

**BEAVER CREEK RESORT COMPANY OF COLORADO  
STANDARD POLICIES AND PROCEDURES**

**Adopted June 27, 2024.**

The Colorado Common Interest Ownership Act (“**CCIOA**”), C.R.S. § 38-33.3-209.5, requires that associations adopt certain policies, procedures, and rules and regulations concerning the following for responsible governance:

(I) Collection of Unpaid Assessments;

(II) Handling of Conflicts of Interest involving Board Members;

(III) Conduct of Meetings;

(IV) Enforcement of Covenants and Rules, including Notice and Hearing Procedures and the Schedule of Fines;

(V) Inspection and Copying of BCRC Records by Owners;

(VI) Investment of Reserve Funds;

(VII) Procedures for the Adoption and Amendment of Policies, Procedures, and Rules;

(VIII) Procedures for Addressing Disputes arising between the BCRC and Owners; and

(IX) Reserve Requirements.

(collectively the “**Policies**”).

**WHEREAS**, the following policies and procedures have been duly adopted by the Beaver Creek Resort Company of Colorado (the “**BCRC**”) and shall supersede all previous policies.

**WHEREAS**, capitalized terms not identified herein shall have the meanings given in the BCRC’s Declaration, Bylaws, Articles, or other governing documents (the “**Governing Documents**”).

**I. Collection of Assessments**

A. *Due Dates.* All assessments (as defined in the Declaration, including but not limited to Civic Assessments), fees, deposits, fines, and penalties charged pursuant to the authority of the BCRC, and other charges levied by the BCRC against a property (collectively, “**Assessment**” or “**Assessments**”), as determined by the BCRC and as allowed for under the Governing Documents,

shall be due and payable in full on or before such date indicated in the invoice or other directions regarding payment to the Owner or applicable person/company by the BCRC.

B. *Past Due.* Assessment of other charges not paid in full to the BCRC on or before the due date shall be considered past due and delinquent. Assessment or other charges not paid in full to the BCRC when due shall incur interest and late charges as provided below.

C. *No Exemption.* No Owner may be exempt from liability for payment of any Assessment or other charge for any reason, including, but not limited to, the abandonment of the property against which the Assessment or charge is made.

D. *No Offset or Reduction.* All Assessments shall be payable in the amounts specified and no offsets or reduction shall be permitted for any reason including, without limitation, any claim that the BCRC or Board is not properly exercising its duties and powers under the Declaration.

E. *Receipt Date.* The BCRC shall post payments effective the day that the payment is received by the BCRC.

F. *Owner Contact Information.* All correspondence or notices required to be sent to an Owner shall comply with the following:

1. If an Owner has notified the BCRC in writing, which may be by electronic communication to the then-appointed association Operator or property management company if any, (“**Operator**”) for the BCRC that the Owner has designated contact, all correspondence or notices shall be delivered both to Owner and the designated contact. The owner shall use the form attached hereto as **Addendum B** to notify the BCRC of a designated contact.
2. If an Owner has notified the BCRC that the Owner prefers correspondence and notices in a language other than English, then the BCRC shall send such correspondence and notices in the language designated by the Owner. If a preference is not indicated, the BCRC shall send correspondence and notices in English. The Owner shall bear all reasonable expenses incurred by the BCRC in providing notices in a language other than English.
3. The Owner and the Owner’s designated contact will receive the same correspondence and notices anytime communications are sent; except that the Owner will receive the correspondence and notices in the language for which the Owner has indicated a preference, if any.
4. The BCRC’s obligation to provide notice and correspondence in a language other than English is expressly limited to Assessments, fines, fees, and violations of the Governing Documents.

D. *Owner Contact Requirements.*

1. After an installment of an Assessment or other amount owed to the BCRC becomes remains unpaid after its due date (i.e., becomes “**Delinquent**”) and before the BCRC takes any action (such as turning the delinquent account over to a collection agency or referring it to the BCRC’s attorney for legal action), the BCRC must (i) cause a “**Notice of Delinquency**” (defined below) to be sent to the Owner; and (ii) maintain a record of the Notice of Delinquency and also of any contacts, including information regarding the type of communication used to contact the Owner and the date and time that the contact was made.
2. Any contacts that an Operator makes on behalf of the BCRC is a contact made by the BCRC and shall not be considered a contact from a debt collector.
3. When contacting an Owner or a designated contact, the BCRC shall do the following:
  - a. Send the Notice of Delinquency by all the following means:
    - i. certified mail, return receipt requested;
    - ii. physically post a copy of the Notice of Delinquency at the Owner’s unit; and also by
    - iii. First-Class Mail at the property address unless the Owner has given notice, in writing, to the BCRC of an alternate address.
  - b. In addition, the BCRC may also contact the Owner by one of the following means:
    - i. Text message to a cellular number that the BCRC has on file if the Owner has provided the cellular number to the BCRC; or
    - ii. E-mail to an e-mail address that the BCRC has on file because the Owner has provided the e-mail address to the BCRC.

E. *Notice of Delinquency.* The “**Notice of Delinquency**” shall specify the following:

1. A description of the steps that the BCRC must take before it may take legal action against the Owner, including a description of the BCRC’s cure process for covenant violations as specified in its Policy Enforcement of Covenants and Rules, including Notice and Hearing Procedures and the Schedule of Fines;
2. A description of what legal actions the BCRC may take against the Owner, including a description of the types of matters the BCRC or Owner may take to small claims court, including injunctive matters for which the BCRC seeks an order requiring the Owner to comply with the Governing Documents;
3. the total amount due, with an accounting of how the total was determined;

4. whether the total amount due concerns unpaid Assessments; unpaid fines, fees or charges; or both;
5. whether the delinquency concerns unpaid Assessments that may lead to foreclosure;
6. whether the opportunity to enter into a payment plan exists and instructions for contacting the BCRC to enter into such a payment plan;
7. 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;
8. that action is required to cure the delinquency and the specific action required to cure the default; and
9. that failure to cure the delinquency within thirty (30) days may result in the delinquent account being turned over to a collection agency of the BCRC's attorney, 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.

