

**TIMBERDALE RANCH OWNERS' ASSOCIATION**

**RESPONSIBLE GOVERNANCE POLICIES**

**(03/02/20)**

**POLICIES**

1. Adoption and Amendment of Policies
2. Inspection and Copying of Association Records; Record Retention Policy
3. Board Owner Conflict of Interest
4. Conduct of Meetings
5. Enforcement of Covenants and Rules; Notice and Hearing Procedure
6. Collection of Unpaid Assessments
7. Investment of Reserve Funds
8. Dispute Resolution Between Owners and Association

## **TIMBERDALE RANCH OWNERS' ASSOCIATION**

### **POLICY #1: ADOPTION AND AMENDMENT OF POLICIES**

Adopted March 3, 2020

The following procedures have been adopted by the Timberdale Ranch Owners' Association ("Association") pursuant to the provisions of C.R.S. §38-33.3-209.5, C.R.S. §38-33.3-123, §38-33.3-315, §38-33.3-316, the Governing Documents of the Association, and the Act, at a regular meeting of the Board.

**Purpose:** To adopt a Policy setting forth procedures for the adoption and amendment of policies, procedures, and rules.

**NOW, THEREFORE, IT IS RESOLVED** that the Association does hereby adopt the following Policy governing adoption and amendment of policies, procedures and rules:

**1. Authority.** Pursuant to the Association's governing documents and C.R.S. §38-33.3-302, the authority to create, adopt, enforce, amend and repeal policies, procedures and rules lies with the Board.

**2. Solicitation of Information from Owners.** Prior to adopting any Policy the Board has the right but not the obligation to solicit information regarding the proposed Policy from Owners. The Board may gather information by distributing draft policies, forming a committee, conducting an informational meeting or any other method determined by the Board to be appropriate considering all of the relevant circumstances.

**3. Adoption.** When the Board, in the exercise of its discretion, determines that a Policy should be adopted, amended or repealed, as appropriate, it shall do so either at a meeting of the Board or by written consent in lieu of a meeting, or by any other method authorized by the Association's Governing Documents or pursuant to Colorado law.

**4. Notice.** The Board shall then give notice of the adoption, amendment, or repeal of the Policy by any reasonable means available, including but not limited to posting the Policy in the community or by e-mail, mail, newsletter, or personal delivery, and shall publish the Policy on its web site, if applicable. The Policy, along with all other Policies of the Association, shall be available for inspection and copying in accordance with the Association's Policy regarding inspection and copying of Association records.

**5. Enforcement.** Any Owner's failure to receive the Policy shall not be a defense to any attempt by the Association to enforce the Policy or to levy fines, expenses, or attorneys' fees as a result of a violation of the Policy.

**6. Definitions.** As used in the Association Policies, capitalized terms shall have the meanings as defined in the Act or Governing Documents.

**7. Conflicts.** The Policies adopted by the Association are supplemental to the Governing Documents and the Act. In the event of a conflict between the provisions of any Policy and the Governing Documents, the Governing Documents and the Act shall control.

**8. Severability.** The provisions of the Association Policies shall be independent and severable. The invalidity of any one or more of the provisions of any Association Policy by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which shall remain in full force and effect.

**PRESIDENT’S CERTIFICATION:** The undersigned, being the President of the Timberdale Ranch Owners’ Association, a Colorado nonprofit corporation, certifies that the foregoing Resolution was approved and adopted by the Board, at a duly called and held meeting of the Board on March 3, 2020 and in witness thereof, the undersigned has subscribed his/her name.

\_\_\_\_\_  
Timberdale Ranch Owners’ Association, a Colorado non-profit corporation,

By: \_\_\_\_\_  
James Tencza, President

## **TIMBERDALE RANCH OWNERS' ASSOCIATION**

### **POLICY #2: INSPECTION AND COPYING OF ASSOCIATION RECORDS; RECORD RETENTION POLICY**

Adopted March 3, 2020

The following procedures have been adopted by the Timberdale Ranch Owners' Association ("Association") pursuant to the provisions of C.R.S. §38-33.3-209.5, C.R.S. §38-33.3-209.4, §38-33.3-317, the Governing Documents of the Association, and the Act, at a regular meeting of the Board.

**Purpose:** The Act establishes the obligation of the Association to keep adequate records and gives all Owners the right to examine and copy the financial and other records of the Association for a proper purpose. This Policy is adopted to: establish uniform procedures for the inspection and copying of Association records by Association Owners; to establish the type of records kept by the Association or its agent and where they are stored, including the availability of records on a website, if any; and to establish the cost of copying Association records. This Policy also facilitates delivery or transmission of written statements to permitted persons or organizations describing the amount of unpaid Assessments currently levied against any Lot.

**NOW, THEREFORE, IT IS RESOLVED** that the Association does hereby adopt the following Policy governing the inspection and copying of Association records:

**1. Association Record Retention.** The Association shall maintain permanent records in accordance with C.R.S. §38-33.3-317, including minutes of all meetings of Owners and the Board, a record of all actions taken by the Owners or Board by written ballot or written consent in lieu of a meeting, a record of all actions taken by a committee of the Board in place of the Board on behalf of the Association, and a record of all waivers of notices of meetings of Owners and of the Board or any committee of the Board. The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

**2. Records to be Maintained at Association's Principal Office.** A copy of each of the following records shall be kept at its principal office, all as they may be amended from time to time:

**a. List of Owners.** A record of Owners in a form that permits preparation of a list of the names and addresses of all Owners, showing the number of votes each Owner is entitled to vote.

