbering the property.

Attorney Fees and Collection Costs on Delinquent Accounts. For the calendar year commencing January 1, 2010, and for annual dues for that year and subsequent years, the PHA may require and recover its reasonable attorney fees and collection costs incurred in the collection of dues or other charges due the PHA from a delinquent Owner .

Judicial Foreclosure Prohibited. The PHA may NOT choose to foreclose on its lien in lieu of or in addition to suing an Owner for a money judgment. The purpose of foreclosing is to obtain payment of all dues owing in situations where either a money judgment lawsuit has been or is likely to be unsuccessful or other circumstances favor such action.

Certificate of Status of Sums Due the PHA. The PHA shall comply with Colorado law when statements are requested by an Owner or their designee. The PHA shall furnish to an Owner, or such Owner's designee, upon written request, first class postage prepaid, return receipt, to the PHA's agent, a written statement setting forth the amount of unpaid dues currently levied against such Owner's property for a fee as set by the Board, or as set by PHA staff, from time to time. However, if the account has been turned over to the PHA's attorney, such request may be handled through the attorney.

Notices of Lien. In addition to the lien allowed to the PHA under State law and any PHA documents, the PHA may record supplemental notices of lien, giving notice of its lien rights and/or giving notice of sums then due the PHA from an Owner.

Return Check Charges. In addition to any and all charges imposed under the Declarations, Articles of Incorporation and Bylaws, the Rules and Regulations of the PHA or these policies and procedures, a \$20.00 fee or other amount deemed appropriate by the Board of Directors 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.

Application of Payments. All payments received on account of any Owner or the Owner's property (collectively "Owner"), shall be applied to payment of any and all legal fees and costs (including attorney fees), if any, expenses of enforcement and collection, if any, late charges, if any, returned check charges, if any, notice of lien fees, if any, and other costs owing or incurred with respect to such Owner pursuant to the Declarations, Articles, Bylaws, Rules and Regulations, or these policies and procedures, prior to application of the payment to any annual dues due or to become due with respect to such Owner.

Suspension of Voting Rights. The PHA voting rights of any Owner whose account is past due shall be suspended.

Defenses. Failure of the PHA to comply with any provision in this policy shall not be deemed a defense to payment of dues fees or other charges, late charges, return check charges, attorney fees and/or costs as described and imposed by this policy.

### **3. COVENANT AND RULE ENFORCEMENT POLICIES AND PROCEDURES**

Reporting Violations to the PHA or the ARC. Complaints regarding alleged violations may be reported by an Owner or resident within the community to the PHA Business Office or to the Architectural Review Committee of the PHA (ARC), by one or more Owners or residents, the PHA's staff or employees, Board member(s) or committee member(s), by submission of a written complaint. Policing for violations is not required of the PHA or the ARC or by PHA or ARC staff.

Complaints of Violations Submitted to the PHA or ARC. Complaints by Owners or residents shall be in writing and submitted to the PHA/ARC staff. The complaining Owner or resident shall have observed the alleged violation and shall identify the complainant ("Complainant"), the alleged violator ("Violator"), if known, and set forth a statement describing the alleged violation, referencing the specific provisions which are alleged to have been violated, when the violation was observed and any other pertinent information. Non-written complaints, or written complaints failing to include any information required by this provision, may not be investigated or prosecuted at the discretion of the PHA or ARC.

Complaints made to the PHA and/or ARC may be kept confidential.

Investigation of Complaints made to the PHA or ARC. Upon receipt of a complaint by the PHA or ARC, if additional information is needed, the complaint may be returned to the Complainant or may be investigated further by a Board or ARC designated individual or committee. The Board or ARC shall have sole discretion in appointing an individual or committee to investigate the matter.

Initial Warning Letter from the PHA or ARC. If a violation is found to exist, a warning letter may be sent to the Violator explaining the nature of the violation.

Continued Violation, After Initial Warning Letter from the PHA or ARC. If the alleged Violator does not come into compliance within the number of days identified in the first warning letter, this will be considered a second violation. A second letter may then be sent to the alleged Violator, and may provide notice and an opportunity for a hearing, explaining if a violation is found to exist, a notice of violation may be imposed and recorded pursuant to this policy. The letter may further state that the alleged Violator is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing within the number of days identified in the letter, or within 10 days of the date on the second violation letter.

Continued Violation, After Second Letter from the PHA or ARC. If the alleged Violator does not come into compliance within the number of days identified in the second letter, this will be considered a third violation. A third letter may then be sent to the alleged Violator, providing notice and an opportunity for a hearing, and explaining if a violation is found to exist, a notice of violation may be imposed and recorded pursuant to this policy. The letter may further state that the alleged Violator is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing within the number of days identified in the letter, or within 10 days of the date on the third violation letter.

