

## **RESPONSIBLE GOVERNANCE POLICIES**

### **OVERLOOK AT MT. CRESTED BUTTE OWNERS' ASSOCIATION, INC., a Colorado nonprofit corporation**

Pursuant to § 38-33.3-209.5(1)(b), Colorado Revised Statutes, common interest community associations are required to adopt and maintain responsible governance policies in accordance with said statute and other applicable sections of the Colorado Common Interest Ownership Act, § 38-33.3-101, *et seq.*, Colorado Revised Statutes.

NOW, THEREFORE, Overlook at Mt. Crested Butte Owners' Association, Inc., a Colorado nonprofit corporation (the "Association"), the owners' association with authority for the governance of the Overlook at Mt. Crested Butte common interest community located in Mt. Crested Butte, Colorado, hereby adopts the following Responsible Governance Policies, as required by Colorado law. In the event of a conflict between these Responsible Governance Policies and the Association's Articles of Incorporation, Bylaws, Rules and Regulations (if any), or Declaration of Protective Covenants, these Responsible Governance Policies shall take precedence to the extent such Policies are required under Colorado law. If the Association previously adopted responsible governance policies, including but not limited to, any specific policy referenced herein, these Responsible Governance Policies shall amend and replace any and all previous responsible governance policies adopted by the Association.

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## **I. Collection Policy**

1. Assessments. For purposes of this Collection Policy, “assessments” include all Association levied common expense assessments, including any regular, special, or default assessments as defined by the Association’s Declaration of Protective Covenants<sup>1</sup>, and any associated fees, charges, late charges, attorney’s fees, and interest. Association assessments shall be levied annually and payable monthly or as otherwise determined by the Association’s Board of Directors (“Board”). Assessments shall be paid on or before the first (1<sup>st</sup>) day of the month when such assessment is due. If an assessment is not paid within 30 days of the date that the assessment is due, the assessment is delinquent.<sup>2</sup> Association assessments may include assessments and any associated fees, charges, late charges, attorney fees and interest, but do not include fines.

2. Late fees, Fines & Interest. If the full amount of any assessment is not received by the Association within 30 days of the date in which the assessment is due, the assessment is delinquent. Delinquent assessments shall bear interest at the rate of eight percent (8%) per annum<sup>3</sup>. Interest shall accrue from the date of the delinquency until the delinquency is paid in full. The Association may also impose a 10% late fee on any assessment not timely paid<sup>4</sup> and may charge a \$35.00 fee for any bounced or returned check.

3. Prior to Referral to Legal Counsel. Prior to referring a delinquent account to the Association’s attorney or to a collection agency, the Association shall:

a. Mail the delinquent owner, via certified mail, return-receipt requested, at the mailing address on file with the Association, a notice of the delinquency that specifies:

i. The total amount due with an accounting of how the total was determined, along with specifying whether the delinquency is for unpaid assessments, unpaid fines, fees, or charges, or both unpaid assessments and unpaid fines, fees, and/or charges, and if the notice of delinquency concerns unpaid assessments, the notice of delinquency must notify the owner that unpaid assessments may lead to foreclosure;

ii. Whether the opportunity to enter into a payment plan exists pursuant to subsections 4 and 7 of this Collection Policy below and instructions for contacting the Association to enter into a payment plan;

iii. 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 owner’s debt;

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<sup>1</sup> The Declaration of Protective Covenants for Overlook at Crested Butte [sic] was recorded on January 24, 1994 at Reception No. 448860 in the Gunnison County real property records, as amended (the “Declaration”).

<sup>2</sup> See Declaration at § 6.7.

<sup>3</sup> The Declaration provides for an 18% rate of interest. *Id.* at § 6.7.B. However, changes to Colorado law now only allow for an 8% interest rate on common interest community association assessments and related charges. See Colo. Rev. Stat. § 38-33.3-209.5(8)(a).