**b. Associations' Governing Documents:** The Association's governing documents which are comprised of:

- **Articles of Incorporation**
- **Declaration**
- **Covenants**
- **Bylaws**

- **Architectural Standards & Rules; and**
- **Any Policies adopted by the Board, including the Association's responsible governance policies.**

**c. Minutes.** The minutes of all Owners' meetings and Board meetings, and records of all action taken by Owners without a meeting, for the past three years;

**d. Written Communications.** All written communications within the past three years to Owners generally as Owners;

**e. Directors and Officers.** A list of the names and business or home addresses of its current Directors and officers;

**f. Financial Records.** Records of receipts and expenditures affecting the operation and administration of the Association; Financial statements for the last three years, which at a minimum shall include the balance sheet, the income/expenses statement, and the amount held in reserves for the prior fiscal year; Tax returns for the last seven years, to the extent available; and the operating budget for the current fiscal year.

**g. Assessments.** A list, by property type, of the Association's current assessments, including both regular and special assessments;

**h. Construction Defects.** Records of claims for construction defects and amounts received pursuant to settlement of any such claims;

**i. Insurance Policies.** A list of the Association's insurance policies, which shall include the company names, policy limits, policy deductibles, additional named insured and expiration dates of the policies listed;

**j. Board Members.** A list of the names, e-mail addresses and mailing addresses of the current board members and officers;

**k. Annual Report.** The most recent annual report delivered to the Secretary of State;

**l. Board Communications.** Records of actions taken by the board without a meeting, including written communications and e-mails among board members that are directly related to the action so taken;

**m. Committee Actions.** Records of actions taken by any committee of the board without a meeting;

**n. Annual Report.** The Association's most recent annual report, if any;

**o. Financial Audits and Reviews.** All financial audits or reviews of the Association conducted during the immediately preceding three years;

**p. Ledger.** A ledger of each owner's assessment account;

**q. Reserve Study.** The most recent reserve study, if any;

**r. Contracts.** Current written contracts and contracts for work performed for the Association within the prior two years;

**s. Architectural Review.** Records of board or committee actions to approve or deny any requests for design or architectural approval from owners;

**t. Ballots.** Ballots, proxies and other records related to voting by owners for one year after the election, vote or action to which they relate;

**u. Resolutions.** Resolutions adopted by the Board; and

**v. Fiscal Year.** A record showing the date on which the Association's fiscal year begins.

**3. Records to be Reasonably Available for Inspection and Copying.** All financial and other records of the Association shall be made reasonably available for examination and copying by any Owner and such Owner's authorized agents.

**a. Reasonably Available.** The term "reasonably available" means available during normal business hours, upon notice of five business days, or at the next regularly scheduled meeting if such meeting occurs within thirty days after the request, to the extent that the request is made in good faith and for a proper purpose, the request describes with reasonable particularity the records sought and the purpose of the request, and the records are relevant to the purpose of the request.

**b. Limitations - Ownership Lists.** A Ownership 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 consent of the Board. Without the consent of the Board, a Ownership 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 the Owners 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.

**c. Additional Limitations.** At the discretion of the Association's President, certain records may only be inspected in the presence of a Board Owner. No records may be removed from the office without the express written consent of the Board. Further, if an Owner requests to inspect records, the Association may photocopy and provide the requested records to the Owner in lieu of the Owner's inspection of the records if consented to by the Owner.

**4. Fees.** The Association may charge a fee, which may be collected in advance but which shall not exceed the Association's actual cost per page, for copies of Association records.

**5. Limited Availability of Certain Records.** Consistent with individual Owner's right to privacy, attorney-client confidentiality and other considerations, the following records will not be made available without the express written consent of the Board:

**a. Personnel.** Confidential personnel records.

**b. Litigation.** Confidential litigation files and matters covering consultation with legal counsel concerning disputes that are subject of pending or imminent court proceedings or are privileged or confidential between attorney and client.

**c. Misconduct.** Files dealing with investigative proceedings concerning possible or actual criminal misconduct.

**d. Privacy.** Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.

**e. Work in Progress.** Inter-office memoranda, preliminary data, working papers and drafts, and general information or investigations which have not been formally approved by the Board.

**f. Architectural drawings, plans and designs,** unless released upon the written consent of the legal owner of the drawings, plans or designs.

**6. Criteria for Limitation.** In determining whether records may be inspected, the Association shall consider, among other things:

**a. Good Faith.** Whether the request is made in good faith and for a proper purpose;

**b. Relevant Purpose.** Whether the records requested are relevant to the purpose of the request;

**c. No Improper Purpose.** Whether disclosure is for an illegal or improper purpose, or would violate a constitutional or statutory provision or public policy; and

**d. Legal Limitations.** Whether disclosure may result in an invasion of personal privacy, breach of confidence or privileged information as set forth above.

**7. Abuse of Rights.** The Association reserves the right to pursue any individual for damages or injunctive relief or both, including reasonable attorneys fees, for abuse of these rights.

**PRESIDENT'S CERTIFICATION:** The undersigned, being the President of the Timberdale Ranch Owners' Association, a Colorado nonprofit corporation, certifies that the foregoing Resolution was approved and adopted by the Board, at a duly called and held meeting of the Board on March 3, 2020 and in witness thereof, the undersigned has subscribed his/her name.

\_\_\_\_\_  
Timberdale Ranch Owners' Association, a Colorado non-profit corporation,

By: \_\_\_\_\_  
James Tencza, President



## **TIMBERDALE RANCH OWNERS' ASSOCIATION**

### **POLICY #3: BOARD OWNER CONFLICT OF INTEREST POLICY**

Adopted March 3, 2020

The following procedures have been adopted by the Timberdale Ranch Owners' Association ("Association") pursuant to C.R.S. §38-33.3-209.5, and in accordance with C.R.S. §38-33.3-310.5, 7-128-501, the Governing Documents of the Association, and the Act at a regular meeting of the Board.

