

THE PIÑONS OF TURKEY CAÑON RANCH HOMEOWNERS' ASSOCIATION

POLICY #1

COLLECTION OF UNPAID ASSESSMENTS

Pursuant to the Bylaws and the Declaration of Covenants, Conditions, Restrictions and Easements for the Association, assessments will be collected quarterly, and are due on the 15th day of the first month of each quarter (15 January, 15 April, 15 July, and 15 October). Any assessment not received by the Association when due is delinquent.

Any delinquent assessment will result in a late fee equal to the lesser of 10% of the amount delinquent, or \$50.00(fifty dollars), which will be assessed against the Owner and added to the Owner's account balance. Any assessment and late fee not received within 90 days of the due date will bear interest at the rate of 18% per annum. Late fees will be assessed for each month that the account remains in arrears. Payments received from an owner will be applied first to interest, then to late fees, then to expenses incurred by the Association including legal fees or other costs, and last to the monthly assessments.

Where an Owner's account is current but then becomes delinquent, the Owner will be sent a reminder notice the following month with a ledger statement advising the Owner that the account is delinquent. No further reminder notices will be sent.

If an Owner's account remains delinquent 120 days, collection will be turned over to the Association attorney for the filing of a lien. A copy of the lien statement will be sent to the Owner to advise the Owner of that action being taken. All costs and fees associated with the filing of the lien will be assessed against the Owner and added to the Owners account.

When the Owner's account remains delinquent 270 days, the Association's attorney will be instructed to initiate collection on the account. Collection may take the form of a personal suit against the Owner, foreclosure on the lien to have the property sold or the appointment of a Receiver to take over the property to generate income. All costs and fees incurred by the Association in any collection action will be assessed against the Owner.

Any Owner experiencing financial difficulties is encouraged to contact the Association rather than let the account become more and more delinquent. The Association has some latitude in working with Owners to bring accounts current.

POLICY #2

BOARD MEMBER CONDUCT

The Colorado Revised Nonprofit Corporation Act imposes upon Directors and Officers obligations regarding their conduct and dealing with conflicts of interest. This policy incorporates those statutory provisions as well as imposing additional requirements.

Standards of Conduct:

A Board member and Officer shall discharge their duties in good faith, with the care that an ordinarily prudent person would exercise in a like position and under similar circumstances, and in a manner that he/she reasonably believes to be in the best interests of the Association.

The duty of care includes the following:

- Knowledge of the provisions in the Association's Articles of Incorporation, Bylaws, Declaration of Covenants and rules, regulations and policies.
- Board members act through the Board as a governing body and have no authority to make decisions or authorize action without having been given express authority to do so by the Board.
- Board members should attend board and membership meetings and diligently pursue any duties or tasks they are directed or volunteer to complete.
- Officers are designated certain duties by the Association bylaws and should fulfill those duties and other duties normally associated with that office. Where an officer is uncertain as to authority to act in that capacity, he should seek guidance from the Board.

Standards of Behavior:

Board members and officers are acting in a professional capacity and must understand that they are managing a business. Their behavior should be professional. Professional behavior includes courtesy towards Association members, Association managers and Association vendors. Professional behavior includes the avoidance of profanity or other inappropriate language or conduct, whether at meetings or in other places. Professional behavior includes putting the interests of the Association ahead of any personal agenda the director or officer may have.

Conflicts of Interest:

"Conflicting Interest Transaction" means any relationship, whether contractual, financial, familial, or ownership, between a director/officer and the Association, between a person related

to a director/officer and the Association, or between an entity in which the director/officer has an interest and the Association.

The Association will make no loans to any director or officer.

Where the Association is considering entering into a transaction that would constitute a Conflicting Interest Transaction, any director or officer who has the relationship that creates the Conflicting Interest Transaction shall disclose to the Board of Directors the material facts as to that relationship. Where a director or officer is uncertain as to whether they have a conflict, they should err on the safe side and disclose material facts regarding the relationship.