The BCRC may send additional notices to the Owner, either before or after the Notice of Delinquency set forth herein, for as long as amounts remain past due on the Owner's account. However, the BCRC is only required to send one (1) Notice of Delinquency.

F. *Offer of Payment Plan.* In its Notice of Delinquency, as described in this Policy and subject to the following requirements and conditions, the BCRC shall offer a payment plan to any Owner and make a good faith effort to coordinate a payment plan with the Owner:

1. The payment plan must allow the Owner the right to pay off the delinquency in monthly installments over a period of up to eighteen (18) months.
2. The Owner may choose the amount to be paid each month of the payment plan, so long as each payment is an amount of at least twenty-five dollars (\$25.00) until the balance of the amount owed is less than twenty-five dollars (\$25.00).
3. An Owner who has entered into a payment plan may elect to pay the remaining balance owed under the payment plan at any time during the duration of the payment plan.
4. No payment plan need be offered if the Owner does not occupy the property and acquired the property as a result of:

- a. A default of a security interest encumbering the property; or
  - b. Foreclosure of the BCRC's lien.
5. The BCRC is not required to offer a payment plan or negotiate such a plan with an Owner who has previously entered into a payment plan with the BCRC.
  6. The Owner's failure to remit payment of at least three (3) monthly installments of an agreed-upon installment within fifteen (15) days of the due date, or to remain current with regular Assessments as they come due during the period of the payment plan, constitutes a failure to comply with the terms of the payment plan.
  7. The BCRC may pursue legal action if the Owner fails to comply with the terms of the payment plan.
  8. The Owner shall sign a document describing the payment plan and the effective date of the first payment.
  9. If an Owner has failed to enter into a payment plan with the BCRC within thirty (30) days after the BCRC has provided the Owner with a written offer, the Owner is deemed to have declined the payment plan.

G. *Foreclosures.* The BCRC may initiate a foreclosure proceeding based on an Owner's delinquency in paying assessments when:

1. The balance of the Assessment and charges secured by the lien equals or exceeds six (6) months' worth of regular Assessments based on the periodic budget adopted by the BCRC;
2. The Board of Directors has formally resolved, by a recorded vote, to authorize the filing of a legal action against the specific property on an individual basis;
3. The lien does not consist only of fines that the BCRC has assessed against the Owner, and/or collection costs or attorneys' fees that the BCRC has incurred and that are only associated with fines; and
4. The Owner has not accepted a payment plan, is deemed to have declined the payment plan, or such other circumstances exists as described in this Policy.

**If a property is being foreclosed, a member of the Board, an employee of the Operator, an employee of a law firm representing the BCRC or an immediate family member of the same shall not purchase the foreclosed property.**

H. *Late Payments of Assessments and Other Charges.* The BCRC shall be entitled to impose a monthly late fee of twenty-five dollars (\$25.00) on any Assessment or other charge not paid by the due date. Additionally, any installment of the annual assessment shall be past due and delinquent if not paid by the 15<sup>th</sup> day of the month in which it is due. All such fees and interest shall be due and payable immediately, without notice, in the manner provided for payment of Assessments.

I. *Interest.* Delinquent assessments, fines, or other charges due the BCRC shall bear interest at the rate of eight percent (8%) per annum from the due date until paid.

J. *Return Check Charges.* The BCRC shall assess the actual fees charged to the BCRC by a bank 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, provided that:

1. Such return check charge shall be considered an assessment due and payable immediately, upon demand, and shall be in addition to interest incurred by an Owner.
2. Any returned check shall cause an account to be past due if full payment of the installments is not made within 15 days of the due date.
3. Notwithstanding this provision, the BCRC shall be entitled to all additional remedies as may be provided by applicable law.
4. Returned check charges shall be effective on any payment of sums due under the Governing Documents.
5. If two or more of an Owner's checks are returned unpaid by the bank within any (fiscal) year, the BCRC may require that all the Owner's future payments, for a period of one (1) year, be made by certified check or money order.

K. *Application of Payments.* All payments received on account of any Owner shall first be applied to the assessment owed and any remaining amount shall apply to the payment of fines, fees, or other charges owed.

L. *Restrictive Endorsement.* The BCRC has the right to return any payment containing a restrictive endorsement or directing application of payments contrary to this provision.

M. *Liens.* The BCRC may file a Notice of Lien against the property of any delinquent Owner in accordance with the terms and provisions of the Governing Documents and C.R.S. § 38-33.3-316(1).

N. *Referral of Delinquent Accounts.* After the deadline stated in the Notice of Delinquency has expired, the BCRC may, but shall not be required to, refer the delinquent account to its attorney or a collection agency for collection. An account may only be referred to an attorney or a collection agency if a majority of the Board of Directors votes to refer the matter in a recorded vote at a meeting conducted pursuant to C.R.S. § 38-33.3-308(4)(e). Upon referral to the attorney, the attorney shall take all appropriate action to collect the accounts referred. After an account has been referred to any attorney, the account shall remain with the attorney until the account is settled, has a zero balance or is written off. All payment plans involving accounts referred to an attorney for collection shall be set up and monitored through the attorney. After consultation with the Board of Directors or the BCRC's managing agent, the attorney shall be entitled to exercise all available remedies to collect the amounts due, including judicial foreclosure and *ex parte* appointment of a receiver for the Owner's property.

O. *Limitations on BCRC.* The BCRC shall not:

1. Charge a rate of interest on unpaid assessments, fines, or fees in an amount greater than 8% per year.
2. Assess a fee or other charge to recover costs incurred for providing the Owner a statement of the total amount that the Owner owes.
3. Foreclose on an assessment lien if the debt securing the lien consist only of one or both of the following:
  - a. fines that the BCRC has assessed against the property Owner; or
  - b. collection costs or attorney fees that the BCRC has incurred and that are only associated with assessed fines.