**Purpose:** The Association desires to ensure that the Board and all individuals appointed to committees of the Board maintain a high standard of ethical conduct in the performance of the Association's operations and adhere to the standards and requirements of the Act. By adopting a Policy governing the handling of conflicts of interest of Board Owners, the Board hopes that the Owners will be able to have confidence in and respect for the Association's leadership.

**NOW, THEREFORE, IT IS RESOLVED** that the Association does hereby adopt the following Policy to govern the handling of conflicts of interest of Board Owners:

**1. Conflicting Interest Transaction.** A "conflicting interest transaction" is a contract, transaction, or other financial relationship between the Association and a Director of the Association, or between the Association and a party related to a Director, or between the Association and an entity in which a Director of the Association is a director or officer or has a financial interest. A "party related to a Director" shall mean a spouse, a descendent, an ancestor, a sibling, the spouse or descendent 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, officer, or has a financial interest.

**2. Loans Not Allowed.** No loans shall be made by the Association 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 Association for the amount of such loan until the repayment thereof.

**3. Determination of Quorum.** Common or interested Directors may be counted in determining the presence of a quorum at a meeting of the Board or of a committee which authorizes, approves, or ratifies the conflicting interest transaction.

**4. Conduct Regarding Conflicting Interest Transactions.** 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 in a proceeding by a Owner or by or in the right of the Association, solely because the conflicting interest transaction involves: 1) a Director of the Association or 2) a party related to a Director or 3) an entity in which a Director of the Association is a director or officer or has a financial interest. The Director with the conflicting interest may be present at and participate in the meeting of the Association's Board or of a committee of the Board addressing the conflicting interest transaction.

**5. Actions of the Association.** The Association may authorize, approve, or ratify the conflicting interest transaction if:

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

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

**c. Fair to Association.** The conflicting interest transaction is fair as to the Association.

**6. Records of Proceedings.** The minutes of meeting of the Board and all committees with Board delegated powers shall contain the names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflicting interest transaction, the nature of the conflicting interest, any action taken as a result, and the Board's or committee's decision.

**PRESIDENT'S CERTIFICATION:** The undersigned, being the President of the Timberdale Ranch Owners' Association, a Colorado nonprofit corporation, certifies that the foregoing Resolution was approved and adopted by the Board, at a duly called and held meeting of the Board on March 3, 2020 and in witness thereof, the undersigned has subscribed his/her name.

\_\_\_\_\_  
Timberdale Ranch Owners' Association, a Colorado non-profit corporation,

By: \_\_\_\_\_  
James Tencza, President

## TIMBERDALE RANCH OWNERS' ASSOCIATION

### POLICY #4: CONDUCT OF MEETINGS

Adopted March 3, 2020

The following procedures have been adopted by the Timberdale Ranch Owners' Association ("Association") pursuant to the provisions of C.R.S. §38-33.3-209.5, and in accordance with C.R.S. §38-33.3-308, the Governing Documents of the Association, and the Act, at a regular meeting of the Board.

**Purpose:** To establish a uniform and systematic protocol for conducting meetings of the Association, including Owners' meetings and Board meetings; to ensure equitable participation by Owners while permitting the Board to conduct the business of the Association; and to memorialize the circumstances under which the Board may convene into executive session.

**NOW, THEREFORE, IT IS RESOLVED** that the Association does hereby adopt the following Policy governing the conduct of meetings of the Owners and meetings of the Board:

**1. Open Meetings.** All meetings of the Association are open to every Owner, or to any person designated by an Owner in writing as the Owner's representative, subject to the right of the Board to conduct executive sessions as provided in the Governing Documents and the Act.

**2. Agenda.** Copies of the agenda will be available at the meeting. The agenda for all meetings shall follow the order of business specified by the Association's Governing Documents, and if none, in accordance with the order of business determined by the Board.

**3. Owner Participation.** At an appropriate time determined by the Board, but before the Board votes on an issue under discussion, Owners or their designated representatives shall be permitted to speak regarding that issue. The Board 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. Recording of Meetings.** Note taking at Association meetings is permitted. Recording by video or audio of any portion of any meeting is not permitted unless explicitly authorized by the Board.

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

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

**7. Disruptive or Unruly Behavior.** If an Owner unreasonably disrupts a meeting, refuses to stop speaking when requested, or is otherwise in violation of the provisions of the Governing Documents, the President or acting chair may call a recess and attempt to speak directly to the Owner, or adjourn the meeting to another time. The President may at any time call law enforcement or security to bring the situation under control.

**8. Attorney-Client Privileged Communications.** Upon the final resolution of any matter for which the Board received legal advice or that concerned pending or contemplated litigation, the Board may elect to preserve the attorney-client privilege in any appropriate manner, or it may elect to disclose such information, as it deems appropriate, about such matter in an open meeting.

**PRESIDENT'S CERTIFICATION:** The undersigned, being the President of the Timberdale Ranch Owners' Association, a Colorado nonprofit corporation, certifies that the foregoing Resolution was approved and adopted by the Board, at a duly called and held meeting of the Board on March 3, 2020 and in witness thereof, the undersigned has subscribed his/her name.

\_\_\_\_\_  
Timberdale Ranch Owners' Association, a Colorado non-profit corporation,

By: \_\_\_\_\_  
James Tencza, President

## TIMBERDALE RANCH OWNERS' ASSOCIATION

### **POLICY #5: ENFORCEMENT OF COVENANTS AND RULES; NOTICE AND HEARING PROCEDURE**

Adopted March 3, 2020

The following procedures have been adopted by the Timberdale Ranch Owners' Association ("Association") pursuant to C.R.S. §38-33.3-209.5, C.R.S. §38-33.3-308, the Governing Documents of the Association, and the Act, at a regular meeting of the Board.