Continued Violation, After Third Letter from the PHA or ARC. If the alleged Violator does not come into compliance within 10 days of the third letter, this will be considered a fourth violation. A fourth letter may then be sent to the alleged Violator, providing notice and an opportunity for a hearing, and explaining if a violation is found to exist, a notice of violation may be imposed and recorded pursuant to this policy. The letter may further state that the alleged Violator is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing within the number of days identified in the letter, or, within 10 days of the date on the fourth violation letter. The Violator will have the number of days identified in the letter to come into compliance. Notices of violation are filed with the Clerk and Recorder.

Notice of Hearing before the PHA or ARC. If a hearing is requested by the alleged Violator, the Board, committee or other person conducting such hearing as may be determined in the sole discretion of the Board, may serve a written notice of the hearing to all parties involved prior to the hearing date.

Hearings before the PHA or ARC. At the beginning of each hearing, the presiding officer, may introduce the case by describing the alleged violation and the procedure to be followed during the hearing. Each party or designated representative, may, but is not required to, make an opening statement, present evidence and testimony, present witnesses, and make a closing statement. The presiding officer may also impose such other rules of conduct as may be appropriate under the given circumstances. Neither the Complainant nor the alleged Violator is required to be in attendance at the hearing. The Board or ARC may base its decision solely on the matters set forth in the Complaint, results of the investigation and such other credible evidence as may be presented at the hearing. Unless otherwise determined by the Board or ARC, all hearings may be open to attendance by all Owners. After all testimony and other evidence has been presented at a hearing, the Board or ARC shall, within 40 days, or such longer period as the Board or ARC may set, render its written findings and decision. A decision, either a finding

for or against the Owner, may be by a majority of the Board members or ARC members present at the hearing. Failure to strictly follow the hearing procedures set forth above shall not be grounds for appeal of the hearing committee's decision, absent a showing of denial of due process.

Failure to Timely Request Hearing Before the PHA Members or ARC Members. If the alleged Violator fails to request a hearing within the number of days identified in the letter, or, within 10 days of a letter (if the time to request a hearing is not set forth in a letter to the Violator), or if a Violator fails to appear at the hearing, the Board or ARC may fine and make other decisions with respect to the alleged violation based on the Complaint, results of the investigation, and any other available information without the necessity of holding a formal hearing.

Notification of Decision of the PHA or ARC. The decision of the Board or ARC, committee or other person, may be in writing, may be provided to the Violator, and may also be provided to the Complainant, within 10 days, or a reasonable time after the decision.

Fines are not permitted by the PHA or ARC under these Policies.

Other Enforcement Means of the PHA or ARC. This enforcement policy and process is adopted in addition to all other enforcement means which are available to the PHA or ARC through its Declarations, Bylaws, Articles of Incorporation and Colorado law. The use of this process does not preclude the PHA or ARC from using any other enforcement means, including:

*Legal Action.* The PHA, at any time, may pursue legal action against an Owner to enforce the provisions of the Declarations, Bylaws, rules or resolutions without first following the preceding notice and hearing procedures, if the Board or ARC determines to pursue legal action, with or without a finding or determination by the Board or ARC that such action is in the PHA's or ARC's best interests.

*Alternative Dispute Resolution Procedures.* Alternative methods of dispute resolution to avoid litigation encouraged by the Board of Directors or ARC include negotiation and mediation. The PHA or ARC encourages Owners or residents with disputes to resolve such disputes without court proceedings. The PHA or ARC will take reasonable steps to facilitate negotiation or mediation between Owners and/or residents, but will have no responsibility for any costs incurred by the parties to the dispute resolution process. For any step in the dispute resolution process, the parties are not waiving their right to employ legal counsel at their own expense to assist them.

#### **4. POLICIES AND PROCEDURES ON DISPUTES BETWEEN OWNERS AND THE PHA OR ARC**

Required dispute resolution procedure for Owner disputes with the PHA or ARC. Prior to filing a lawsuit against the PHA or ARC, the PHA, the Board, or any officer, director, or PHA staff of the PHA or ARC, an Owner must:

1. Send a written demand on the matter desired to be included in their lawsuit or claim against the PHA or ARC to the PHA Business Office, and/or

2. The Owner may request and attend a hearing with the Board of Directors. Any such request for a hearing shall be in writing and shall be personally delivered to any member of the Board of Directors or the PHA's or ARC's staff.

The Owner, in such written demand or request for and attendance of a hearing, shall make a good faith effort to explain the grievance to the Board.