P. *Attorneys' Fees and Collection Costs on Delinquent Accounts.* The BCRC is entitled to recover its reasonable attorneys' fees and collection costs, including any costs of collection charged by the BCRC's management company, incurred in the collection of Assessments or other charges due, regardless of whether a lawsuit has been initiated against the Owner. The BCRC shall be entitled to recover its post-judgment and appellate attorneys' fees and costs incurred from an Owner.

Q. *Notice of Past Due Amounts.* On a monthly basis and by first class mail, and if the BCRC has the relevant e-mail address, by email, the BCRC shall send to each Owner who has any outstanding balance owed to the BCRC an itemized list of all assessments, fines, fees, and charges that the Owner owes to the BCRC.

R. *Other Remedies.* Each of the following may be exercised collectively and in any order the BCRC may choose and are not considered legal action and do not require adherence to the above policy that are conditions precedent to legal action. The BCRC may elect to suspend the voting rights of any Owner whose account is past due at the time of such voting. Further, and to the extent not prohibited by the Governing Documents or applicable law, the BCRC may as to any Owner whose account is past due suspend any other rights of such Owner, suspend BCRC services

other than utilities (snowplowing and security are not considered to be utilities, prohibit use of BCRC amenities or common areas (except common areas that provide access to the property), refuse to consider or suspend consideration of any pending architectural applications or requests for variances.

S. *Small Claims Court*. A party seeking to enforce rights and responsibilities arising under the Governing Documents in relation to disputes arising from assessments, fines, or fees owed to the BCRC and for which the amount at issue does not exceed \$7,500, exclusive of interest and costs, may file in small claims court.

## **II. Board Members' Conflicts of Interest**

### **A. DEFINITIONS**

1. "Conflicting interest transaction" means a contract, transaction, or other financial relationship between the BCRC and a Director, or between the BCRC and a party related to a Director, or between the BCRC and an entity in which a Director of the BCRC is a director or officer or has a financial interest.

2. "Director" or "Board Member" means a member of the BCRC's Board of Directors.

3. "Party related to a Director" means a spouse, a descendant, an ancestor, a sibling, the spouse or descendant of a sibling, an estate or trust in which the Director or a party related to a Director has a beneficial interest, or an entity in which a party related to a Director is a director or officer or has a financial interest.

### **B. POLICY**

1. Loans. No loans shall be made by the BCRC to its Directors or officers. Any Director or officer who assents to or participates in the making of any such loan shall be liable to the BCRC for the amount of the loan until it is repaid.

2. If any contract, decision, or other action taken by or on behalf of the Board would financially benefit any Director or Party related to a Director, then, in advance of entering into that contract, making the decision or taking the action, that interested Board Member shall declare at an open meeting of the Board, that a conflict of interest exists and shall describe in detail all of the particular facts of the conflict of interest.

3. After the interested Board Member makes such a declaration, the interested Board Member may participate in a discussion of the matter giving rise to the conflict of interest. However, the interested Board member may not vote on the issue giving rise to the conflict of interest.



4. Interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or of a committee that authorizes, approves or ratifies the conflicting interest transaction.

5. The conflicting interest transaction may not be void or voidable by an Owner or the BCRC if:

i. The facts about the conflicting interest transaction are disclosed to the Board, and a majority of the disinterested Directors, even if less than a quorum, in good faith approves the conflicting interest transaction;

ii. The facts about the conflicting interest transaction are disclosed to the Owners entitled to vote on the matter, and the conflicting interest transaction is authorized in good faith by a vote of the Owners entitled to vote on the matter; or

iii. The conflicting interest transaction is fair to the BCRC.

### **III. Conduct of Meetings**

A. *Member Meetings.* All meetings of the BCRC are open to every Member, or to any person designated by a Member in writing as the Member's representative, and Members or designated representatives so desiring shall be permitted to attend, listen, and speak at an appropriate time during the deliberations and proceedings. Notice shall be as provided in the Bylaws.

1. Agendas will be set by the Board and/or as provided for in the Bylaws.
2. All Owners and persons who attend a meeting of Owners will sign in, present any proxies and receive ballots as appropriate.
3. Anyone wishing to speak must first be recognized by the Chair.
4. Any person desiring to speak at a meeting may be permitted to speak during Public Comment on any matter including agenda items. The Chair shall allow Public Comment that does not pertain to an agenda item to occur at the beginning of the meeting. For comments on an agenda item, the BOD Chair will call for Public Comment three (3) minutes prior to commencement of discussion on that agenda item. All persons shall be given up to a maximum of (3) minutes to speak or ask questions during Public Comment, although questions may not be answered until a later date. Each person may only speak once. Yielding of time by a speaker to another individual shall not be permitted. Such time limit may be increased or decreased by the Chair but shall be uniform for all persons addressing the meeting.
5. Only one person may speak at a time.
6. 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.
7. Those addressing the meeting shall be permitted to speak without interruption from anyone as long as these rules are followed.

8. 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.
9. All actions/decisions will require a first and a second motion from a Board member.
10. Once a vote has been taken, there will be no further discussion regarding that topic.
11. Anyone disrupting the meeting or making comments in an uncivilized manner, as determined by the Chair in the Chair's sole discretion, shall be asked to "**come to order.**" Anyone who does not come to order will be requested to immediately leave the meeting.
12. The Chair may establish such additional rules of order as may be necessary from time to time.