**Purpose:** The Board has the duty to manage the Association and regulate the use of the common elements. The Governing Documents establish rules and obligations of the Owners. This Policy sets forth the procedure for enforcing the provisions of the Governing Documents.

**NOW, THEREFORE, IT IS RESOLVED** that the Association does hereby adopt the following Policy to govern the enforcement of the Association's restrictive covenants:

**1. Authority.** The Board has the power and duty to hear and make decisions regarding violations of the Governing Documents and to impose fines or other sanctions against Owners. The Board may determine appropriate enforcement action on a case by case basis, and take other actions as it may deem necessary to assure compliance with the Governing Documents and to create a safe and harmonious living environment.

**2. Violations.** Either the Board or the Owners may bring an alleged violation of the Governing Documents to the attention of the Association. Owners must submit their concerns to the Association in writing, which shall state the specific provision(s) of the Governing Documents alleged to have been violated and as many specifics as are available as to time, date, location and persons involved.

**3. Violations or Offenses that Constitute a Present Danger.** If, in its sole discretion, the Board deems that any violation or alleged violation is or may be an immediate or substantial threat to the health, safety or welfare of the community or an individual, the Board may impose any appropriate sanction as necessary to abate the threat to health, safety or welfare of the community or individual without conducting a hearing as provided in this Policy. Following any actions of the Association to abate a present danger, the matter shall be addressed as provided in this Policy.

**4. Notice and Right to Hearing.** If the Board determines that the allegations are sufficient to constitute a violation of the Governing Documents and that action is warranted, the Association shall send a notice to the Owner alleged to have violated the Governing Documents, by certified mail, return receipt requested, to the mailing address of the Respondent appearing on the records of the Association.

**a. Notice and Demand for Abatement.** The notice and demand for abatement ("Notice and Demand for Abatement") shall advise the Owner of the alleged violation, the action

required of the Owner to abate the violation, and a reasonable time period during which the violation may be abated without further sanction. The notice shall also advise the Owner that if the violation is not abated within the allowed time or if any similar violation occurs, the Board may impose a sanction against the Owner after notice and hearing.

**b. Continuing Violation.** At any time within 12 months of the date of the demand for abatement, if the violation continues past the time allowed for abatement or if the same or similar violation subsequently occurs, the Board shall mail or e-mail the Respondent a written notice of a hearing (Notice of Hearing) to be held by the Board. The Notice of Hearing shall contain information regarding:

- i. the nature of the alleged violation,
- ii. The time and place of the hearing, which shall not be less than ten days from the date of the Notice of Hearing, and
- iii. an invitation to attend the hearing and produce any statement, evidence, and witness on the Owner's behalf, and
- iv. the proposed sanction to be imposed.

**c. Statement of Potential Action by Association.** The Notice of Hearing shall contain the following statement: *The Board may determine that the Owner's failure to respond or appear at the hearing constitutes a no-contest plea to the alleged violation. If the Owner fails to appear at the specified date and time or otherwise respond to the Association, the Board may proceed with or without a hearing at its discretion to make its determination of the allegations based on all available relevant facts and circumstances and enforce the provisions of the Association's Documents as the Board deems necessary.*

**d. Satisfaction of Notice of Hearing.** Proof of notice shall be deemed adequate if a copy of the notice, together with a statement of the date and manner of delivery, is entered in the record of the hearing by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the alleged violator appears at the hearing.

**5. Hearing.** Each hearing shall be held at the scheduled time, place and date, unless the Owner has failed to respond or appear at the hearing.

**a. Conduct of Hearing.** The Board may grant continuance(s) for good cause. In conducting the hearing, the Board may exercise its discretion as to the specific manner in which a hearing shall be conducted, question witnesses and review evidence, and act as it may deem appropriate or desirable to permit the Board to reach a just decision. Neither the party bringing the matter to the attention of the Association or the Owner must be in attendance at the hearing, but both are encouraged to attend. Any party may elect not to present evidence at the hearing. Action taken by the Board shall be fair and reasonable taking into consideration all of the relevant facts and circumstances. Each hearing shall be open to attendance by all Owners of the Association, except those portions of which may necessitate an executive session of the Board.

**b. Opportunity to be Heard.** The hearing shall be conducted in a manner that affords the alleged violator a reasonable opportunity to be heard. If the respondent does not appear but a written response is filed, the Board shall render its decision based on the information

contained in the allegation and the written response, considering all of the relevant facts and circumstances. If neither an appearance nor a written response is made, the Board need not conduct a hearing or make any further findings except that it may determine that the Owner's failure to appear or respond constitutes a no-contest plea to the complaint, and impose appropriate sanctions or otherwise enforce the provisions of the Association's Governing Documents, or both.

**6. Decision.** If the Respondent does not appear but a written response is filed, the Board shall render its decision based on the information made available to the Board and the written response, considering all of the relevant facts and circumstances. If neither an appearance nor a written response is made, the Board need not conduct a hearing or make any further findings except that it may determine that the Respondent's failure to appear or respond constitutes a no-contest plea to the alleged violation, and impose appropriate sanctions or otherwise enforce the provisions of the Documents, or both. If an appearance is made, after all testimony and other evidence has been presented to the Board at a hearing, the Board shall render its decision(s), taking into consideration all of the relevant facts and circumstances. If the Board does not inform the Respondent of its decision at the time of the hearing, or if no hearing is held, the Board will provide a written decision to the Respondent's address of record via regular U.S. Mail within five (5) days after the hearing or meeting at which the determination is made.