The Owners must allow the PHA or ARC the opportunity to resolve the dispute in an amicable fashion in not less than 60 days.

If the dispute is not resolved in 60 days, and the Owner has requested a hearing, the Board may give notice of the date, time and place of the hearing to the person requesting the hearing. The Board shall schedule this hearing for a date not less than 3 or more than 180 days from the date of receipt of the request. If the dispute cannot be resolved, the parties may utilize the discretionary mediation procedure set forth below, but shall not be required to do so.

Discretionary dispute resolution procedures. The procedures set forth below may be used in disputes between Owners and the PHA or ARC, and between Owners and other Owners or residents. At its discretion, the Board of Directors may utilize the procedures set forth below to resolve disputes with Owners prior to filing litigation.

*Negotiation.* A request for dispute resolution by negotiation may be initiated by an Owner or the PHA or ARC. Any such request shall be in writing stating the nature and details of the dispute and shall be personally delivered to the other party. So long as the other party agrees to negotiate, a meeting shall be held between the parties to begin a good faith attempt to negotiate a resolution not less than 60 days of receipt of such request, unless otherwise extended by written agreement,. Through negotiation, the parties will communicate directly with each other in an effort to reach an agreement that serves the interests of both parties. Should the dispute pertain to property issues, each party will be granted the right to inspect the alleged defects or problems at a time convenient to everyone involved.

*Mediation.* If the dispute is not resolved by negotiation, any party may request in writing that the issue be submitted to mediation. If the parties agree to mediate the dispute prior to seeking other remedies, they shall participate in good faith in the mediation. The role of the mediator is to facilitate further negotiation between the parties. The mediator will not have power to decide how to resolve the dispute but will use recognized, accepted mediation techniques to assist the parties in making that decision. The mediator shall be selected by a consensus of the parties involved within 15 days of the receipt of the request. Any cost of mediation will be shared equally among the parties unless they and the mediator agree otherwise.

## **5. POLICY ON RIGHTS AND RESPONSIBILITIES OF OWNERS**

*Each Owner has the rights* set forth in these policies and in the PHA documents of the Community. As a summary and restatement of those rights, and without modification of the rights provided for in these policies or in the PHA documents, owner rights are generally described as the right to the following:

1. Use of the property owned, subject to the covenants in the Declarations, and the operation and management of the PHA by Community leaders and management.
2. Use of common property, subject to the covenants in the Declarations and other PHA documents, and subject to the operation and management of the PHA by Community leaders and management.
3. An accountable, responsive, transparent and competent association.
4. Honest, fair and respectful treatment by Community leaders and PHA staff.
5. Participate in governing the PHA by attending meetings, serving on committees, voting (if current in dues) and standing for election.
6. Access appropriate PHA books and records.
7. Prudent expenditure of fees, dues and other revenue of the PHA by the PHA.
8. Allocated interest in PHA funds, not as a form of stock or membership, but as a part of the owner's property.
9. Live in a community where the property is maintained according to established standards.
  - a. Property values are protected and enhanced.
  - b. Quality of life and living is protected and enhanced.
  - c. Allocation of property maintenance, between owners and the PHA is understood.
10. Fair treatment regarding financial and other PHA obligations, including the opportunity to discuss payment plans and options with the PHA before foreclosure is initiated.
11. Receive all documents that address rules and regulations of the PHA, if not prior to purchase and closing, then upon joining the community or at any time while a member of the PHA.
12. Appeal to appropriate community leaders those decisions affecting non-routine financial responsibilities or property rights.
13. Maintain separate liability insurance, for accidents within the owner's property.

***Each Owner has the following responsibilities*** and is to comply with the following:

1. Ownership. Understand, generally, and when necessary, specifically, what Owners own.
2. Read and comply with the governing documents of the Community.
  - a. Pay PHA annual dues and proper charges of the PHA on time.

Owners should contact PHA Board Members and/or the PHA staff, if necessary, to discuss financial obligations and alternative payment arrangements.

- b. Comply with restrictive and affirmative covenants in the Declarations and rules of the PHA.
    - i. Maintain property according to established standards.
    - ii. Avoid violating restrictive covenants and rules.
  - c. Ensure that those who reside on the owner's property (e.g., tenants, relatives, and friends) adhere to applicable covenants and all rules and regulations.
3. Vote in Community elections and on other issues.
  4. Understand, at least generally, and when needed, specifically, the duties and responsibilities of the PHA, Board Members and the PHA staff.
  5. Understand the allocation of property maintenance, and shared responsibility, between owners and the PHA, so that property to be maintained by the owner is properly maintained.
  6. Run for, and if elected, serve, on the Board of Directors, and seek to further the best interests of the Community.
  7. Treat PHA leaders and PHA Business Office Staff honestly and with respect.
  8. Offer comments to the Board, the PHA, PHA Business Office and management in a civilized and business-like manner and without profanity, personal attacks or shouting.
    - a. Consider the best interests of the community before and when offering comments to the Board, the PHA, and management.
    - b. Offer comments which are relevant to the purpose of the Board, the PHA, and/or management.
  9. Use professional and business-like language and decorum, when interacting with the PHA.
  10. Avoid personal attacks against other Owners, residents, Board members, PHA staffs and service providers.

