

**RESPONSIBLE GOVERNANCE POLICIES AND PROCEDURES  
FOR THE ELKSTONE OWNERS ASSOCIATION, INC.  
(Effective as of September 26, 2011)**

FOR PURPOSES of complying with the responsible governance provisions of the Colorado Common Interest Ownership Act, C.R.S. §38-33.3-101, *et seq.* (the “Act”), the following responsible governance policies and procedures (the “**Responsible Governance Policies**”) shall govern ELKSTONE OWNERS ASSOCIATION, INC., a Colorado non-profit corporation (the “**Association**”), matters and have been adopted by the Association’s Board of Directors (the “**Board**”). Any capitalized terms not defined herein shall have the same meaning as in the governing documents for Elkstone, a Colorado common interest community (the “**Community**”), or the Act.

**1. Collection of Unpaid Assessments**

Unpaid assessments (“**Unpaid Assessments**”) include, but are not limited to, past due payments for Common Assessments/Expenses, Special Common Assessments/Expenses, Special Individual Assessments/Expenses, and any other charges, penalties, interest, or fees attributable to a Unit Owner. Unpaid Assessments shall accrue interest at a rate of 1.5% per month, compounded monthly. Interest shall begin to accrue on the day following the date that the payment is due, regardless of whether such date is a Saturday, Sunday, or legal holiday. In addition to interest accruing upon Unpaid Assessments, a late charge of \$50 shall be assessed on any payments not made when due (the “**Late Charge**”).

After any Unpaid Assessment becomes 30 days past due, the Board will direct a letter to be sent to the Owner responsible for the Unpaid Assessment, setting forth the amounts due to date, including interest and any Late Charge, and demanding payment thereof.

If Unpaid Assessments are not paid within 60 days after the date they become due, then the Board may elect, at its option, to pursue all legal means available to collect the Unpaid Assessments, including, without limitation, collection/foreclosure proceedings.

The Board may elect, at any time after an Owner’s Unpaid Assessments become more the 60 days past due, to enter into an escrow agreement with the holder of the Owner’s mortgage to combine the entire amount of the Unpaid Assessment with the Owner’s mortgage payment pursuant to §38-33.3-315(7).

**2. Procedures for Owner-Created Costs**

The Board reserves the right to assess and seek reimbursement (without commencing legal proceedings), as a Special Individual Assessment, from any Owner inflicting extraordinary legal, accounting, and/or maintenance fees upon the Association (“**Owner-Created Costs**”). The amount of such Special Individual Assessment for Owner-Created Costs shall be determined by the Board and shall consist of a reasonable fine, collection costs, attorney fees, and other costs, as permitted under the Act and/or the pertinent Association and Community documents. To the extent that an Owner asserts that an Owner-Created Cost resulted from violations of non-monetary covenants, restrictions or other obligations – and is not related to Owner requests or directions or other similar actions – the Owner shall have the right to request written notice from the Association and have an opportunity to be heard pursuant to Section 5 below.

### **3. Conflicts of Interest Involving Board Members**

Directors serving on the Board shall adhere to the provisions of the Act, the Colorado Revised Nonprofit Corporation Act (the “**Nonprofit Act**”), and specifically those set forth in C.R.S. §7-128-501 as required by §38-33.3-310.5 of the Act governing conflicts of interest involving Board directors and the Community documents (the “**CCIOA Conflicts Regulations**”). In adopting these Policies and Procedures regarding Director conflicts of interests, the Board hereby states and confirms its desire and intention to ensure that Directors use their good business sense in exercising efforts to pursue and further the economic well-being and financial interests of the Owners, the Association and/or the Community as a whole.

### **4. Conduct of Meetings**

The provisions of Part 2 of Article 128 of the Nonprofit Act shall govern procedures for meetings of the Association and of the Board of the Association. In the event that these provisions of the Nonprofit Act do not provide adequate direction, then the most recent edition of Roberts Rules of Order shall control.

### **5. Enforcement of Covenants and Rules, Including Notice and Hearing Procedures**

All Owners, by taking title to their Units, shall be deemed to understand and have accepted their obligations to pay all monetary obligations, including, but not limited to, all Common Expenses and/or Expenses, General Assessments, Special Assessments, and any other late payment charges, penalties, interest, or fees attributable to an Owner in connection therewith, all in accordance with applicable Colorado law. Therefore, the procedures set forth in CRS 38-33.3-209.5 shall not apply to any such monetary obligations, and, specifically, the Association shall not be required to conduct a hearing (as defined in CRS 38-33.3-209.5), regarding such monetary obligations (specifically including any late payment charges, penalties, interest, or fees).

Whenever the Board has reason to believe that any Owner has violated and/or is in violation of any non-monetary covenant, restriction, or other obligation under any of the Community documents, or has reason to assess a fine against a Unit and/or Owner for this type of violation, the Board shall conduct an informal, but fair and impartial, fact-finding process to determine whether or not, in its best judgment, the alleged violation actually occurred and, if so, whether it believes the accused Owner is the party responsible and/or liable for the alleged violation.

In connection with this fair and impartial fact-finding process, the Board shall send a written notice (the “**Notice of Violation**”) to the Owner and all first mortgagees, if any, at the address(es) that appear(s) in the records of the Association. The Notice of Violation shall state the time and place at which a private hearing (the “**Hearing**”) will be held between the Board and the Owner and shall describe the violation(s) to be addressed at the Hearing. The Hearing shall be conducted pursuant to the procedures set forth for conducting of meetings in Section 4, above.