B. *Executive Board Meetings.* All meetings of the Board are open to every Member, or to any person designated by a Member in writing as the Member's representative. Nothing herein shall prevent the members of the Board from conferring with one another outside of a Board meeting in furtherance of their duties on the Board. Also, nothing herein shall prevent the members of the Board from taking action without a meeting as authorized in the Bylaws. At an appropriate time determined by the Board, but before the Board votes on an issue under discussion, Members or their designated representatives shall be permitted to speak regarding the issue, provided that:

1. Agendas will be set by the Board and/or as provided for in the Bylaws.
2. All Owners and persons who attend a meeting of Owners will sign in, present any proxies and receive ballots as appropriate.
3. Anyone wishing to speak must first be recognized by the Chair.
4. Any person desiring to speak at a meeting may be permitted to speak during Public Comment on any matter including agenda items. The Chair shall allow Public Comment that does not pertain to an agenda item to occur at the beginning of the meeting. For comments on an agenda item, the BOD Chair will call for Public Comment three (3) minutes prior to commencement of discussion on that agenda item. All persons shall be given up to a maximum of (3) minutes to speak or ask questions during Public Comment, although questions may not be answered until a later date. Each person may only speak once. Yielding of time by a speaker to another individual shall not be permitted. Such time limit may be increased or decreased by the Chair but shall be uniform for all persons addressing the meeting.
5. Only one person may speak at a time.
6. 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.
7. Those addressing the meeting shall be permitted to speak without interruption from anyone as long as these rules are followed.
8. 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.
9. All actions/decisions will require a first and a second motion from a Board member.
10. Once a vote has been taken, there will be no further discussion regarding that topic.

11. Anyone disrupting the meeting or making comments in an uncivilized manner, as determined by the Chair in the Chair's sole discretion, shall be asked to "**come to order.**" Anyone who does not come to order will be requested to immediately leave the meeting.
12. The Chair may establish such additional rules of order as may be necessary from time to time.

C. *Executive Session of Board.* Notwithstanding the foregoing, the Board or a committee thereof may hold an executive or closed-door session and may restrict attendance to Board Members and other persons specified by the Board, such as the Operator and/or the attorney for the BCRC. Matters for discussion by an executive or closed session are limited to:

1. Matters pertaining to employees of the association or the managing agent's contract or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the association;
2. Consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or matters that are privileged or confidential between attorney and client;
3. Investigative proceedings concerning possible or actual criminal misconduct;
4. Matters subject to specific constitutional, statutory, or judicially imposed requirements protecting particular proceedings or matters from public disclosure;
5. Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy, including a disciplinary hearing regarding an Owner and any referral of delinquency; except that an owner who is the subject of a disciplinary hearing or referral of delinquency may request and receive the results of any vote taken at the relevant meeting;
6. Review of or discussion relating to any written or oral communication from legal counsel; or
7. Discussions related to delinquent accounts and the actions to be taken related to such delinquent accounts.

Prior to the time the members of the Board convene in executive session, the President or acting chair shall announce the general matter of discussion as enumerated in paragraphs (1) to (6) above. No rule or regulation of the Board shall be adopted during an executive session.

D. *Recording of Meetings.* Note taking is permitted, however, video or audio recording of all or any portion of any meeting by Members is prohibited, except by the BOD Secretary for recordkeeping and validating the accuracy of the Minutes and action taken.

E. *Member Conduct.*

1. No Member is entitled to speak until recognized by the chair.
2. There shall be no interruption of anyone who has been recognized by the chair, except by the chair.
3. Specific time limits set for speakers shall be strictly observed.
4. Personal attacks, whether physical or verbal, and offensive language will not be tolerated.
5. All comments are to be directed to the chair and not other individual participants.
6. All comments are to be restricted to the agenda item being discussed.

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

#### **IV. Enforcement of Covenants and Rules**

A. *Initial Warning Letter.* If the Board finds an Owner has committed a violation of any provisions of the Governing Documents, an initial warning letter shall be sent to the violator explaining the nature of the violation. The violator will be given a reasonable amount of time to comply based on the nature and severity of the violation, as determined in the sole discretion of the Board of Directors. Once such reasonable amount of time has lapsed, the BCRC may issue a "**Notice of Violation**" as described below.

B. *Notice of Violation.* All notices provided shall be provided in accordance with the provisions set forth in the Collection of Unpaid Assessment policy above. Notice to the BCRC shall be sent by personal delivery or U.S. Mail, postage prepaid, addressed to the BCRC in care of its registered agent and office, as maintained with the Colorado Secretary of State or such other address as the parties may be advised of in writing.

C. *Violations.*

1. Violations Affecting Public Safety or Health

- a. If there is a violation of the Governing Documents that the BCRC reasonably determines threatens the public safety or health, the BCRC (or such other entity that is authorized by the BCRC) shall provide the

Owner with written notice of the violation informing the Owner that the Owner has 72 hours to cure. The written Notice of Violation shall:

- i. State with reasonable detail the circumstances of the claimed violation as known by the BCRC;
  - ii. State the action or actions required to cure the alleged violation;
  - iii. State the interval upon which fines may be levied for the violation;
  - iv. Inform the Owner that the Owner shall have seventy-two (72) hours to cure the violation before the BCRC may pursue fines; and
  - v. Provide the Owner an opportunity for a hearing before the Board to refute the complaint as provided below. However, such a hearing does not preclude or present the BCRC from entering the property to conduct necessary measures to inspect the property or abate the violation(s).
- b. After the seventy-two (72) hour notice period expires, the BCRC may, to the extent permitted under the Governing Documents and/or the law, inspect the property or area where the violation is alleged to have taken place to determine whether a violation has occurred.
- c. If after an inspection of the property, the BCRC determines that the Owner has not cured the violation within 72 hours after receiving the notice, the BCRC may impose fines on the Owner every other day and may take legal action against the Owner for the violation.
- d. The BCRC shall not pursue foreclosure against the Owner based on fines owed.