NOTE: Colorado law allows for personal protective orders, to seek to preserve the peace, and to avoid physical harm or injury to another person.
  11. Request reconsideration of material PHA decisions that adversely affect the Community or that adversely personally affect the Owner.

12. Provide current contact information to PHA leaders and PHA staffs to help ensure the Owner's receipt of information from the Community.
13. Maintain separate liability insurance, for accidents within the Owner's property and casualty insurance.
14. Avoid interference with contractors engaged by the PHA or while a contract is in progress. All communications with PHA contractors shall go through the Board President, the PHA staff, or be in accordance with policy.
15. Avoid harassing, threatening, or attempting through any means to control or instill fear in any other owner, Board Member, the PHA staff, or any agent of the PHA.

## **6. BOARD MEMBER CONFLICTS OF INTEREST**

General Duty. The Board of Directors shall use its best efforts at all times to make decisions that are consistent with high principles, and to protect and enhance the value of properties of the members and PHA. All Directors shall exercise their power and duties in good faith and in the best interest of, and with utmost loyalty to the PHA. All Directors shall comply with all lawful provisions of the Declarations and the PHA's Articles, Bylaws, and Rules and Regulations and applicable laws.

Definition of "conflict of interest." A conflict of interest exists whenever any contract, decision or other action taken by or on behalf of the Board would financially benefit: (i) a Director; (ii) a parent, grandparent, spouse, child, or sibling of the Director; (iii) a parent or spouse of any of the persons in subsection (ii); or (iv) an entity in which a Director is a director or officer or has a financial interest.

Disclosure of Conflict. Any conflict of interest on the part of any Director may be verbally disclosed to the other Directors in open session at the first open meeting of the Board of Directors at which the interested Director is present prior to any discussion or vote on the matter. After disclosure, the Director may participate in the discussion but may not vote on the matter, unless the transaction is fair to the PHA, as allowed by state statutes. The minutes of the meeting may reflect the disclosure made any abstention from voting, the composition of the quorum and record who voted for and against.

Code of Ethics. In addition to the above, each Director and the Board as a whole shall adhere to the following Code of Ethics:

- i. No Director shall use his/her position for private gain, including for the purpose of enhancement of his/her financial status through the use of certain contractors or suppliers.
- ii. No contributions will be made to any political parties or political candidates by the PHA.

- iii. No Director shall solicit or accept, directly or indirectly, any gifts, gratuity, favor, entertainment, loan or any other thing of monetary value from a person who is seeking to obtain contractual or other business or financial relations with the PHA.
- iv. No Director shall accept a gift or favor made with intent of influencing decision or action on any official matter.
- v. No Director shall receive any compensation from the PHA for acting as a volunteer.
- vi. No Director shall willingly misrepresent facts to the members of the community for the sole purpose of advancing a personal cause or influencing the community to place pressure on the Board to advance a personal cause.
- vii. No Director shall interfere with a contractor engaged by the PHA while a contract is in progress.
- viii. All communications with PHA contractors shall go through the PHA Business Office, the Board President or be in accordance with policy.
- ix. No Director shall harass, threaten, or attempt through any means to control or instill fear in any member, Director or agent of the PHA.
- x. No promise of anything not approved by the Board as a whole can be made by any Director to any subcontractor, supplier, or contractor during negotiations.
- xi. Any Director convicted of a felony shall voluntarily resign from his/her position.
- xii. No Director shall knowingly misrepresent any facts to anyone involved in anything with the community which would benefit himself/herself in any way.
- xiii. Language and decorum at Board meetings will be kept professional. Personal attacks against owners, residents, PHA staff, service providers and Directors are prohibited and are not consistent with the best interest of the community.