<sup>4</sup> See Declaration at § 6.7.A.

iv. A description of the steps the Association must take before the Association may take legal action against the owner, including a description of the Association's cure process; and

v. That action is required to cure the delinquency and that failure to do so within thirty (30) days may result in the following:

A. The owner's delinquent account being turned over to the Association's attorney or a collection agency;

B. A lawsuit being filed against the owner;

C. The filing and foreclosure of a lien against the owner's real property that is subject to Association assessments; and/or

D. Any other remedies available under Colorado law.

b. Provide the delinquency notice referenced in subsection 3.a above to the owner by two (2) of the additional following means:

i. Text message to a cellular number that the Association has on file because the owner has provided the cellular number to the Association;

ii. E-mail to an e-mail address that the Association has on file because the owner has provided the e-mail address to the Association; or

iii. Telephone call to a telephone number that the Association has on file because the owner or the owner's designated contact has provided the number to the Association. If the Association attempts to contact the owner or the owner's designated contact by telephone but is unable to contact the owner or the owner's designated contact, the Association shall, if possible, leave a voice message for the owner or contact.

c. Maintain a record of the contacts with an owner required by this Section 3, including the date, time, and the type of communication used to notify the owner of the delinquency. For purposes of the contacts required by this subsection 3.c and Colorado law, an owner may identify another person to serve as the designated contact for the owner on the owner's behalf. An owner and an owner's designated contact shall both receive the same correspondence, including mailed letters, e-mails, text message(s), and/or phone call(s) and notices anytime communications are sent out by the Association pursuant to this Collection Policy or otherwise; and

d. Conduct a recorded vote of the Board in executive session pursuant to Colo. Rev. Stat. § 38-33.3-308(4)(e) to refer the matter to the Association's attorney or to a collection agency.

#### 4. Payment Plans.

a. *Eligibility.* An owner is entitled to enter into a payment plan with the Association so long as the owner: (i) has not previously entered into a payment plan with the Association; or (ii) is not subject to the exceptions in Section 10 of this Collection Policy below. If an owner has previously entered into a payment plan with the Association, it is at the discretion of the Association's Board whether to permit such owner to enter into another payment plan, or whether to pursue the legal remedies

permitted under Colorado law and herein for collection of delinquent Association accounts.

b. *Terms.* A payment plan between the Association and a delinquent owner shall permit the owner to pay-off the delinquency in monthly installments over a period of eighteen (18) months. The owner may choose the payment amounts for the monthly installments of the payment plan, provided each monthly payment is at least Twenty-Five Dollars (\$25.00) until the balance of the amount owed is less than Twenty-Five Dollars (\$25.00). An owner that has entered into a payment plan with the Association may elect to pay the remaining balance owed under the payment plan at any time throughout the duration of the payment plan. The owner must also remain current with all Association assessments as the same come due during the payment plan time period. An owner's failure to: (i) remit at least three (3) of the monthly installment payment plan payments within 15 days after each monthly installment payment was due; or (ii) to remain current with Association assessments as the same come due during the payment plan time period, shall constitute a failure of the owner to comply with the terms of the payment plan. If a unit owner fails to comply with the terms of a payment plan, or declines or does not enter into a payment plan with the Association within 30 days of the Association providing a payment plan offer to the owner, then the Association, upon compliance with Section 3 above, may pursue the legal remedies available under Colorado law for the collection of delinquent Association accounts, as referenced in Section 6 of this Policy below.

5. Application of Payments. Payments for assessments received by the Association shall be applied in the following order, as may be applicable:

- a. Assessments that are overdue with application of the payment to the most long-standing delinquent assessment first;
- b. Fines, late fees, and interest;
- c. Attorney's fees and legal costs and expenses; and
- d. Returned check charges and other costs owing or incurred with respect to such owner that are not explicitly referenced above.

6. Legal Remedies. In the event an owner does not comply with the terms of a payment plan, or is not eligible or otherwise does not enter into a payment plan, and provided the Association otherwise complies with Section 3 of this Collection Policy, the legal remedies available to the Association to collect an Association owner's delinquent account are as follows:

- a. A lawsuit by the Association against the delinquent owner;
- b. The filing and foreclosure of a lien against the owner's real property associated with the Association, but only if:
  - i. The balance of the assessments and charges secured by the Association's lien equals or exceeds six (6) months of common expense assessments based on a periodic budget adopted by the Association;
  - ii. The Board has formally resolved, by a recorded vote in executive session pursuant to Colo. Rev. Stat. § 38-33.3-308(4)(e), to authorize the filing of a foreclosure action against the specific owner's real property associated with the