## 2. Other Violations of the Governing Documents

- a. If the BCRC reasonably determines that an Owner committed a violation of the Governing Documents, other than a violation that threatens the public safety or health, then the BCRC (or such other entity as authorized by the BCRC) shall provide the Owner with written notice of the violation. The written Notice of Violation shall:
- i. State with reasonable detail the circumstances of the claimed violation as known by the BCRC;
  - ii. State the action or actions required to cure the alleged violation;

- iii. State the interval upon which fines may be levied for the violation;
  - iv. Provide the Owner with an opportunity for a hearing before the Board to refute the complaint as provided below.
  - v. Inform the Owner that the Owner has an initial thirty (30) days period in which to cure the violation or the BCRC may, after conducting an inspection and determining that the Owner has not cured the violation, fine the Owner, and
  - vi. Inform the Owner that the BCRC may continue to fine and also pursue legal action against the Owner if the violation remains uncured after a second thirty (30) day period and inspection by the BCRC.
- b. Fines imposed for violations may not exceed \$500.00.
  - c. The BCRC shall not pursue foreclosure against the Owner for based on fines owed for violations of the Governing Documents.

3. Cure.

- a. If the Owner cures the violation within the period to cure referenced above, the Owner may notify the BCRC of the cure and, if the Owner also provides visual evidence that the violation has been cured, the violation is deemed cured on the date that the Owner sends the notice. If the Owner's notice does not include visual evidence that the violation has been cured, the BCRC shall inspect the property as soon as possible to determine if the violation has been cured.
- b. If the BCRC does not receive notice from the Owner that the violation has been cured, the BCRC shall inspect the property within 7 days after the expiration of the 30-day cure period to determine if the violation has been cured. If after the inspection and whether or not the BCRC received notice from the Owner that the violation was cured, the BCRC determines that the violation has not been cured:
  - i. a second 30-day period to cure commences if only one 30-day period to cure has elapsed; then
  - ii. the BCRC may take legal action pursuant to this section if two 30-day periods to cure have elapsed
- c. Once the Owner cures a violation, the BCRC shall notify the Owner in writing that:
  - i. the Owner will not be further fined with regard to the violation; and

- ii. of any outstanding fine balance that the Owner still owes the BCRC

D. *Fines.*

1. The BCRC may not fine any Owner for an alleged violation unless:
  - a. the BCRC has adopted, and follows, a written policy governing the imposition of fines;
  - b. the policy requires notice regarding the nature of the alleged violation, the action or actions required to cure the alleged violation, and the timeline for the fair and impartial fact-finding process;
  - c. specifies the intervals upon which the fines may be levied (i.e. for violations that are continuing in nature).
2. Any infraction of any covenant, rule or regulation, which has **not** been determined by the BCRC to be a public safety or health violation, and in which a fine is not already specifically stated will result in the following fines:

First violation:	Warning letter
Second violation (of same covenant or rule):	\$200.00
Third violation (of same covenant or rule):	\$300.00

The maximum fine for violations of the same covenant or rule are capped at \$500.00.

E. *Request for Hearing.* In the event any Owner desires to attend a hearing or Board meeting to challenge or contest any alleged violation and possible fine, said Owner must, within 14 days from receipt of the Notice of Violation, request such hearing by notifying the BCRC, in writing, of such hearing request. In the event a proper and timely request for a hearing is not made as provided herein, the right to a hearing shall be deemed forever waived. If a hearing is not requested within the aforementioned 14-day period, the Board shall determine if there was a violation, and if so, may continue to assess a reasonable fine within the guidelines contained in these Rules, all within 60 days of the expiration of the aforementioned 14-day period. The fine assessment is due and payable immediately upon receipt of notice of the said assessment. The BCRC's managing agent shall give notice of said assessment to the applicable Owner as provided in these Policies and Procedures. In requesting a hearing before the BCRC, an Owner shall state and describe the grounds and basis for challenging or denying the alleged violation as well as such other information the Owner deems pertinent.

F. *Discovery.* Upon written request to the BCRC, not later than ten days prior to the date of hearing, the Owner shall be entitled to: (a) obtain the names and addresses of witnesses, to the

extent known to the BCRC, and (b) inspect and make copies of any statements, writings and investigative reports relative to the case contained in the BCRC's records. Nothing in this section shall, however, authorize the inspection or copying of any writing or other thing which is privileged from disclosure by law or otherwise made confidential or protected, such as attorney work product.

G. *Board to Conduct Hearing.* The Board shall hear and decide cases set for hearing pursuant to these Policies and Procedures. The Board may appoint an officer or other Owner to act as the presiding officer (the "Presiding Officer") at any of the hearings.

H. *Conflicts.* It shall be incumbent upon each Board member to decide as to whether s/he is able to function in a disinterested and objective manner in consideration on each hearing before the Board. Any Board member incapable of objective and disinterested consideration on any hearing before the BCRC shall disclose such to the President of the BCRC prior to the hearing on the case, if possible, or, if advance notice is not possible, then such disclosure shall be made at the hearing, and said Board member shall be disqualified from all proceedings with regard to the hearing. If disqualification of any Board member(s) results in an even number of remaining Board members eligible to hear a case, the Presiding Officer shall appoint an BCRC member, in good standing, to serve in a disinterested and objective manner as a voting member of the hearing board.

I. *Hearing.* Each hearing shall be held at the scheduled time, place and date, provided that the Presiding Officer may grant continuances for good cause. At the beginning of each hearing, the Presiding Officer shall explain the rules, procedures and guidelines by which the hearing shall be conducted and shall introduce the case before the Board by Reading the notice of hearing. The general procedure for hearing shall consist of opening statements by each party; presentation of testimony and evidence, including cross-examination of witnesses by each party; and closing statements by each party. Notwithstanding the foregoing, the Board may exercise its discretion as to the specific manner in which a hearing shall be conducted and shall be authorized to question witnesses, review evidence and take such other reasonable action during the course of the hearing which it may deem appropriate or desirable to permit the Board to reach a just decision in the case. Rules of law regarding trials and presentation of evidence and witnesses shall be applicable to the hearing; provided that any relevant evidence should be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the course of serious affairs. The decision of the Board at each hearing shall be based on the matters set forth in the notice of hearing, request for hearing and such evidence as may be presented at the hearing. Unless otherwise determined by the Board of Directors, all hearings shall be open to attendance by all members of the BCRC.