## **7. POLICY ON INSPECTION AND COPYING OF PHA RECORDS**

Permanent Records. The PHA shall permanently retain the following records as required by Colorado law:

- Minutes of all Board and Member meetings
- All actions taken by the Board or Members by written ballot or email in lieu of a meeting
- All actions taken by a committee on the behalf of the Board instead of the Board acting on behalf of the PHA
- All waivers of the notice requirements for Member meetings, Board member meetings, or committee meetings
- Detailed records of receipts and expenditures affecting the operation and administration of the Association

- Records of claims for construction defects and amounts received pursuant to settlement of those claims
- The names of Members in a form that permits preparation of a list of names and physical mailing addresses of all Members, showing the number of votes each Member is entitled to vote (“Membership list”)
- The current articles of incorporation, declaration, covenants, bylaws, rules and regulations, responsible governance policies, and any other policies adopted by the Board
- Financial statements, to the extent available, showing, in reasonable detail the Association’s assets and liabilities and results of its operations for the past three years;
- Tax returns for the past seven years, to the extent available
- A list of names, email addresses and physical mailing addresses of its current directors and officers
- Its most recent annual report delivered to the Secretary of State
- Financial records sufficiently detailed to enable the PHA to provide statements of unpaid assessments in accordance with the Colorado Common Interest Ownership Act
- The PHA’s most recent reserve study, if any
- Current written contracts to which the PHA is a party and written contracts for work performed for the PHA within the immediately preceding two years
- Records of Board or committee actions to approve or deny design or architectural approval requests from Members
- Ballots, proxies, and other records related to voting by Members for one year after the election, action, or vote to which they relate (provided that any identifying information on ballots may be redacted prior to inspection by an Owner)
- Resolutions adopted by the Board relating to the characteristics, qualifications, rights, limitations, and obligations of Members or any class of Members
- Written communications within the past three years to Members generally as Members, and
- A list of the current amounts of all unique and extraordinary fees, assessments, and expenses that are chargeable by PHA in connection with the purchase or sale of a lot and are not paid for through assessments, including transfer fees, record change fees, and the charge for a status letter or statement of assessments due.
- The following additional information as required by C.R.S. 38-33.3-209.4 as part of the Association’s annual disclosures:
  - ◇ A valid physical address and phone number for PHA
  - ◇ The name of the common interest community
  - ◇ The initial date of recording of the covenants for each filing
  - ◇ The reception numbers or book(s) and page(s) for each set of covenants
  - ◇ the date on which the fiscal year commences
  - ◇ the operating budget for the current fiscal year
  - ◇ a list, by unit type, of the Association’s current assessments
  - ◇ the annual financial statements, including any amounts held in reserve, for the fiscal year immediately preceding the current annual disclosure
  - ◇ the results of the most recent available financial audit or review, if any, and
  - ◇ a list of all Association insurance policies, including company names, policy limits, policy deductibles, additional named insureds, and expiration dates. The policies themselves will also be kept and made available

Inspection/Copying PHA Records. An Owner or his/her authorized agent is entitled to inspect and copy any of the books and records of the PHA, subject to the exclusions, conditions and requirements set forth below:

- i. The inspection and/or copying of the records of the PHA shall be at the Owner's expense.
- ii. The inspection and/or copying of the records of the PHA shall be conducted during regular business hours of operation, Monday through Friday, at the PHA's office.
- iii. The Owner shall give the PHA staff a written demand at least five business days before the date on which the Owner wishes to inspect and/or copy such records; and
- iv. The Owner shall complete and sign an Agreement Regarding Inspection of PHA Records prior to the inspection and copying of any PHA record. A copy of a form of agreement is attached to this policy. Failure to properly complete or sign an agreement in substantially the form attached shall be valid grounds for denying an Owner the right to inspect and/or copy any record of the PHA.
- v. The PHA reserves the right to have a third person present to observe during any inspection of record by an Owner or the Owner's representative.

Limitation on Use of Records and Membership List. PHA records, including membership lists, shall not be used by any Owner for:

- i. Any purpose unrelated to an Owner's interest as an Owner;
- ii. The purpose of soliciting money or property unless such money or property will be used solely to solicit the votes of the Owners in an election to be held by the PHA;
- iii. Any commercial purpose; or
- iv. For the purpose of giving, selling, or distributing such PHA records to any person.

Permissive Exclusions. Pursuant to Colorado law, the following records may be withheld from inspection and copying to the extent that such records are or concern:

- i. Architectural drawings, plans, and designs, unless the legal owner of the drawings, plans, or designs provides written consent to the release;
- ii. Contracts, leases, bids, or records related to transactions to purchase or provide goods or services that are still in or under negotiation;
- iii. Records of an executive session of the Board; and
- iv. Records related to an individual lot other than the member's.