Association. The Board may not delegate its duty to act under this subsection to any attorney, insurer, manager, or other person;

iii. The Association's lien does not consist entirely of fines, collection costs, or attorney's fees;

iv. The Association has offered to mediate the matter with the owner pursuant to Section 8 of this Policy;

v. The Association has provided notice to any lienholders with an interest in your Overlook property of the amount of the delinquency and that there is a pending foreclosure action related to the delinquency; and

vi. The Association is in compliance with Section 7 of this Policy below, if applicable.

c. Referral of the delinquent account to the Association's attorney or a collection agency for further collection efforts; and/or

d. Any other remedies available under Colorado law.

7. Foreclosure of Association Lien.

a. To foreclose an Association lien:

i. The Association must have obtained a personal judgment against the owner in a civil action to collect the amounts due;

ii. The Association must have attempted to bring a civil action against the owner but was prevented by the death of or incapacity of the owner;

iii. The Association must have attempted to bring a civil action against the owner and made a reasonable attempt to serve the owner, but the Association was unable to serve the owner within 180 days; or

iv. The owner must have filed a bankruptcy petition or must have an involuntary bankruptcy petition filed against the owner, and the amount due the Association is subject to the bankruptcy civil action.

b. This Section 7:

i. Applies exclusively to a lot owned by an individual who occupies the lot as the owner's principal residence, unless the lot is used for workforce housing;

ii. Does not apply to a lot owned by an entity other than an individual or a lot that is not occupied as the owner's principal residence, unless the lot and improvements thereon are used for workforce housing; and

iii. Applies to a lot used for workforce housing.

8. Mediation Requirement. At least 30 days before initiating legal action to foreclose a lien, the Association shall provide written and electronic notice to the owner,

or the owner's contact, that the owner has the right to engage in mediation prior to litigation. To initiate mediation, the owner must respond within 30 days after the date of the notice. To participate in mediation, both the Association and the owner must:

a. Select a mutually agreeable mediator knowledgeable about Colorado Common Interest Ownership Act, C.R.S. § 38-33.3-101, *et seq.* and common interest community disputes; and

b. Schedule the mediation session within thirty days after the mediation notice is provided by the Association to the owner.

If an owner fails to comply with this Section 8 by not responding to the Association's mediation notice within thirty days after receiving the notice, or otherwise not participating in a mediation that was scheduled, the fact that no mediation occurred due to such failure to respond or participate shall not bar the Association from filing a civil action, subject to the other requirements in this Collection Policy.

9. Lienholder Notice. At least 30 days before initiating legal action to foreclose an Association lien, the Association shall provide written and electronic notice to all lienholders identified on the owner's property records of the pending legal action for foreclosure. The notice must include the amount of any outstanding assessment and other money owed.

10. Exceptions. The payment plan rules required pursuant to this Collection Policy and Colorado law do not apply if the subject owner does not occupy the subject property and has acquired the property as a result of:

a. A default of a security interest encumbering the subject property; or

b. Foreclosure of an Association lien.

11. Correspondence from the Association. An owner may notify the Association if the owner prefers that correspondence from the Association be made in a language other than English. If an owner provides such notification, the Association shall provide its notices in the language desired by the owner. If a language preference is not indicated by an owner, then all Association notices and correspondence shall be in English. This Section 8 of the Collection Policy shall apply to all Association correspondence, not just collection matters.

12. Affected Owner Rights. An affected owner (i.e., an owner subject to collection actions under this Collection Policy) shall be entitled to receive the results of a Board vote taken in executive session pursuant to Colo. Rev. Stat. § 38-33.3-308(4)(e) to send the delinquent/affected owner's account to the Association's attorney or a collection agency for collections, foreclosure, legal action, or otherwise. A Board vote to refer a delinquent owner's account to the Association's attorney or to a collection agency must occur in executive session pursuant to the aforementioned Colorado statute.