**7. Business Judgment Rule.** The decision of the Board to pursue enforcement in any particular case shall be left to the Board's discretion, subject to the duty to exercise its business judgment, and shall not be arbitrary or capricious in taking enforcement action. Without limiting the generality of the foregoing, the Board may determine that, under the circumstances of a particular case:

**a. Association Position.** The Association's position is not strong enough to justify taking any further action or that the covenant, restriction, or rule being enforced is, or is likely to be construed as, inconsistent with applicable law.

**b. Extent of Violation.** Although a technical violation may exist or may have occurred, it is not of such a material nature as to be objectionable to a reasonable person or to justify expending the Association's resources.

**c. Best Interests of the Association.** That it is not in the Association's best interests, based on hardship, expense or other reasonable criteria, to pursue the enforcement action.

**8. Enforcement, Attorney's Fees, and Fines/Sanctions.** The provisions of this Policy shall not limit or be a condition precedent to the Association's right to enforce the Documents by any means available to the Association, including, but not limited to, commencement of a lawsuit to force compliance or seeking injunctive relief or damages. The Association shall be entitled to reimbursement of all reasonable attorney's fees and costs incurred by the Association in connection with any enforcement action, including any proceeding under this Policy. Without limiting the Association's remedies under the Governing Documents, the Association may assess fines and suspend Ownership privileges in accordance with this Policy. If the violation involves

damage to Association property, the violator shall pay the costs of repair or replacement. The Board may revoke or suspend the violator's privileges for a period of time equal to the duration of the violation, except that any suspension of voting rights of an Owner shall not exceed 60 days following any violation by such Owner unless such violation is a continuing violation, in which case such suspension may continue for so long as such violation continues and for up to 60 days thereafter.

**9. Fines/Penalties.** The Board of Directors may levy fines/penalties after notice and hearing, as follows:

- Step One – The first infraction or non-compliance will result in a written notice of infraction.
- Step Two – After 30 days of non-compliance or after second infraction – a \$100 fine may be imposed.
- Step Three- After 60 days of non-compliance or after the third infraction, the Association may take additional legal action to remove the source of non-compliance or infraction at the property and/or impose a \$300 fine.
- Step Four – After 120 days of non-compliance or after the 4<sup>th</sup> infraction, the Association may seek injunctive relief or file a lien on the property in accordance with the recorded covenants.

The record Owner of real estate subject to the Declaration shall have the primary obligation to pay fines imposed for their actions and actions of their tenants and guests. Fines imposed pursuant to these enforcement policies and procedures shall become an Assessment imposed against the record Owner's real estate and enforceable as provided in the Declaration.

## **10. Miscellaneous.**

**a. No Waiver.** Failure by the Association to enforce any provision of this Policy shall in no event be deemed to be a waiver of the right to do so thereafter.

**b. Additional Remedies.** These enforcement provisions may be in addition to other specific provisions outlined in the Association's Governing Documents, and the Association is not required to follow these enforcement provisions before seeking such other remedies. The Association may choose a legal remedy or seek assistance from other enforcement authorities, such as police, fire, or animal control, as it deems appropriate.



**PRESIDENT'S CERTIFICATION:** The undersigned, being the President of the Timberdale Ranch Owners' Association, a Colorado nonprofit corporation, certifies that the foregoing Resolution was approved and adopted by the Board, at a duly called and held meeting of the Board on March 3, 2020 and in witness thereof, the undersigned has subscribed his/her name.

\_\_\_\_\_  
Timberdale Ranch Owners' Association, a Colorado non-profit corporation,

By: \_\_\_\_\_  
James Tencza, President

## **TIMBERDALE RANCH OWNERS' ASSOCIATION**

### **POLICY #6: COLLECTION OF UNPAID ASSESSMENTS**

Adopted March 3, 2020

The following Policy has been adopted by the Timberdale Ranch Owners' Association, ("Association") pursuant to C.R.S. §38-33.3-209.5, and in accordance with C.R.S. §38-33.3-123, §38-33.3-315, §38-33.3-316, C.R.S. §38-33.3-316.3, the Governing Documents of the Association, and the Act, at a regular meeting of the Board.

**Purpose:** All Members are obligated by the Declaration to pay all dues and Assessments in a timely manner, and failure to do so jeopardizes the Association's ability to meet its financial obligations. Failure of Members to pay Assessments in a timely manner is also costly to the Association and unfair to other Members. Accordingly, the Association, acting through the Board must take steps to ensure timely payment of Assessments so that it may operate in a fiscally responsible manner. The purpose of this Policy is to establish a uniform and systematic procedure for collecting Assessments and other charges of the Association, thus ensuring the financial well-being of the Association.

**NOW, THEREFORE, IT IS RESOLVED** that the Association does hereby adopt the following Policy governing the collection of Assessments and other charges of the Association:

#### **1. Due Dates.**

**a. Annual Assessment.** The annual Assessment as determined by the Association shall be due and payable on the first day of January. Annual Assessments not paid to the Association within ten (10) days after the due date shall be considered past due and delinquent.

**b. Transfer of Ownership.** In the event that the ownership of a Lot is transferred on a day other than the first day of the month, the monthly installment of the annual Assessment and any other Assessments, charges and payments due and payable to the Association for the month of closing shall be prorated to the date of closing. Unless otherwise allowed by the Association in writing, and if not sooner paid by the seller and/or buyer, all Assessments, charges, and payments due and payable to the Association shall be paid at closing.

**2. Interest Charges.** If any Assessment is not paid within thirty (30) days after its due date, the amount due shall bear interest at a rate of twelve percent (12%) per annum from the due date until paid. All late charges and interest charges shall be due and payable immediately, without notice, in the manner provided for payment of Assessments.