The Association shall enter into Conflicting Interest Transactions only if the following are met:

1. The Conflicting Interest Transaction is fair to the Association;
2. The material facts of the relationship giving rise to the Conflicting Interest Transaction have been made known to the Board; and
3. The Board, acting in good faith and by majority vote without the participation of the conflicted director, approves the Conflicting Interest Transaction.

Directors and Officers must be diligent in determining if a conflict exists. Conflicts can be subtle, such as when plans for improvement of a director's property are being considered by the Architectural Control Committee.

POLICY #3

CONDUCT OF MEETINGS

Meetings of Members:

Annual meetings of members are held primarily for the purpose of the election of members to the Board of Directors and review and approval of the Association's annual budget, but may include such other matters as may properly come before membership pursuant to the Declaration or Bylaws.

Special meetings of members may be called pursuant to the Bylaws.

Notice:

1. Notice of membership meetings shall be given pursuant to the Bylaws by first class prepaid postage in the U.S. mail, mailed to the member's address of record with the Association. **It is critical that if members change their address, they update the address of record by notifying the Association manager or secretary.**
2. Notice will also be posted on the Association's web page, once it is established.
3. Notice will also be posted at the mailbox shelters on the Association property.

If a member desires to receive notice by electronic mail, the member must request to receive notice by electronic mail and must provide the Association with their e-mail address. The request should be in writing and notice to cease e-mail notification should likewise be in writing.

Procedures for conduct of membership meetings:

1. Colorado law requires that the election of Board members be by secret written ballot. Any other matter may be conducted by secret ballot upon the request of one or more members.
2. Votes are to be counted by a member or members drawn at random from a pool of two or more members who are not candidates for Board positions.
3. Members may vote at meetings without attending by appointing a proxy to vote for them. Proxy forms will be included with the notice of meeting. While other forms can be used, it is recommended that the Association form be used to avoid the possibility of the proxy being determined invalid.
4. The Association will use a simplified form of Robert's Rules of Order in the conduct of meetings. Members shall have the opportunity to speak on any topic during the discussion period prior to voting. The Board may place limitations on the length of time members are allowed to speak.

Meetings of the Board of Directors:

1. Meetings of the Board of Directors are open for attendance by members or their properly designated representatives.

2. At the beginning of each meeting, members in attendance will be given agendas for the meeting. After the meeting is called to order and after the routine matters such as officer reports has been taken care of, members shall have an opportunity during a Members' Forum period to make comments or voice concerns on any matter on the agenda or other matters of concern to them. The Board may limit the length of time any particular member may speak on a topic. If the number of members in attendance is large, the Board may limit the number of members entitled to speak on any one topic.

3. Other than comments during the Members' Forum, members may not participate in deliberation or discussion of matters before the Board unless expressly authorized to do so by a majority of the Board. If a matter not on the agenda comes up for formal action by the Board and was not previously addressed by members in attendance, the Board will allow members to comment on the topic before the Board takes any action.

4. Members in attendance at Board meetings shall conduct themselves appropriately. Speaking out when not authorized or interruption of the Board deliberations will not be permitted. Name-calling, use of foul language or any form of aggressive behavior will not be permitted. If a member cannot properly conduct them self, law enforcement will be contacted to remove the member and/or the meeting may be postponed.

POLICY #4

ENFORCEMENT OF COVENANTS AND RULES

The following policy applies to routine covenant or rules enforcement. It does not apply to collection of assessments, in emergency situations or in any other situation where the HOA Board of Directors determines deviation from the policy is appropriate.