J. *Decision.* After all testimony and other evidence have been presented to the Board at a hearing, the Board shall render its decision thereon within ten (10) days after the hearing. A decision, either a finding for or against the Owner, shall be by a majority of the Board. The Board shall issue written findings of fact and conclusions, and, if applicable, shall impose a reasonable fine as provided in the BCRC's Rules. The Board may also issue and present for recording with the Clerk and Recorder of the County, a notice of finding of violation. Upon satisfactory



compliance with the BCRC's governing documents, the notice may be released by the BCRC issuing and recording a release of notice of findings of violations.

K. *Additional Penalties.* The BCRC is authorized to assess additional penalties as may be further defined in rules and/or regulations adopted by the BCRC.

L. *Enforcement and Attorney's Fees.* In accordance with the Declaration, Bylaws and Rules, it is hereby declared to be the intention of the BCRC to enforce the provisions by of the Documents by any and all means available to the BCRC at law or in equity, and to seek recovery and reimbursement of all attorney's fees, BCRC expenses and costs incurred by the BCRC in connection therewith.

## V. Inspection and Copying of Records

The BCRC will maintain, retain and produce BCRC records in accordance with the procedures and requirements set forth in the Colorado Not-for-Profit Corporation Act, Colorado Common Ownership Interest Act and BCRC's governing documents, including the declaration, articles of incorporation, bylaws and this policy. The following policy conforms with C.R.S. §§ 38-33.3-209.4, 209.5 and 317, and shall apply to the inspection and copying of the BCRC's records:

1. All BCRC records must be maintained in a form that allows conversion into written form in a reasonable time.
2. The following records **will be maintained** at the BCRC's principal office and shall be considered the sole records of the BCRC for purposes of document retention and production to owners:
  - a. Detailed records or receipts and expenditures affecting the operation and administration of the BCRC;
  - b. Records of claims for construction defects and amounts received pursuant to settlement of those claims;
  - c. Minutes of all meetings of the owners and the Board, a record of all actions taken by the owners and the Board without a meeting, and a record of all actions taken by any committee of the Board;
  - d. Written communications among, and votes cast by the Board that are: (i) directly related to an action taken by the Board without a meeting pursuant to C.R.S. § 7-128-202; or (ii) directly related to an action taken by the Board without a meeting pursuant to the BCRC's bylaws;

- e. The names of owners in a form that permits preparation of a list of names of all owners and the physical mailing addresses at which the BCRC communicates with them, showing the number of votes each owner is entitled to vote;
  - f. The BCRC's current declaration, covenants, bylaws, articles of incorporation, rules and regulations, responsible governance policies adopted pursuant to C.R.S. § 38-33.3-209.5, and other policies adopted by the Board;
  - g. Financial statements as described as in C.R.S. § 7-136-106 for the past three years and tax returns of the BCRC for the past seven years, to the extent available;
  - h. A list of the names, email addresses and physical mailing addresses of the current Board members and officers;
  - i. The BCRC's most recent annual report (if any) delivered to the Secretary of State;
  - j. Financial records sufficiently detailed to enable the BCRC to comply with C.R.S. § 38-33.3-316(8) concerning statements of unpaid assessments, to be sent by certified mail, return receipt requested, so they are received by the requesting party within fourteen days of the BCRC's receipt of request;
  - k. The BCRC's most current reserve study (if any);
  - l. Current written contracts to which the BCRC is a party and contracts for work performed for the BCRC within the immediately preceding two years;
  - m. Records of Board or Committee actions to approve or deny any requests for design or architectural approval from owners;
  - n. Ballots, proxies and other records related to voting by owners for one year after the election, action or vote to which they relate;
  - o. Resolutions adopted by its Board relating to the characteristics, qualifications, limitations, and obligations of members of any class or category of members; and
  - p. All written communications within the past three years to all owners generally as owners.
3. An owner or owner's authorized agent may inspect and copy BCRC 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 BCRC's "Request to Inspect Records" form is attached to and made a part of this Policy. The BCRC may not condition the production of records upon the statement of a proper purpose.

4. Notwithstanding Paragraph 3 above, a membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to an owner's interest as an owner without the consent of the Board. Without limiting the generality of this Paragraph 4, without the consent of the Board, a membership list or any part thereof may not be:
  - a. Used to solicit money or property unless such money or property will be used solely to solicit the votes of owners in an election to be held by the BCRC;
  - b. Used for any commercial purpose; or
  - c. Sold to or purchased by any person.
5. Records maintained by the BCRC **may be withheld** from inspection and copying to the extent that they are or concern:
  - a. Architectural drawings, plans, and designs, unless released upon the written consent of the legal owners of the drawings, plans, or designs;
  - b. Contracts, leases, bids or records related to transactions to purchase or provide goods or services that are currently in or under negotiations;
  - c. Communications with legal counsel that are otherwise protected by attorney-client privilege or the attorney work product doctrine;
  - d. Disclosure of information in violation of law;
  - e. Records of an executive session of the Board; or
  - f. Records relating to or concerning individual units other than those of the requesting owner.
6. Records maintained by the BCRC are not subject to inspection and copying, and **must be withheld**, to the extent that they are or concern:
  - a. Personnel, salary, or medical records relating to specific individuals; and