13. Foreclosure Sale Purchase Rules. If an Overlook property has been foreclosed pursuant to an Association lien, the following persons shall not purchase the foreclosed property:

a. A member of the Association's Board of Directors ("Board");

- b. An employee of a community association management company representing the Association;
- c. An employee of a law firm representing the Association;
- d. An immediate family member, as defined in [C.R.S. § 2-4-401\(3.7\)](#), of a Board member, community association management company employee, or law firm employee; or
- e. A community association management company representing the Association.

The prohibitions contained herein on the purchase of a foreclosed property include an individual or a community association management company that was, at any time during the five-year period immediately preceding the sale of the foreclosed property, an individual or a community association management company working on behalf of the Association. The prohibitions in this Section 13 also include a business entity that was, at any time during the five-year period immediately preceding the sale of the foreclosed lot, owned by or affiliated with an individual or community association management company.

## **II. Policy Regarding Conflicts of Interest Involving Board Members**

### **1. Definitions.**

a. “Conflicting interest transaction” means a contract, transaction or other financial relationship between the Association and a member of the Association’s Board of Directors (“Board”), or between the Association and a party related to a Board member, or between the Association and an entity in which a Board member of the Association is a board member or officer or has a financial interest.

b. “Board member” means a member of the Association’s Board of Directors.

c. “Party Related to a Board member” means a spouse, a descendant, an ancestor, a sibling, the spouse or descendant of a sibling, an estate or trust in which the Board member or a party related to a Board member has a beneficial or financial interest, or an entity in which a party related to a Board member is a director or officer or has a financial interest.

2. Loans. No loans shall be made by the Association to its Board members or officers. Any Board member or officer who assents to or participates in the making of any such loan shall be liable to the Association for the amount of the loan until it is repaid.

3. Disclosure Required. A Board member must disclose to the Board a conflicting interest transaction if one exists for that Board member. In the event a conflicting interest transaction exists, the Board member with the conflict of interest shall recuse himself or herself from discussing and voting on the issue.

4. Void Transaction. Notwithstanding Section 3 of this Policy immediately above, no conflicting interest transaction shall be void or voidable or be enjoined, set aside, or give rise to an award of damages or other sanctions solely because the conflicting interest transaction involved a Board member or a party related to a Board member or an entity in which a Board member is a director or officer or has a financial

interest or solely because the Board member is present at or participates in the meeting of the Association's Board that authorizes, approves, or ratifies the conflicting interest transaction or solely because the Board member's vote is counted for such purpose if:

a. The material facts as to the Board member's relationship or interest in the conflicting interest transaction are disclosed or are known to the Board, and the Board in good faith authorizes, approves, or ratifies the conflicting interest transaction by the affirmative vote of a majority of the disinterested Board members, even though the disinterested Board members are less than a quorum;

b. The material facts as to the Board member's relationship or interest in the conflicting interest transaction are disclosed or are known to the Board members entitled to vote thereon, and the conflicting interest transaction is specifically authorized, approved, or ratified in good faith by a vote of the Board members entitled to vote thereon; or

c. The conflicting interest transaction is fair to the Association.

5. Quorum. Conflicted or interested Board members may be counted in determining the presence of a quorum at a meeting of the Board which authorizes, approves, or ratifies a conflicting interest transaction.

6. Periodic Review of Policy. This Policy Regarding Conflicts of Interest Involving Board Members shall be reviewed periodically by the Board and updated as is required by the Board and/or Colorado law.

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

1. General. All meetings of the Association's membership and Board of Directors ("Board") shall be held in accordance with the requirements of C.R.S. §§ 38-33.3-308, 38-33.3-310, 7-127-101 through 108, 7-128-201 through 206, as the same are applicable to the Association.

2. Owner/Member Meetings. Membership meetings shall be held at least once each year. Special meetings of the membership may be called by the president of the Association's Board, by a majority of the Board members, or by Association members/owners collectively holding 20% or more of the votes in the Association. Notice of any meeting of the membership shall be given not less than 10 nor more than 50 days in advance of the meeting date. Said meeting notice shall be sent to all Association members/owners by delivering or sending it prepaid by U.S. mail to the mailing address of each member/owner. The notice of any membership meeting shall also be physically posted in a conspicuous place on the Association's property, if possible, in addition to mailing, and posted on the Association's website, if the Association maintains a website, and e-mailed to the members if the Association maintains an e-mail list for such purposes and a member/owner provides the Association with his or her e-mail address in order to receive correspondence from the Association. Meeting notices shall state the time and place of the meeting and the items on the agenda, including the general nature of any proposed amendment to the Declaration or Bylaws, any budget changes, and any proposal to remove an officer or member of the Board of Directors.