1. It is the responsibility of the Covenants Control Committee (CCC) to investigate alleged violations of the covenants and/or rules and to seek resolution.
2. The Board and the CCC rely on HOA members to report incidents of covenant or rule violation. When any member observes a covenant violation and desires to report it, the report must be submitted in writing to a member of the Board or the CCC. As a minimum, the report must contain the following information:
 - a. Name of the person reporting the incident.
 - b. Name of violator if known, or lot number or street address.
 - c. Date and time the incident was observed.
 - d. Section(s) of the covenants or rule(s) that was violated.
 - e. Description of the incident. Photographs are welcome.
 - f. Describe any discussion the complainant may have had with the alleged violator regarding the incident.
3. If a member is not willing to put the report in writing, the Board and CCC shall take the position the violation was not sufficiently severe to warrant enforcement. In taking enforcement action on any violation, the Board must be able to prove the violation occurred, which in most cases depends on the person observing the incident and their willingness to come forward.
4. The Board and CCC shall keep the name of the person(s) reporting the violation confidential unless and until it becomes necessary as part of enforcement proceedings for the person(s) to be identified.
5. When a violation is reported, the CCC shall investigate the circumstances and take appropriate actions, as follows:
 - a. Require that the complainant submit the complaint in writing.
 - b. Review and investigate the complaint, along with the covenant and/or rule involved, and determine if an enforceable violation occurred.
 - c. If the CCC finds an enforceable violation occurred, the CCC shall first contact the accused in person or by telephone to seek a friendly resolution of the matter.
 - d. If friendly resolution is not possible, the CCC shall send a notice by regular mail to the owner of the violating property and to the resident if different from the owner. The notice shall state the particulars of the violation and request the violation be corrected within ten days, or the owner contact the CCC within that time with an explanation of the owner's position on the violation.

- e. If the violation has been corrected within the ten days, the complainant shall be so informed and no further action will be taken.
 - f. If the violation has not been corrected or if the owner has contested the particulars of the report, the CCC shall investigate the matter further.
 - g. If extenuating circumstances exist, the CCC may agree to an extended timeline for corrective actions. Such agreement must be in writing and signed by both the CCC and the owner of the violating property.
 - h. If the CCC determines the violation has occurred and has not been corrected, a second notice shall be sent to the owner and resident if different from the owner. The notice shall inform the owner the CCC has investigated and has verified the violation occurred. The notice shall further inform the owner of a time and place where the owner may appear at a hearing before the CCC and the Board to set forth any defenses or explanations the owner may have. After the hearing, the Board and CCC shall then consider the circumstances in closed session and determine if a fine or other enforcement action is necessary. The owner shall be informed of the Board's decision subsequent to the hearing by written notice, sent via certified mail. Notice shall be deemed received three days after mailing.
 - i. The non-appearance of an owner at the hearing shall not prevent the Board and CCC from considering the violation and determining what enforcement action to take.
6. Fines shall be assessed according to the following schedule:
- a. Serious violations: Initial \$100.00 plus \$10.00 per day after receipt by the owner of the notice.
 - b. Regular violations: Initial \$50.00 plus \$5.00 per day after receipt by the owner of the notice.
 - c. Whether a violation is a serious or regular violation shall be based on the violation's impact on the Association, to be determined at the sole discretion of the Board.
7. When fines accrue against an owner to the amount of \$500.00, the Board shall take the position the imposition of fines is ineffective in accomplishing compliance and shall then determine what further enforcement action is necessary.
- a. Nothing in this policy requires the Board to assess fines before taking other forms of enforcement.
 - b. Any fines assessed shall be added to amounts due by the owner and shall be a lien against the property and enforceable as a lien pursuant to the Declaration and Colorado law.
 - c. Additional forms of enforcement include the Association taking corrective action at the expense of the owner, the filing of a covenant enforcement action in court, and foreclosure on the owner's property. If legal action is necessary, the owner shall be responsible for all attorneys' fees and costs.