Mandatory Exclusions/Confidential Information. The following records of the PHA shall NOT be available for inspection and/or copying as they are deemed confidential:

- i. Attorney-client privileged documents and records, unless the Board decides to disclose such communications at an open meeting or otherwise;
- ii. Any documents that are confidential under constitutional, statutory or judicially imposed requirements; and
- iii. Any documents, or information contained in such documents, disclosure of which would constitute an unwarranted invasion of individual privacy, including but not limited to social security numbers, dates of birth, personal bank account information, and driver's license numbers.

Fees/Costs. Any Owner requesting copies of PHA records shall be responsible for all actual costs incurred by the PHA, including the cost to search, retrieve, and copy the record(s) requested. Owners will also be responsible for mailing costs and special processing fees, if any. The PHA may require advance payment and/or a deposit equal to the anticipated actual cost of the requested records. Failure to pay such advance payment and/or deposit shall be valid grounds for denying Owner copies of such records. If after payment of the advance and/or deposit it is determined that the actual cost was more, Owner shall pay such amount prior to delivery of the copies, or, after written notice to and demand from the PHA. If after payment of the advance fee or deposit it is determined that the actual cost was less, the difference shall be returned to the Owner with the copies.

Original Records. No Owner shall remove any original book or record of the PHA from the place of inspection or from the records of the PHA. Nor Owner may alter, destroy or mark in any manner, any original book or record of the PHA.

Creation of Records. Nothing contained in these policies shall be construed to require the PHA to create records that do not exist or compile records in a particular format or order.

## **8. POLICY ON CONDUCT OF MEETINGS**

Member Meetings. Meetings of the Members of the PHA shall be called pursuant to the Bylaws of the PHA.

Notice of Member Meetings/Posting. In addition to any notice required in the Bylaws, notice of any meeting of the Members shall be conspicuously posted at the clubhouse prior to the meeting or at the front entry of the meeting place, at the time of the meeting.

Notice of Member Meetings/Website. The PHA shall also post notice of all meetings on its website (if any). Such notice shall be posted seven days or in a reasonable time prior to such member meeting.

Notice of Member Meetings/Email. If any Member has requested that the PHA provide notice via email and has provided the PHA with an email address, the PHA shall, if it has such capability, send notice of all Member meetings to such Member at the email address provided as

soon as possible after notice is provided pursuant to the Bylaws, but in no case less than 24 hours prior to any such meeting.

Conduct at Member Meetings. All Member meetings shall be subject to the following rules of conduct and order:

- The President of the PHA or designee shall chair all Member meetings.
- All Members and persons who attend a meeting of the Members will sign in, present any proxies and receive ballots as appropriate. (See section below regarding voting).
- Any person desiring to speak shall sign up on the list provided at check in (if any) and indicate if he/she is for or against an agenda item.
- Anyone wishing to speak must first be recognized by the President.
- Only one person may speak at a time.
- Each person who speaks shall first state his or her name and Lot or property address.
- Any person who is represented at the meeting by another person, as indicated by a written instrument, will be permitted to have such person speak for him/her.
- Those addressing the meeting shall be permitted to speak without interruption from anyone as long as these rules are followed.
- Comments are to be offered in a civilized manner and without profanity, personal attacks or shouting.
- Comments are to be relevant to the purpose of the meeting.
- Each person shall be given up to a maximum of three minutes to make a statement or to ask questions.
- The Board may decide whether or not to answer questions during the meeting. Each person may only speak once.
- Yielding of time by a speaker to another individual shall not be permitted.
- Time limits may be increased or decreased by the President, but shall be uniform for all persons addressing the meeting.
- All actions and/or decisions require a motion and a second.
- Once a vote has been taken, there will be no further discussion regarding that topic.
- So as to allow for and encourage full discussion by Members, no meeting may be audio, video or otherwise recorded.
- Minutes of actions taken shall be kept by the PHA.
- Anyone disrupting the meeting, as determined by the President, shall be asked to “come to order.”
- Anyone who does not come to order will be requested to immediately leave the meeting.
- The President may establish such additional rules of order as may be necessary from time to time.

Voting at Member Meetings. Election of Board members shall be conducted by secret ballot for contested elections (where more candidates are running than there are positions available). Where secret balloting is used, each Member entitled to vote pursuant to the Bylaws shall receive a ballot. The ballot shall contain no identifying information concerning the ballot holder. In the event an Member holds a proxy for another Member, upon presentation of such proxy to the Secretary of the PHA or the Secretary’s designee, the Member shall receive a secret ballot to cast

the vote of the Member who provided the proxy. The proxy shall be kept and retained by the PHA.

All other votes taken at a meeting of the Members shall be taken in such method as determined by the Board of Directors or President of the meeting, including acclamation, by hand, by voice or by ballot, unless otherwise required by law.