- b. Personal identification and account information of members, including bank account information, telephone numbers, email addresses, driver's license numbers, and social security numbers.
7. The BCRC will impose a reasonable charge, which may be collected in advance and will cover costs of labor and material, for copies of BCRC records. The charge may not exceed the estimated cost of production and reproduction of the records.
8. 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.
9. The BCRC is not obligated to compile or synthesize information.
10. BCRC records and the information contained within those records shall not be used for commercial purposes.
11. Upon request, the selling unit owner shall either provide to the buyer or authorize the BCRC to provide to the buyer, upon payment of the BCRC's usual fee pursuant to Paragraph 7 above, all the common interest community's governing documents and financial documents, as listed in the most recent version of the contract to buy and sell real estate promulgated by the real estate commission as of the date of the contract.
12. Audits or reviews of the books and records of the BCRC shall be done at the discretion of the Board or upon owner request as follows:
  - a. An audit is required only if the BCRC has annual revenues or expenditures of at least \$250,000 and owners of at least one-third of the units represented by the BCRC request in writing an audit.
  - b. A review is required only when requested in writing by the owners of at least one-third of the units represented by the BCRC.
  - c. Copies of audits or reviews shall be available on request to any owner within thirty days after completion.
13. Within ninety days after the change or any of the following, the BCRC will give written notice to the owners of the following items by first class mail, personal delivery, a binder at the principal place of business, or posting on the BCRC's website:
  - a. Name of the BCRC and the common interest community;

- b. Name and address of the management company, if any;
  - c. Physical address and phone number for the BCRC and the designated agent or management company; and
  - d. Date of recording of the Declaration and recording information.
14. Within ninety days after the end of each fiscal year, the BCRC will make the following information available to owners by first class mail, personal delivery, a binder at the principal place of business, or posting on the BCRC's website:
- a. Date the BCRC's fiscal year begins;
  - b. Operating budget for the current year;
  - c. List of current regular and special assessments, by unit type;
  - d. Annual financial statements, including reserves, if any;
  - e. Results of most recent audit or review;
  - f. List of all the BCRC insurance policies (property, general liability, director and officer liability, fidelity), including companies, policy limits and deductibles, additional insureds, and expiration dates;
  - g. The BCRC bylaws, articles and rules and regulations;
  - h. Minutes of the Board and member meetings for the prior fiscal year; and
  - i. The BCRC's "Responsible Governance Policies."

## **VI. Standard of Care for Directors Investing Reserve Funds.**

A. Directors and officers must meet the standards of care outlined in the Colorado Revised Nonprofit Code when investing association reserve funds. The standards require directors and officers to act:

- (1) in good faith;
- (2) with the care an ordinarily prudent person in a like situation would exercise under similar circumstances; and
- (3) in a manner the director or officer reasonably believes to be in the best interest of the association.

B. 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.

## **VII. Adoption and Amendment of Policies, Procedures, and Rules.**

The Board may from time to time adopt and amend the policies, procedures and rules and regulations concerning the community, except the new policy, procedure, rule or amendment shall not amend the terms of the Declaration which may only be amended as provided therein. Such amendments are valid and enforceable against an Owner only if:

- (a) Their purpose is to promote the convenience, safety, or welfare of the Owners;
- (b) They are reasonably related to the purpose for which they are adopted;
- (c) They are not retaliatory or discriminatory in nature;
- (d) They are sufficiently explicit in prohibition, direction, or limitation of the Owner's conduct to fairly inform him of what he must or must not do to comply.

In order to adopt or amend a policy, procedure, or rule and regulation, the Board shall approve the same in accordance with the Bylaws and send notice of the newly-adopted policy, procedure, rule and regulation to the Owners via first class mail or email (if the Owner has provided an email address to the BCRC). No policy, procedure, or rule and regulation shall be effective until sent to the Owners.

## **VIII. Alternative Dispute Resolution Policy**

The following policy regarding Alternative Dispute Resolution is applicable except in the case of the BCRC's collection of assessments or enforcement of the covenants, bylaws, or rules and regulations of the BCRC by the BCRC:

A. *Meeting with Board.* In the event of any dispute involving the BCRC and an Owner, it is the intention of the BCRC to resolve the dispute informally and without the need for litigation. The Owner or the BCRC shall notify the other in writing of the claim, stating (i) the nature of the Claim, including the date, time, location, persons involved, (ii) the basis of the claim (i.e. the provisions of the Declaration, the Bylaws, the Articles, Rules or Regulations or other authority out of which the claim arises); (iii) what the claimant wants the other to do or not do to resolve the claim; and (iv) that claimant wishes to resolve the claim by mutual agreement and is willing to meet in person with the other at a mutually agreeable time and place to discuss in good faith ways to resolve the claim.

The parties shall make every reasonable effort to meet either in person or by conference call to resolve the claim by good faith negotiation.

B. *Mediation.* If a meeting is unsuccessful or does not occur, all claims or disputes, except in the case of the collection of assessments, shall be initially submitted to mediation in good faith. The parties shall jointly appoint a mediator and will share equally in the cost of mediation. If a party does not respond within ten (10) days of receipt of a request to mediate or if the parties cannot agree on a mediator within ten (10) days of the request, the mediation requirement shall be deemed fulfilled. If mediation does occur, it shall be completed within thirty (30) days from the date of request.

If mediation is unsuccessful or does not occur, the parties may pursue their claims via the appropriate court or submit the dispute to binding arbitration.

C. *Court.* If the matter cannot be resolved by mediation or otherwise within thirty (30) days of the request for mediation and if the matter concerns collection of unpaid assessments, then the parties shall pursue their claims via court.

D. *Binding Arbitration.* If the matter cannot be resolved by mediation or otherwise within thirty (30) days of the request for mediation and the matter does not concern collection of unpaid assessments, then the parties shall pursue alternative dispute resolution (ADR) in the form of binding arbitration.

E. *Purpose.* This policy is an agreement of the BCRC and Owners to mediate and/or arbitrate all claims except the stated exceptions and is specifically enforceable under the applicable arbitration law of the State of Colorado. The arbitration shall be final and binding and judgment may be entered upon it in any court of competent jurisdiction to the fullest extent permitted under the laws of the State of Colorado.

F. *Costs.* If the claims are resolved through negotiation as provided above, each party shall bear all of its own costs incurred in resolving the claim, including its attorney fees, unless the parties otherwise agree. If the claims are not resolved through negotiation and the claim goes to arbitration, the prevailing party shall receive as a part of its award from the opposing party all of its costs, including attorney fees, and any expenses incurred as a result of the dispute resolution procedures of this policy.