POLICY #5

RECORDS INSPECTION AND COPYING

The following documents will be maintained in a binder by the Secretary of the Association and are available for inspection upon five days written notice:

1. The Governing Documents (Articles of Incorporation; Bylaws; Declaration of Conditions, Covenants, Restrictions and Easements; Rules and Regulations; and Policy Statements)
2. The Association's operating budget for the current fiscal year, including identification of the Association's fiscal year
3. Annual financial statements (budget, balance sheet, and statement of cash flow) for the year preceding the current fiscal year
4. Results of financial audit or review, if any, for the preceding fiscal year
5. List of regular and special assessments
6. List of all the Association's insurance policies to include company names, policy limits, policy deductibles, additional named insureds and expiration dates
7. Minutes of the Board and Member meetings for the preceding year
8. Association's Governance Policies

If a member desires copies of any of the above documents, copies will be made and mailed to the member at the cost for such copying and mailing. Cost will include mileage reimbursement for the necessary use of any Board member's personal vehicle to make and mail the requested copies. Copy costs will be at the prevailing rate charged by FedEx Kinko's Office and Print Center. Mileage reimbursement will be at the prevailing business mileage expense rate approved by the US Internal Revenue Service. The cost must be paid by the requesting party in advance.

If a member desires to inspect or copy any Association records other than those listed above, the member must put the request in writing, providing for the following:

1. The notice must be received by the Association at least five days prior to the requested inspection date.
2. If the requested inspection date is not available for the Association, the member will be contacted to schedule a different date.
3. The request must specify the records to be inspected and copied.
4. The request must set forth the purpose for the inspection. If the Board determines that the purpose is not proper or the records are not relevant to the purpose, inspection and copying will not be allowed.

The policy for copying any records inspected is the same as that above for records maintained in the binder.

Colorado law imposes disclosure requirements on an owner when they sell their property. The Association will cooperate in making those documents available to the seller under the same copy cost requirements set forth above.

POLICY #6

ADOPTING AND AMENDING POLICIES, PROCEDURES AND RULES

The Board believes that to involve the membership in the procedure for adoption of policies, procedures and rules would involve an inordinate amount of time that would either require additional volunteer time from Board members or additional billed time from the paid manager, if such a manager is employed. The Board desires to avoid the expenditure of volunteer time or cost to the Association and therefore adopts the following policy:

The Board shall promulgate policies, procedures and rules at its regular Board meetings, taking into account any comments from members at the meetings. The policies, procedures and rules shall then be published to members with a designated effective date.

Any member who believes a policy, procedure or rule to be unwise, unworkable or otherwise improper, may address the Board with their concerns at any regular Board meeting or may put their concerns in writing to the Board. The Board will then consider the concerns of the member and if it deems the concerns valid will amend the policy, procedure or rule, with subsequent publication to membership. The Board welcomes comment from the membership at any time.

POLICY #7

INVESTMENT OF RESERVE FUNDS

The purpose of reserve funding is to assure that funds are available for capital replacement, potential legal expenses, or other board actions undertaken for sustainment of property values when the need arises. To that end, investment of such funds should combine liquidity with maximum return while avoiding risk that could deplete the funds.

The Board therefore determines that all reserve funds shall be invested in accounts or instruments guaranteed, insured or backed by the Government of the United States. Funds should be invested so as to achieve maximum return while at the same time being available for capital repair or replacement, potential legal expenses, or other board actions undertaken for sustainment of property values.