At the Hearing, the Board shall address the nature and details of the alleged violation with the Owner, and the Owner shall be provided an opportunity to rebut, explain, or present any evidence in the Owner's defense. If the Board and the Owner are able to reach an agreement as to how best to resolve the alleged violation at, or pursuant to, the Hearing, that agreement shall be reduced to writing and signed by the Owner and on behalf of the Board. If the Board and the Owner prove unable to reach an agreement, then the Board, in its sole discretion, thereafter may pursue any legal or equitable remedies, assess any fines, and/or take any other actions it deems necessary and/or proper (including without limitation, recovery and/or legal fees and/or other costs of the Hearing, the impartial fact-finding process or otherwise), pursuant to the Community documents and/or applicable laws. If the Board determines, as a result of the fact-finding process and/or the Hearing (in the Board's sole and absolute discretion), that the Owner is not responsible for the alleged violation, the Association shall not allocate any portion of its costs or attorney fees to the Owner incurred in connection with the fact-finding process or Hearing.

Pursuant to CRS 38-33.3-209.5, no Director on the Board shall participate in the fact-finding process, the Hearing, or any determination of whether the accused Owner is the party responsible and/or liable for the alleged violation, if such Director has a direct personal or financial interest in the outcome of the Hearing. In the event that the (i) entire Board is prohibited from participating in the matter pursuant to the foregoing; and/or (ii) the Board determines that best interests of the Association would be served by appointing an impartial committee to handle the matter, the Board shall appoint an committee consisting of no less than three members to conduct the fact-finding process, the Hearing, and make a determination of whether the accused Owner is the party responsible and/or liable for the alleged violation.

Nothing contained in this Section 5 shall be deemed or construed to abate and/or limit the accrual of interest and/or Late Charge on any Unpaid Assessments in accordance with Section 1 above.

#### **6. Disputes Arising Between the Association and Unit Owners**

Except as set forth below, in the event of any dispute between the Association and an Owner, for which a method, policy, or procedure to address such dispute is not otherwise provided by the Association's governing documents (in which event the specified method, policy or procedure shall control), neither the Association nor an Owner shall be permitted to file or pursue any formal judicial proceedings before first submitting the matter to a hearing process, in the manner set forth in Section 5 above. The foregoing notwithstanding, no formal procedure or hearing process (including that set forth in Section 5 above) shall apply to, or serve in any manner to delay or hinder, the Association's right or remedies regarding any (i) disputes involving payment of Association dues/assessments or (ii) emergency or similar circumstances requiring immediate relief.

#### **7. Inspection and Copying of Association Records by Unit Owners**

The provisions of §38-33.3-317 of the Act shall govern inspection and copying of Association records by Owners.

## **8. Investment of Reserve Funds**

Any reserve funds approved by the Board and collected by assessment (including special assessments) or otherwise shall be deposited in an interest bearing account and administered at the discretion of the Board, subject to applicable requirements of the Act and applicable tax and/or other laws/regulations. All of the foregoing shall be undertaken so as to ensure, to the best of the Board's ability, that no adverse income or other tax consequences result to the Association and/or its Members.

Proof of deposit in such account and a schedule of interest accrual shall be available to any Owner pursuant to the procedures for Inspection and Copying of Association Records identified in Section 7 above.

## **9. Reserve Study Policy**

At least annually, the Board shall make a determination as to (i) whether to have a reserve study prepared for the portions of the Community maintained, repaired, replaced, and/or improved by the Association (including, without limitation, the Elkstone 21 Unit LCEs and Elkstone Townhome Unit LCEs), and (ii) the timing for such a reserve study, if any. In the event that the Board determines a reserve study is necessary, such reserve study may be (i) performed by an outside consultant or may be prepared internally; and (ii) based on a physical examination of the Community, a financial analysis, or both, all as determined by the Board (in its sole and absolute discretion).

Additionally, in the event that the Board determines a reserve study is necessary, the Board shall also establish a plan for funding any work recommended by such reserve study (or any portion thereof deemed appropriate by the Board). In doing so, the Board (in its sole and absolute discretion) may consider funding for any such work to come from any or all of the following sources: (i) cash then on hand, including the Association's operating and/or reserve accounts; (ii) annual Assessments; (iii) Special Assessments; (iv) loans obtained by the Association; (v) any additional source as determined by the Board; and/or (vi) any combination of the foregoing.

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

Amendments to these Responsible Governance Policies may be appropriate, desired, and/or necessary from time-to-time. Any such amendments shall be undertaken and adopted by the Board, subject to any applicable requirements of the Act.

## **11. Year End Excess Fund Balance Tax Treatment**

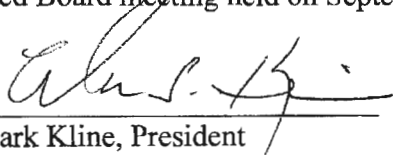
On the first day of any Association fiscal year, should funds and/or positive account balances remain in any Association accounts that derive from the previous fiscal year's operations, those funds shall be deemed to be "*unrestricted fund balances*," and shall be so classified and treated for all federal, state and/or other income tax purposes. Further, all Association "*reserve*," "*capital*" and/or similar accounts shall at all times be deemed to be "*unrestricted fund balances*," and shall be so classified and treated for all federal, state and/or other income tax purposes.

**12. Reporting of Maintenance Issues**

Should any Owner discover that any portion of the Community requires maintenance or repair, the Owner shall inform the designated Association Manager, who will then bring the issue to the attention of the Board. No Owner shall undertake any repairs or maintenance to the Community, or engage a third party to perform any repairs or maintenance, without written permission from the Board.

These Responsible Governance Policies were approved and adopted by the Board of Directors for the Elkstone Owners Association, Inc., a Colorado non-profit corporation, at the duly-convened Board meeting held on September 26, 2011.

By:

  
Mark Kline, President