Written ballots shall be counted by a committee of volunteers of present Members, appointed by the President or volunteers at the meeting, excluding the PHA staff or legal candidates or Board members. The President may specify the procedure for selecting these volunteers.

The individual(s) counting the ballots shall report the results of the vote to the President by indicating how many votes were cast for each individual or how many votes were cast in favor and against any issue or candidate.

Proxies for/at Member Meetings. Proxies may be given by any Member as allowed by C.R.S. 7-127-203. All proxies shall be reviewed by the PHA's Secretary or designee as to the following:

- Validity of the signature
- Signatory's authority to sign for the Lot or property Owner
- Authority of the Lot or Owner to vote
- Conflicting proxies
- Expiration of the proxy

Board Meetings. Meetings of the Board of Directors of the PHA shall be called pursuant to the Bylaws of the PHA.

Conduct at Board Meetings. All Board meetings shall be subject to the following rules of conduct and order:

- The President of the PHA, or designee, shall chair all Board meetings.
- All persons who attend a meeting of the Board may be required to sign in, listing their name and Lot or property address.
- All Members will be given an opportunity to speak as to any matter or ask questions of the Board during the Member forum at the beginning of the meeting. Any Member wishing to speak during the Member forum is requested to so indicate so at the time of sign in.
- Anyone desiring to speak shall first be recognized by the President.
- Only one person may speak at a time.
- Each person speaking shall first state his or her name and Lot or property address.
- Any person who is represented at the meeting by another person as indicated by a written instrument shall be permitted to have such person speak for them.
- Those addressing the Board shall be permitted to speak without interruption from anyone as long as these rules are followed.

- Comments are to be offered in a civilized manner and without profanity, personal attacks or shouting. Comments are to be relevant to the purpose of the meeting or issue at hand.
- Each person shall be given up to a maximum of three minutes to speak or to ask questions, although questions may not be answered until a later date.
- Each person may only speak once during the owner forum and once on any other issue prior to a vote by the Board on such issue.
- Yielding of time by a speaker to another individual shall not be permitted. Such time limit may be increased or decreased by the President but shall be uniform for all persons addressing the meeting.
- No meeting of the Board may be audio, video or otherwise recorded except by the Board to aid in the preparation of minutes. Minutes of actions taken shall be kept by the PHA.
- Anyone disrupting the meeting, as determined by the Chair, shall be asked to “come to order.”
- Anyone who does not come to order shall be requested to immediately leave the meeting.

Member Input at Board Meetings. After a motion and second has been made on any matter to be discussed, but prior to a vote by the Directors, Members present at such time shall be afforded an opportunity to speak on the motion as follows:

The President will ask those Members present to indicate by a show of hands who wishes to speak in favor or against the motion. The President will then determine a reasonable number of persons who will be permitted to speak in favor of and against the motion and for how long each person will be permitted to speak. The President shall also announce the procedure for who shall be permitted to speak if not everyone desiring to speak will be permitted to speak.

Following Member input, the President will declare Member input closed and there shall be no further owner participation on the motion at hand unless a majority of the Board of Directors votes to open the discussion to further Member participation.

## **9. INVESTMENT OF RESERVES POLICY**

Scope. In order to properly maintain areas in the Community that are the responsibility of the PHA, to comply with state statutes, to manage reserve funds, protect market value of Members' homes and livability in the Community, the Board of Directors has determined that it is necessary to have policies and procedures for the investment of reserve funds.

Purpose of the Reserve Fund. The purpose of the Reserve Fund shall be to responsibly fund and finance the continuation of the PHA responsibilities in the face of unforeseen contingencies (such as severe weather or loss of income) the projected repair and replacement of those portions of the Community that the PHA is responsible for and for such other funding as the Board of Directors may determine. The portions of the Community that the PHA is responsible for typically have limited but reasonably predictable useful lives.

Investment of Reserves. The Board of Directors of the PHA may invest funds held in the Reserve Fund account to generate revenue that will accrue to the Reserve Fund account balance pursuant to the following goals, criteria and policies, listed in order of importance:

Safety of Principal. Promote and ensure the preservation of the Reserve Fund’s principal.

Liquidity and Accessibility. Structure maturities to ensure availability of assets for projected or unexpected expenditures.

Minimal Costs. Minimize investment costs (redemption fees, commissions, and other transactional costs).

Diversify. Mitigate the effects of interest rate volatility upon reserve assets.

Return. Invest funds to seek the highest level of return.

Limitation on Investments. All investments shall be FDIC (Federal Deposit Insurance Corporation) insured, guaranteed or AAA rated financial instruments by the United States Government.