**3. Return Check Charges.** A fifty-dollar (\$50.00) fee shall be assessed against an Owner in the event any check or other instrument attributable to or payable for the benefit of such Owner is not honored by the bank or is returned by the bank for any reason whatsoever, including but not limited to, insufficient funds. Notwithstanding this provision, the Association shall be entitled to

all additional remedies as may be provided by applicable law. If two or more of an Owner's checks are returned unpaid by the bank within any twelve-month period, the Association may require that all of the Owner's future payments, for a period of one year, be made by certified check or money order.

**4. Attorney Fees on Delinquent Accounts.** The Association shall be entitled to recover its collection costs and reasonable attorney fees and costs incurred in the collection of Assessments or other charges due the Association from a delinquent Owner, without the necessity of commencing a legal proceeding.

**5. Application of Payments made to the Association.** The Association reserves the right to apply all payments received on account of any Owner first to payment of any and all attorney fees and costs, then to costs and expenses of enforcement and collection, late charges, interest, returned check charges, lien fees, and other costs owing or incurred with respect to such Owner, and any remaining amounts shall be applied to the Assessments due with respect to such Owner.

**6. Collection Procedure; Lien.**

**a. First Notice.** The original written communication to the Owner regarding an annual Assessment or other Assessment, charge or payment owed to the Association, however accomplished by the Association, constitutes the first notice to the Owner of an amount due to the Association.

**b. Statutory Lien.** The Association has a statutory lien on a Lot for any Assessment levied against the Lot and other fines and charges allowable under the Act as Assessments imposed against the Owner. The recorded Declaration constitutes record notice and perfection of the lien, no further recordation of any claim of lien for Assessments is required for the statutory lien. The amount of the lien includes the amount of any Assessment and all allowed charges from the time they become due. If an Assessment is payable in installments, each installment is a lien from the time it becomes due, including the due date set by any valid acceleration of installment obligations. The Association's lien has priority over other liens as provided by the Act.

**c. Notice of Delinquency.** After an installment of the annual Assessment or other Assessment, charge or payment owed to the Association becomes thirty (30) days past due, the Association shall cause a notice of delinquency to be sent to the Owner who is delinquent in payment. The notice of delinquency is the second notice to the Owner of the amount due to the Association, and shall include any applicable fees, late charges and interest.

**d. Payment plan.** *Six (6) Month Payment Plan.* At a minimum, the Association will offer the Owner a one-time opportunity to pay off the deficiency in equal installments over a period of at least six months. The deficiency amount may include regular, additional or reimbursement assessments, late fees, attorneys' fees, fines and interest. The six-month payment plan shall commence no later than 60 days after the date of the delinquency notice to the Owner. The Association will provide the Owner with the six-month payment schedule and the dates upon which the payments are due. In addition:

- The Owner shall remain current with any regular assessments that may come due during the payment plan period.
- If the Owners fails to make an installment payment under the payment plan or fails to remain current with the regular assessments during the payment plan period, the Owner is in default of the plan and the Association may pursue its remedies including, but not limited to, filing a lien, foreclosure and filing a lawsuit and obtaining a judgment.
- The Association is not required to enter into any future payment plans with the Owner if the Owner fails to comply with the terms of the initial payment plan offered by the Association.

**e. Foreclosure and Other Remedies.** The Association's lien may be foreclosed in a like manner as a mortgage on real estate, or as provided by the Act, and the Association has the right to pursue other available remedies, including suits to recover sums. The Association has the right to accept a deed in lieu of foreclosure.

**f. Attorney Fees.** The Association shall be entitled to costs and reasonable attorney fees incurred by the Association to pursue collection of assessments and dues, including pre-litigation fees, in accordance with the Act.

**7. Referral of Delinquent Accounts to Attorneys.** The Association may, but shall not be required to refer delinquent accounts to its attorney for collection, if the delinquency is not cured after notice is provided to the delinquent Owner as set forth in Paragraph 6. After consultation with the Board or the Association's managing agent, the attorney shall be entitled to exercise all available remedies to collect the amounts due, including judicial foreclosure and appointment of a receiver of the delinquent Owner's property.

**8. Referral of Delinquent Accounts to Collection Agencies.** The Association may, but shall not be required to assign delinquent accounts to one or more collection agencies for collection if the delinquency is not cured after notice is provided to the delinquent Owner as set forth in Paragraph 6.

**9. Waivers.** Nothing in this Resolution shall require the Association to take specific actions other than to notify Owners of the adoption of this Policy. The Association has the option and right to continue to evaluate each delinquency on a case by case basis. The Association may grant a waiver of any provision herein upon petition in writing by an Owner showing a personal hardship or other valid basis for a waiver. Such relief granted an Owner shall be appropriately documented in the records of the Association, including the name of the person or persons representing the Association granting the relief and the conditions of the relief. In addition, the Association is hereby authorized to extend the time for the filing of lawsuits and liens, or to otherwise modify the procedures contained herein, as the Association may determine appropriate under the circumstances.

**10. Delinquencies Constitute Covenant Violations.** Any delinquency in the payment of Assessments shall constitute a violation of the covenants contained in the Declaration, and shall result in the delinquent Owner's voting privileges to be suspended until the delinquency is cured.

**PRESIDENT'S CERTIFICATION:** The undersigned, being the President of the Timberdale Ranch Owners' Association, a Colorado nonprofit corporation, certifies that the foregoing Resolution was approved and adopted by the Board, at a duly called and held meeting of the Board on March 3, 2020 and in witness thereof, the undersigned has subscribed his/her name.

\_\_\_\_\_  
Timberdale Ranch Owners' Association, a Colorado non-profit corporation,

By: \_\_\_\_\_  
James Tencza, President

## **TIMBERDALE RANCH OWNERS' ASSOCIATION**

### **POLICY #7: INVESTMENT OF RESERVE FUNDS**

Adopted March 3, 2020

The following reserve fund investment Policy has been adopted by the Timberdale Ranch Owners' Association pursuant to C.R.S. §38-33.3-209.5, C.R.S. §38-33.3-303, 7-128-401, the Governing Documents of the Association, and the Act, at a regular meeting of the Board.