3. Board Meetings. Meetings of the Board, or any committee thereof, shall be open to attendance by all members/owners of the Association or their representatives. Agendas for meetings of the Board shall be made available for



examination by Association members/owners or their representatives upon request. Notwithstanding any contrary provision contained in the Association's Bylaws or otherwise, at all meetings of the Board, after a motion and second has been made on any matter to be discussed, at a time determined by the Board, but prior to the vote of the Board members, Association members/owners or their designated representatives present at such time shall be afforded an opportunity to speak on the motion. The Board president, or other Board member running the meeting, may place reasonable time restrictions on persons speaking during the meeting. If more than one person desires to address an issue and there are opposing views, the Board shall provide for a reasonable number of persons to speak on each side of the issue.

4. Contested Board Elections. Membership meetings in which there are member/owner votes on contested elections of Board members, defined as elections in which there are more candidates than positions to fill, shall be conducted by secret ballot. Each member/owner entitled to vote and be present at the meeting either in person or via proxy shall receive a ballot. The ballot shall contain no identifying information concerning the ballot holder. In the event a member/owner holds a proxy for another member/owner, upon presentation of such proxy to the Association, the member/owner shall receive a secret ballot to cast the vote of the member/owner who provided the proxy. The proxy shall be kept and retained by the Association.

5. Uncontested Board Elections. In uncontested elections for Board positions, defined as elections in which the number of candidates is equal to or less than the positions to fill, votes at the meeting of the members/owners shall be taken in such method as determined by the Board, including but not limited to, acclamation by hand, by voice, or by ballot. Notwithstanding the foregoing, uncontested elections for Board positions, or other votes on matters affecting the Association, may occur by secret ballot at the discretion of the Board or upon the request of 20% of the members/owners who are present at the meeting or represented by proxy.

6. Secret Ballot Votes. When secret ballots are used, written ballots shall be counted by a neutral third party, or a committee of volunteers who are not Board members, and in the case of a contested election, are not candidates. The committee shall be selected or appointed at an open meeting, in a fair manner, by the president of the Board or another Board member presiding during that portion of the meeting.

#### **IV. Policy Regarding Enforcement of the Declaration, Bylaws, Responsible Governance Policies, Rules and Regulations, and Levying of Fines**

1. Association's Legal Duty. The Association acknowledges that it has a duty to its membership to enforce its Declaration, Rules and Regulations (if any), Bylaws, Responsible Governance Policies, and any other policies adopted by the Association, all as the same may be amended or restated from time to time. It is the policy of the Association to enforce, as written, any applicable provision of the Declaration, Rules and Regulations, Bylaws, Responsible Governance Policies, and any other policies of the Association.

2. Investigation of Alleged Violations. If a violation of the Association's Declaration, Rules and Regulations, Bylaws, Responsible Governance Policies, or any other policies of the Association occurs, or a violation is alleged to have occurred, and such potential violation is reported to the Board of Directors ("Board"), the Board shall investigate the allegations to make a determination whether such violation or threatened violation has in fact occurred. In such investigation and subsequent

enforcement, if undertaken, the Board shall act in good faith and shall not act arbitrarily or capriciously.

3. Enforcement – Board Discretion. The enforcement of the provisions of the Declaration, Rules and Regulations, Bylaws, Responsible Governance Policies, or any other policies of the Association shall be subject to the discretion of the Board as to the timing, manner, and method of pursuing such enforcement, but in no event shall the Association's fact-finding process to determine whether a violation has occurred take longer than 60 days from the date the Association first had notice of the alleged violation. Provided that its actions are reasonable, the Board may decline enforcement of questionable violations, enforce covenants by filing suit for injunctive relief or other remedies, or levy fines for violation of rules, policies, bylaws, or covenants after notice and an opportunity to be heard is given to the alleged violator. In exercising such discretion, the Board shall consider both the specific covenant or rule violation alleged, and the overall interests of the community and Association.