Independent Professional Investment Assistance. The Board of Directors of the PHA may hire a qualified investment counselor to assist in formulating a specific investment strategy.

Review and Control. The Board may review Reserve Fund investments periodically to ensure that the funds are receiving competitive yields and may make prudent adjustments as needed.

Investment Decisions. Consistent with state law, investment decisions of the Board are to be made based on the standard of care outlined in the Colorado Revised Nonprofit Code. This standard of care require directors to act: in good faith; with the care an ordinarily prudent person in a like situation would exercise under similar circumstances; and in a manner the director or officer reasonably believes to be in the best interest of the PHA. In discharging their duties, directors and officers may rely on other people on matters that the directors or officers reasonably believe are within that person's professional or expert competence.

## **10. RESERVES STUDY AND FUNDING POLICY**

Reserve Study. In order to determine funding of the Reserve Fund, the Board of Directors may determine, with the assistance and advice of professionals, the life expectancy of those portions of the Community to be maintained by the PHA and the anticipated costs of maintaining, replacing and improving those identified areas (“Reserve Study”).

Review of Reserve Study. The Board of Directors may cause the Reserve Study, if any, and reserve funding to be reviewed and updated periodically, preferably once every three years to adjust and make changes in costs, inflation, and interest yield on invested funds, plus modification, addition or deletion of components.

Reserve Funding. Funding for replacement is planned and projected to be an Assessment of the Owner, as determined, periodically, by the Board or from the following sources:

- i. cash on hand;
- ii. annual assessments of Owners;
- iii. a loan, as may be obtained by the Association; and/or
- iv. any combination of the above

**11. ADOPTION AND AMENDMENT OF POLICIES, PROCEDURES, RULES, REGULATIONS OR GUIDELINES**

Scope of Policy and Rule making Authority of the Board. The Board of Directors of the PHA may, from time to time, adopt or amend certain policies as may be necessary to facilitate the efficient operation of the PHA, including the clarification of ambiguous provisions in other documents, or as may be required by law, except as to the collection polices, as set forth below.

Limitations on Board Scope and Authority on Certain Collection Policies of the PHA. The collection policies set forth above can only be changed by the PHA, with the same approval required to amend the Bylaws of the PHA.

Drafting Procedure. The Board may consider the following in drafting the policy:

- (i) Whether the PHA documents or Colorado law grants the Board the authority to adopt such a policy;
- (ii) The need for such policy based upon the scope and importance of the issue and whether the PHA documents adequately address the issue; and
- (iii) The immediate and long-term impact and implications of the policy.

Adoption Procedure. The Board may adopt any policy at anytime. Upon adoption of a policy, the policy or notice of such policy, including the effective date shall be provided to all Members by any reasonable method as determined in the sole discretion of the Board, including but not limited to posting on the PHA's website (if any) or mailing.

Policy Book. The Board of Directors may keep copies of any and all adopted policies in a book designated as a policy book. The Board of Directors may further categorize policies, Procedures, rules and regulations, resolutions and guidelines but shall not be required to do so.

**AGREEMENT REGARDING INSPECTION AND COPYING OF RECORDS OF THE  
PINERY HOMEOWNERS' ASSOCIATION, INC.**

Pursuant to state law and the Association's Records Inspection Policy, I hereby request **The Pinery Homeowners' Association** provide access to the records of the Association. I understand that upon receipt of this request, the Association will set an appointment with me during regular business hours.

1. The records that I wish to review are (attach a separate piece of paper if necessary):

- A. \_\_\_\_\_
- B. \_\_\_\_\_
- C. \_\_\_\_\_

I understand that under the terms of the Colorado Revised Nonprofit Corporation Act, Association records may not be obtained or used for any purpose unrelated to my interest(s) as an Owner. I further understand and agree that without limiting the generality of the foregoing, Association records may not be:

- (A) Used to solicit money or property unless such money or property will be used solely to solicit the votes of the Owners in an election held by the Association;
- (B) Used for any commercial purpose;
- (C) Sold to, otherwise distributed to, or purchased by any person;
- (D) Any other purpose prohibited by law; or
- (E) Any purpose not related to the reason specified in this Agreement.

In the event any document requested is used for an improper purpose or purpose other than that stated above, I will be responsible for any and all damages, penalties and costs incurred by the Association, including attorney fees resulting from such improper use. I will additionally be subject to any and all enforcement procedures available to the Association through its governing documents and Colorado law.

Understood and agreed to by:

\_\_\_\_\_ Date: \_\_\_\_\_  
Homeowner

\_\_\_\_\_ Date: \_\_\_\_\_  
Homeowner

\_\_\_\_\_  
Address  
\_\_\_\_\_