**Purpose:** This Policy defines investment objectives and procedures to protect and ensure the safety of the assets and capital improvements of the Association and those volunteers who participate in the investment process. This Policy also provides guidance to those who offer investment services to the Association, including brokers/dealers, banks, consultants, savings institutions, and custodians. This Policy does not set forth: (1) the minimum reserve fund balance required of the Association; (2) any mandate for an annual reserve fund study; or (3) the tax consequences of the investment options contained herein.

**NOW, THEREFORE, IT IS RESOLVED** that the Association does hereby adopt the following Policy to govern the investment of the Association's reserve funds:

**1. Standards of Conduct.** With regard to the investment of reserve funds of the Association, the officers and Owners of the Board shall be subject to the standards set forth in C.R.S. §7-128-401, a copy of which is attached as Exhibit A to this Policy for convenience; except that, as used in that statute:

**a. Corporation.** "Corporation" or "nonprofit corporation" means the Association.

**b. Director.** "Director" means an Owner of the Association's Board.

**c. Officer.** "Officer" means any person designated as an officer of the Association and any person to whom the Board delegates responsibilities under this article, including, without limitation, a managing agent, attorney, or accountant employed by the Board.

**2. Safety of Funds:** Safety of principal is the foremost objective of the investment program. Investments shall be undertaken in a manner that seeks to ensure the preservation of capital, with the objective of mitigating credit risk and interest rate risk.

**a. Credit Risk.** The Association will minimize credit risk, the risk of loss due to the failure of the financial institution, by:

i. Limiting investments to the safest types of investments as provided for herein;

ii. Pre-qualifying the financial institutions, brokers/dealers, and advisors with which the Association does business; and

iii. Subject to the limitations herein, diversifying the investment portfolio so that potential losses on individual investments will be minimized.

**b. Interest Rate Risk.** The Association will minimize the risk of the market value of investments in the portfolio due to changes in general interest rates by:

i. Structuring the investment portfolio so that investments mature sufficiently close to cash requirements for ongoing operations, thereby minimizing the potential need to sell investments prior to maturity; and

ii. Investing all funds primarily in short- to intermediate-term investments, and approved money market mutual funds.

**3. Liquidity of Funds.** The investment portfolio shall remain sufficiently liquid to meet all planned reserve fund expenditures for the following fiscal year. To ensure that adequate reserve funds are available to pay the Association's reserve expenditures, annual reserve fund investments shall reasonably match the planned reserve fund expenditures for the following fiscal year.

**4. Types of Investments.** The reserve fund portfolio shall consist largely of Money Market Accounts and/or Certificates of Deposit.

**5. Yield.** Subject to the restrictions on the types of investments, the Association's portfolio shall earn a competitive market rate of return on available funds throughout budgetary and economic cycles. In meeting this objective, the Association, through the Board, will take into account the Association's investment risk, constraints, and cash flow needs.

**6. Delegation of Authority.** Responsibility for conducting investment transactions for the Association resides with the Treasurer. The President of the Board will be considered an authorized person to assist the Treasurer in performing investment management, cash management, or treasury functions. Persons authorized to transact investment business for the Association are limited to these two officers. The Treasurer will provide a copy of this investment Policy to all of the Association's investment service providers. Association Owners will receive a copy of this investment Policy from the Treasurer upon request. The Treasurer may engage the support services of outside professionals, subject to the availability of budgeted funds and approval from the Board. The Board shall provide a copy of this Policy to the newly elected Treasurer at the assumption of office.

**7. Ineligible Investments and Transactions.** The Association shall not invest in the following asset class(es):

**a. Individual stocks;**

**b. Equity mutual funds, domestic or foreign;**

**c. Mutual funds consisting of bonds or mortgages and or derivatives;**

- d. Options on equity, debt or commodities;**
- e. Floating rate securities or floating rate certificates of deposit; and**
- f. Investment in a single institution in excess of FDIC insurance limits.**

**8. Selection of Banks.** Banks and savings institution shall be approved by written resolution by the Board to provide depository and other banking services for the Association. To be eligible for authorization, a bank must be domiciled in the United States and have physical facilities for doing business in the State of Colorado, a Owner of the FDIC and must meet the minimum credit criteria of credit analysis provided by commercially available bank rating services. Banks failing to meet the minimum criteria, or, in the judgment of the Treasurer or Board, no longer offering adequate safety to the Association funds, shall be unauthorized to provide depository and other banking services for the Association.

**9. Reporting.** On an annual basis, an investment report shall be prepared and submitted by the Treasurer or an outside advisor, who will provide such report to the Board in a timely manner, listing the reserve fund investments held by the Association and the current market valuation of the investments. The report shall include a summary of investment earnings during the prior fiscal year. The Association Owners shall have access to the list of Association reserve fund portfolio holdings.

**10. Policy Revisions.** The Board shall review Policy periodically and may amend the Policy as conditions warrant. The Treasurer may recommend amendments to this Policy as necessary.

**PRESIDENT'S CERTIFICATION:** The undersigned, being the President of the Timberdale Ranch Owners' Association, a Colorado nonprofit corporation, certifies that the foregoing Resolution was approved and adopted by the Board, at a duly called and held meeting of the Board on March 3, 2020 and in witness thereof, the undersigned has subscribed his/her name.