4. Hearing Before Impartial Decision-Maker. If an owner, or an owner's guest, tenant or invitee, is determined to have violated the provisions of the Association's Declaration, Rules and Regulations, Bylaws, Responsible Governance Policies, or any other policies of the Association, after notice and hearing to the alleged violating owner in front of an impartial decision maker, the Association may, subject to the remaining provisions of this Policy, impose a fine for the violation in the amounts stated in the Association's Rules and Regulations, but in no event shall any violation incur a fine of more than \$500. If the Association does not have Rules and Regulations, or such Rules and Regulations do not provide a fine amount for the violation, the Association may levy a fine for violations of the Declaration, Colorado law, the Rules and Regulations (if any), the Bylaws, the Responsible Governance Policies or any other policies of the Association, in the amount of \$100 per violation, or \$100 imposed every other day for a violation that is continuing in nature, with a total cap of \$500 for such violation even if it is continuing in nature. "Impartial decision maker" means a person or group of persons who have the authority to make decisions regarding the enforcement of the Association's Declaration, Rules and Regulations, Bylaws, Responsible Governance Policies, or any other policies of the Association and do not have any direct personal or financial interest in the outcome. A decision-maker shall not be deemed to have a direct personal or financial interest in the outcome if the decision-maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association.

5. Owner Not Responsible for Alleged Violation. If, as a result of the fact-finding process described in this Policy, it is determined that the owner should not be held responsible for the alleged violation, the Association shall not allocate to the owner's account any of the Association's costs or attorney's fees incurred in asserting or hearing the claim. Notwithstanding any provision in the Declaration, Bylaws, Rules and Regulations, or these Responsible Governance Policies to the contrary, an owner shall not be deemed to have consented to pay such costs or fees.

6. Violating Owner Responsible for Association Attorney Fees and Costs. It is the intent of the Board that once a violation of the provisions of the Declaration, Rules and Regulations, Bylaws, Responsible Governance Policies, or any other policies of the Association has been determined by the Board to have occurred, any expenses, costs, and attorney's fees incurred by the Association shall be assessed against the violating owner in the same manner as an assessment.

7. Violations that Threaten Public Safety or Health. With respect to any violation of the Association's Declaration, Rules and Regulations, Bylaws, Responsible

Governance Policies, or any other policies of the Association that the Association reasonably determines threatens the public safety or health, the following procedures shall apply:

a. Hold a hearing on the matter pursuant to Section 4 of this Policy, and if the Association determines that a violation that threatens public safety or health has occurred, follow the remaining steps in this Section 7 below.

b. The Association shall provide the owner with written notice via certified mail, return-receipt requested, in English and in any language that the owner has indicated a preference for correspondence and notices pursuant to Section 11 of the Association's Collection Policy above, of the nature of the violation, the action or actions required to cure the violation, and that the owner has seventy-two (72) hours to cure the violation, or the Association may fine the owner.

c. If, after an inspection of the owner's lot or other area in which a violation is alleged to have occurred, the Association determines that the owner has not cured the violation within seventy-two (72) hours after receiving notice of the alleged violation, and provided the Association has conducted the hearing required by Section 4 of this Policy above, the Association may impose a fine or fines on the owner, as determined by the Board, but no more than every other day for continuing violations, in the amounts stated in the Association's Rules and Regulations provided said fine amount is not greater than \$500 for any single violation and may take legal action against the owner for the violation; except that, in accordance with C.R.S. 38-33.3-209.5(8)(c)(I), the Association may not pursue foreclosure against the owner's property solely based on fines owed.

8. Violations that Do Not Threaten Public Safety or Health. If the Association reasonably determines that an owner committed a violation of the Declaration, Rules and Regulations, Bylaws, Responsible Governance Policies, or any other policies of the Association, that does not threaten public safety or health, the Association shall:

a. Hold a hearing on the matter pursuant to Section 4 of this Policy, and if the Association determines that a violation does not threaten public health or safety, follow the remaining steps in this Section 8 below.