G. *Deviations.* The Board may deviate from the procedures set forth in this policy if in its sole discretion such deviation is reasonable under the circumstances.

H. *Amendment.* This policy may be amended from time to time by the Board of Directors.

## **IX. Reserve Requirements**

A. *Funding.* After receipt of any reserve study or any updates thereto, the Board of Directors of the BCRC may establish a funding plan or update its funding plan. There is no requirement to make assessments for a reserve fund unless the Declaration is amended to require annual assessment. The Declaration does not currently require annual assessments. All monies, if

any, placed in the Reserve Fund shall be in accordance with the BCRC's policy then in effect regarding investment of reserve funds.

B. *Deviations.* The Board may deviate from the procedures set forth in this policy if in its sole discretion such deviation is reasonable under the circumstances.

C. *Reserve Studies.* BCRC shall arrange for reserve studies in the discretion of the Board of Directors.

(a) All reserve studies and updates shall be based on both a physical analysis and a financial analysis of the portions of the BCRC which are maintained, repaired, replaced and subject to improvement by the BCRC.

(b) All reserve studies and updates shall include an inventory, a condition assessment based on a site inspection and contain an estimate of remaining useful life.

D. *Deviations.* The Board may deviate from the procedures set forth in this policy if, in its sole discretion, it finds such deviation is reasonable under the circumstances.

## **X. Miscellaneous.**

A. Notwithstanding anything herein to the contrary, the BCRC reserves the right, at any time and from time-to-time hereafter, to modify, amend, repeal and/or re-enact these Policies and Procedures in accordance with the Declaration, Bylaws, and applicable law. The Board or its management company shall send notice of the newly adopted policy, procedure, rule, and regulation to the Owners via first class mail or email (if the Owner has provided an email address to the BCRC). No policy, procedure, or rule and regulation shall be effective until sent to the Owners.

B. The Board and its management company are empowered to enforce these Policies and Procedures. All Policies and Procedures shall be always in effect.

C. Failure by the BCRC, the Board or any person to enforce any provision of these Policies and Procedures shall in no event be deemed to be a waiver of the right to do so thereafter.

D. The Provisions of these Policies and Procedures shall be deemed to be independent and several, and the invalidity of anyone or more of the provisions hereof, or any portion thereof, by judgment or decree of any court of competent jurisdiction, shall in no way affect the validity or enforceability of the remaining provisions, which provisions shall remain in full force and effect.

E. Unless the context provides or requires to the contrary, the use of the singular herein shall include the plural, the use of the plural shall include the singular and the use of any gender shall include all genders.



F. The captions to the sections are inserted herein only as a matter of convenience and for reference and are in no way to be construed to define, limit, or otherwise describe the scope of these policies and procedures or the intent of any provision hereof.

These Policies were adopted this 27 day of June, 2024 by resolution of the Board of Directors of the Beaver Creek Resort Company of Colorado, a Colorado nonprofit corporation.

Beaver Creek Resort Company of Colorado

By: \_\_\_\_\_ Bobby Murphy \_\_\_\_\_  
President

ATTESTED:

By: \_\_\_\_\_ Erin Jarvis \_\_\_\_\_  
Secretary

**ADDENDUM A  
REQUEST TO INSPECT RECORDS**

This written request is pursuant to the Policy on Records Inspection of the Beaver Creek Resort Company of Colorado.

To: \_\_\_\_\_  
c/o \_\_\_\_\_ (Management)

Address: \_\_\_\_\_

Email: \_\_\_\_\_

Date of this Request: \_\_\_\_\_, 20\_\_

Date you or your agent intends to inspect the records (Must be at least 10 days after date of request):  
\_\_\_\_\_, 20\_\_

Person(s) requesting Inspection of the BCRC's records: \_\_\_\_\_  
\_\_\_\_\_

Person(s) who will be present for the review of the BCRC's records: \_\_\_\_\_  
\_\_\_\_\_

**Please note that all actual costs of inspection and any authorized copies must be paid in advance by the person requesting them.**

**Specify with particularity the records requested for Inspection. Please include type and date(s) of record, indication of those records for which you request a copy, and any specifics that will identify the information you seek to review. If necessary, use additional sheets.**

<u>Record</u>	<u>Date</u>
_____	_____
_____	_____
_____	_____
_____	_____

Name: \_\_\_\_\_  
Date: \_\_\_\_\_  
Address: \_\_\_\_\_  
Authorized by: \_\_\_\_\_

**ADDENDUM B**

**Beaver Creek Resort Company of Colorado  
Designated Contact for Collection of Unpaid Assessments and  
Enforcement of Covenants and Rules**

An Owner may identify another person to serve as a designated contact for the Owner to be contacted on the Owner's behalf for purposes of contact related to the violation. If an Owner has identified a designated contact, the Owner and the Owner's designated contact must receive the same correspondence and notices anytime communications are sent out. To identify a designated contract, an Owner must complete this Designated Contact Form and return it to the BCRC by (a) certified mail, return receipt requested, and (b) e-mail. Such notice is required due to the increased cost a designated contact imposes upon the BCRC.

Owner Name	
Owner Mailing Address (if different from Property Address)	
Owner Telephone Number	
Owner E-Mail Address	
Designated Contact Name	
Designated Contact Mailing Address	
Designated Contact Telephone Number	
Designated Contact E-Mail Address	

Unless Owner otherwise states, all notices and correspondence will be provided in English.  
Other: \_\_\_\_\_

By and through this Designated Contact Form, the Owner identifies the Designated Contact set forth above to be contacted by the BCRC, its agents, and representatives, on the Owner's behalf for purposes of contact related to covenant violations and delinquencies.

Signature: \_\_\_\_\_

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

Print Name: \_\_\_\_\_