\_\_\_\_\_  
Timberdale Ranch Owners' Association, a Colorado non-profit corporation,

By: \_\_\_\_\_  
James Tencza, President



## TIMBERDALE RANCH OWNERS' ASSOCIATION

### **POLICY #8: DISPUTE RESOLUTION BETWEEN OWNERS AND ASSOCIATION**

Adopted on March 3, 2020

The following procedures have been adopted by the Timberdale Ranch Owners' Association ("Association") pursuant to the provisions of C.R.S. §38-33.3-209.5, the Governing Documents of the Association, and the Act, at a regular meeting of the Board.

**Purpose:** the purpose of this Policy is to adopt a standard procedure to be followed for alternative dispute resolution when disputes arise between an Owner and the Association.

**NOW, THEREFORE, IT IS RESOLVED** that the Association does hereby adopt the following Policy governing disputes between Owners and the Association:

**1. Disputes Between Owner and Association.** In the event of any dispute involving the Association and an Owner, the Owner is invited and encouraged to meet with the Board to resolve the dispute informally and without the need for litigation. If the Owner requests to meet with the Board, the Board shall make a reasonable effort to comply with the Owner's request.

**2. General Policy.** If the dispute cannot be resolved informally, it is the general policy of the Association to encourage the use of Alternative Dispute Resolution to resolve disputes involving the Association and an Owner. Alternative Dispute Resolution ("ADR") is defined as a procedure for settling a dispute by means other than litigation, such as mediation or binding or non-binding arbitration.

**3. Procedure.** Except for the Exempted Claims defined in this Policy, the Association and the Owner shall attempt to resolve the dispute using ADR methodologies prior to filing suit in any court of competent jurisdiction.

**4. Exemptions.** The following claims shall be exempt from the provisions of this Policy:

**a. Collection of Assessments.** Any action by the Association against an Owner to collect Assessments or other sums due to the Association, including foreclosure proceedings; and

**b. Enforcement Actions.** Any action by the Association to enforce any provisions of the Association's Declaration, Bylaws, or rules and regulations; and

**c. Statute of Limitations.** Any claim of the Association which if not pursued by the filing of a lawsuit would be deemed barred due to the applicable statute of limitations.

**5. ADR Not Required.** Nothing in this Policy shall be construed to require any specific form of alternative dispute resolution, such as mediation or arbitration, or require the parties to

meet. Neither the Association nor the Owner waives any right to pursue whatever legal or other remedial actions available to either party.

**PRESIDENT'S CERTIFICATION:** The undersigned, being the President of the Timberdale Ranch Owners' Association, a Colorado nonprofit corporation, certifies that the foregoing Resolution was approved and adopted by the Board, at a duly called and held meeting of the Board on March 3, 2020 and in witness thereof, the undersigned has subscribed his/her name.

\_\_\_\_\_  
Timberdale Ranch Owners' Association, a Colorado non-profit corporation,

By: \_\_\_\_\_  
James Tencza, President

## **EXHIBIT A**

§ 7-128-401. General standards of conduct for directors and officers.

### **Colorado Statutes**

#### **Title 7. CORPORATIONS AND ASSOCIATIONS**

##### **CORPORATIONS -**

##### **Continued Nonprofit**

##### **Corporations**

##### **Article 128. Directors and**

##### **Officers Part 4.**

##### **STANDARDS OF**

##### **CONDUCT**

*Current through 2019 Legislative Session*

#### **§ 7-128-401. General standards of conduct for directors and officers**

- (1) Each director shall discharge the director's duties as a director, including the director's duties as a member of a committee of the board, and each officer with discretionary authority shall discharge the officer's duties under that authority:
  - (a) In good faith;
  - (b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
  - (c) In a manner the director or officer reasonably believes to be in the best interests of the nonprofit corporation.
- (2) In discharging duties, a director or officer is entitled to rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:
  - (a) One or more officers or employees of the nonprofit corporation whom the director or officer reasonably believes to be reliable and competent in the matters presented;
  - (b) Legal counsel, a public accountant, or another person as to matters the director or officer reasonably believes are within such person's professional or expert competence;
  - (c) Religious authorities or ministers, priests, rabbis, or other persons whose position or duties in the nonprofit corporation, or in a religious organization with which the nonprofit corporation is affiliated, the director or officer believes justify reliance and confidence and who the director or officer believes to be reliable and competent in the matters

presented; or

- (d) In the case of a director, a committee of the board of directors of which the director is not a member if the director reasonably believes the committee merits confidence.

(3) A director or officer is not acting in good faith if the director or officer has knowledge concerning the matter in question that makes reliance otherwise permitted by subsection (2) of this section unwarranted.

- (4) A director or officer is not liable as such to the nonprofit corporation or its members for any action taken or omitted to be taken as a director or officer, as the case may be, if, in connection with such action or omission, the director or officer performed the duties of the position in compliance with this section.
- (5) A director, regardless of title, shall not be deemed to be a trustee with respect to the nonprofit corporation or with respect to any property held or administered by the nonprofit corporation including, without limitation, property that may be subject to restrictions imposed by the donor or transferor of such property.
- (6) A director or officer of a nonprofit corporation, in the performance of duties in that capacity, shall not have any fiduciary duty to any creditor of the nonprofit corporation arising only from the status as a creditor.
- (7) No person shall be liable in contract or tort merely by reason of being a director, officer, or member of a nonprofit corporation that was suspended, declared defunct, administratively dissolved, or dissolved by operation of law, and the business or activities of which have been continued for nonprofit purposes, with or without knowledge of the suspension, declaration, or dissolution, and the business and activities of which have not been wound up.

**Cite as C.R.S. § 7-128-401**

**History.** L. 97: Entire article added, p. 698, § 3, effective July 1, 1998. L. 2006: (6) and (7) added, p. 882, § 81, effective July 1.

**Editor's Note:**

*Subsections (6) and (7) were originally enacted as subsections (5) and (6) respectively in Senate Bill 06-187 but were renumbered on revision for ease of location.*