b. Provide the owner with written notice of the violation via certified mail, return-receipt requested, in English and in any other language that the unit owner has indicated a preference for correspondence and notices pursuant to Section 11 of the Association's Collection Policy above, and inform the owner that he/she has thirty (30) days to cure the violation or the Association, after conducting an inspection and determining that the owner has not cured the violation, may fine the owner; however, the total amount of fines imposed for any violation may not exceed five hundred dollars (\$500.00), even if said violation is continuing in nature.

c. Subject to Subsections 8.d and 8.e of this Policy below, an owner shall have two (2) consecutive thirty (30) day periods to cure a violation that does not threaten public safety or health before the Association may take legal action against the owner for the violation. However, in accordance with C.R.S. 38-33.3-209.5(8)(c)(I), the Association may not pursue foreclosure against the owner's property solely based on fines owed.

d. If the owner cures the violation within the period to cure afforded the owner, the owner may notify the Association of the cure and, if the owner sends visual

evidence with the notice that the violation was 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 was cured, the Association shall make an inspection as soon as practicable to determine if the violation was, in fact, cured.

e. If the Association does not receive notice from the owner that the violation was cured, the Association shall inspect the owner's lot or other area in which the violation occurred within seven (7) days after the expiration of the first thirty (30) day cure period to determine if the violation was cured. If, after the inspection, and whether or not the Association received notice from the owner that the violation was cured, the Association determines that the violation was not cured, then:

i. A second thirty (30) day period to cure commences if only one thirty (30) day period to cure has elapsed; or

ii. The Association may take legal action against the owner if two (2) thirty (30) day periods to cure have elapsed.

9. Violation Cured by Unit Owner. Once an owner cures a violation, the Association shall notify the owner in English and in any other language that the owner has indicated a preference for correspondence and notices pursuant to Section 11 of the Association's Collection Policy above, of the following:

a. The owner will not be fined further for the violation; and

b. The amount of any outstanding fine balance, including attorney's fees and other costs, that the owner still owes to the Association.

10. Continuing Violations. For violations that are continuing in nature, the Association may levy a fine or fines as stated in the Association's Rules and Regulations, but the cap on said fines for any one continuing violation shall be limited to \$500, and a fine may not be levied more often than every other day.

11. Notice of Fines. On a monthly basis by first-class mail and, if the Association has the owner's e-mail address, by e-mail, the Association shall send to each owner who has any outstanding balance owed to the Association an itemized list of all assessments, fines, fees, interest, and other charges that the owner owes to the Association. The Association shall send the itemized list to the owner in English and in any other language for which the owner has indicated a preference for correspondence and notices pursuant to Section 11 of the Association's Collection Policy and to any designated contact for the owner.

## **V. Inspection and Copying of Association Records Policy**

1. The Association shall keep as permanent records minutes of all meetings of its membership and Board of Directors ("Board"), a record of all actions taken by the owners/members or Board by written ballot or written consent in lieu of a meeting, and a record of all waivers of notices of meetings of owners/members and of the Board. The Association's property manager or the Board shall maintain a record of owners/members in a form that permits preparation of a list of the names and addresses of all such owners/members, showing the number of votes each owner/member is entitled to on Association matters. The Association shall maintain such records in written form or in another form capable of conversion into written form within a reasonable time.

2. All financial and other Association records shall be made reasonably available for examination and copying by any Association owner/member and such owner's/member's authorized agent(s). The Association may charge a fee, which may be collected in advance, not to exceed the Association's actual cost per page, for copies of Association records. As used herein, "reasonably available" means available during normal business hours, upon advance notice of five (5) business days, or at the next regularly scheduled meeting, if such meeting occurs within 30 days after the request, to the extent that:

- a. The records request was made in good faith and for a proper purpose;
- b. The request describes with reasonable particularity the records sought and the purpose of the request; and
- c. The records are relevant to the purpose of the request.

3. In addition to the Association records referenced above, the Association shall keep a copy of each of the following records at its principal office:

- a. Its Articles of Incorporation, Declaration, Bylaws, Rules and Regulations (if any), Responsible Governance Policies, and any other policies adopted by the Association;
- b. The minutes of all owner/member meetings and Board meetings;
- c. Records of all actions taken by the Board without a meeting, if any, for the past three (3) years;
- d. All written communications within the past three (3) years to Association owners/members, generally;
- e. A list of the names, business or home addresses, and e-mail addresses of the current Board members;
- f. The most recent annual report filed with the Colorado Secretary of State;
- g. The Association's most recent reserve study, if any;
- h. Current written contracts to which the Association is a party and contracts for work performed for the Association within the immediately preceding two (2) years;
- i. Ballots, proxies, and other records related to owner/member votes for one (1) year after the election, action, or vote to which they relate;
- j. Resolutions adopted by the Board relating to the characteristics, qualifications, rights, limitations, and obligations of owners/members; and
- k. All financial audits or reviews conducted during the immediately preceding three (3) years.

4. Notwithstanding anything contained herein to the contrary, an ownership/membership list, or any part thereof, may not be obtained or used by any person for any purpose unrelated to a owner's/member's interest as an Association owner/member without the consent of the Board. An ownership/membership list, or

any part thereof, may not be used to solicit money or property unless such money or property will be used solely to solicit the votes of owners/members in an election to be held by the Association, and may not be used for any commercial purpose, or sold to or purchased by any person.

## **VI. Investment of Reserve Fund Policy**

With respect to the investment of reserve funds of the Association, the officers and other members of the Association's Board of Directors shall make investment decisions in good faith, with the care an ordinarily prudent person in like position would exercise under similar circumstances, and in a manner the Board member reasonably believes to be in the best interests of the Association and in accordance with Colorado law.

## **VII. Procedures for the Adoption and Amendment of Association Policies, Procedures, and Rules and Regulations**

1. All policies, including but not limited to these Responsible Governance Policies, Bylaws, Declaration and related covenants, and Rules and Regulations (if any) of the Association shall be set forth in written documents properly adopted by the Association's Board of Directors ("Board") at a meeting or the owners/members at a meeting, as is applicable.

2. Amendments to any policies, procedures, Bylaws, or Rules and Regulations may be made by the Board at any time and from time to time as the Board, in its discretion, deems advisable or appropriate, in accordance with the Association's Responsible Governance Policies, Bylaws and Colorado law. Any amendment shall be set forth in a written instrument properly adopted by the Board.

3. To the extent practicable, the Association shall endeavor to adopt and disseminate to its membership written Responsible Governance Policies, other policies or procedures, Bylaws, and Rules and Regulations so that the owners/members may be informed of their rights and obligations in and to the Association and the process of Association governance by the Board. Additionally, it is the policy of the Association that, to the extent practicable, Responsible Governance Policies, other policies or procedures, Bylaws, and Rules and Regulations be consistently and uniformly followed and enforced.

4. New or amended Responsible Governance Policies, other policies or procedures, Bylaws, and Rules and Regulations shall be adopted by the Board as the interests of the Association dictate or as may be required by Colorado law.

## **VIII. Procedures for Addressing Disputes between the Association and Owners**

1. In the event of any dispute involving the Association and an owner, the owner is invited and encouraged to meet with the Association's Board of Directors ("Board") to resolve the dispute informally and without the need for formal legal action. If the owner requests to meet with the Board, the Board shall make a reasonable effort to comply with the owner's request.

2. Nothing herein shall be construed to require any specific form of alternative dispute resolution, such as mediation or arbitration, or require the parties to meet. Depending on the nature of the dispute, the Board shall consider whether mediation may be appropriate under the circumstances before proceeding to litigation. Neither the Association nor the owner waives any right to pursue whatever legal or other remedial action that may be available to either party under Colorado law or otherwise.

### **IX. Reserve Study Procedure**

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

*[END OF SUBSTANTIVE POLICIES – SIGNATURES FOLLOW]*

### **CERTIFICATION**

The undersigned, as President and Secretary of Overlook at Mt. Crested Butte Owners' Association, Inc., hereby certify that the foregoing Responsible Governance Policies were considered and adopted by the Association's Board of Directors at a duly called and held meeting of the Board of Directors on \_\_\_\_\_, 2024.

#### **Overlook at Mt. Crested Butte Owners' Association, Inc., a Colorado nonprofit corporation**

By: \_\_\_\_\_ (signature)  
\_\_\_\_\_  
Its: President (print name)

By: \_\_\_\_\_ (signature)  
\_\_\_\_\_  
Its: Secretary (print name)

[corporate seal – if available]