POLICY #8

GUIDELINES FOR ARCHITECTURE CONTROL COMMITTEE

1. Architectural Control Committee (ACC) membership:
 - a. ACC members are appointed by the President of the HOA Board of Directors (hereinafter “Board”).
 - b. ACC members serve at the sole discretion of the Board.
 - c. ACC will consist of a minimum of three members.
 - d. ACC members must be Piñons lot-owners.
 - e. No more than one ACC member may be from the same family.
 - f. At least one ACC member will be a member of the Board.
2. The ACC must operate within the provisions of the Declaration of Conditions, Covenants, Restrictions, and Easements for the Piñons of Turkey Cañon Ranch (the Declaration), as amended, and these guidelines.
3. In order to avoid the appearance of a conflict of interest, if a Board or ACC member submits plans for consideration by the ACC, that member shall abstain from voting on that particular action.
4. The ACC has the authority to approve or disapprove submissions when all members of the ACC in attendance unanimously agree.
 - a. At least three members of the ACC must be available to vote.
 - b. If three members of the ACC are not available to vote, the matter must be referred to the Board for decision within the timeline dictated in paragraph 8 – typically at least one week should be allowed for the HOA Board to act.
 - c. If there is not unanimous agreement among the ACC members available to vote, the ACC chairman will refer the action to the Board for decision.
5. The ACC will consider the precedents established by previous ACC approvals when reviewing submissions of an identical nature. However, the ACC will not be bound by precedent of the approvals granted by the Declarant while it was acting as the ACC. It is the opinion of the Board and the HOA membership that the Declarant did not review submissions adequately, and did not adhere to and enforce the Declaration consistently. In fact, many, if not most submissions were not reviewed by the Declarant at all, and were thus approved by default after 30 days due to non-action.
6. The ACC is not authorized to grant variances from the literal application of the Declaration, but shall review such requests and forward the action, along with a recommendation and rationale for approval or disapproval, to the Board for decision. Any such variances approved/disapproved by the Board do not require re-approval by the Board if identical or very similar submissions are presented to the ACC by subsequent property owners.
7. The ACC must document all actions in a written statement of approval or disapproval, and will provide a copy of the written determination to the Board.
 - a. Rationale for disapprovals requires a detailed explanation.

- b. Rationale of the opposing positions when a unanimous decision is not achieved requires detailed explanation.
 - c. Recommendation and rationale for approval or disapproval of variances.
8. The ACC will review the following documentation before approving any submission:
- a. Structure plans as submitted for El Paso County Regional Building Department (hereinafter “Regional”) review.
 - b. Plot and elevation plans as submitted for Regional review.
 - c. Grading plan as submitted for Regional review.
 - d. Sample or description and color chip(s) of siding, trim and roofing material.
 - i. Submission of color samples may be deferred, but must be submitted to and approved by the ACC before that phase of construction commences.
 - e. In the event the plans submitted to the ACC for review are subsequently changed as a result of Regional review or inspection, or for any other reason, the revised plans or changes must be resubmitted to the ACC for consideration.
9. The ACC will retain one copy of all approved submissions (structure plans, plot plans, specifications, drawings, color chips, material samples, and other information) until the structure has been satisfactorily completed in accordance with the approval provided by the ACC.
10. ACC must operate within the 30 day clock mandated by Section 203.c. of the Declaration.
- a. The ACC’s 30 day clock must allow time for Board action in the event the ACC does not arrive at a unanimous position.
 - b. The 30 day clock will begin when all documentation required for ACC review is submitted to the ACC for review (see paragraph 6 above).
11. The ACC’s attention is directed to Section 203.a. of the Declaration, which states: “In granting or withholding approval Declarant and its successor Committee shall heed the standards specified in these Covenants and shall also consider, among other things: the adequacy of the materials for their intended use, the harmonization of the external appearance (emphasis added) with the surrounding uses; and the degree, if any, to which the proposed structure will cause intrusions of sound, light or other effect on neighboring sites beyond those reasonably to be expected from considerate neighbors.”
- a. Our HOA attorney has advised us a previous interpretation of Section 203 that we can only disapprove that which is specifically addressed in the Declaration is not a valid interpretation. He further advised the wording in Section 203.a. is fairly standard in covenants in Colorado, and it gives us wide authority to use our discretion on what is harmonious and what is not. In exercising this authority we cannot be arbitrary and capricious, but as long as we can articulate a clear and compelling reason, judges are reluctant to interfere in what had been entered into by a buyer who has accepted the covenants.
 - b. Our attorney’s advice:
 - i. Have a clear rationale that we are following.
 - ii. Be consistent.

- iii. Document our decisions for the record.
 - iv. Ensure our decisions are not “arbitrary and capricious”
 - c. Our attorney emphasized record keeping is the key to being able to deal with potential issues with regard to architectural control and covenant enforcement. To that end, the ACC should maintain written details of discussion and rationale for any waivers or deviations recommended (per paragraph 6), and the Board will likewise maintain written documentation of approval/disapproval actions on any ACC recommendations.
12. Solar Panels. The Board authorizes the ACC to approve solar energy devices in accordance with the provisions of the Declaration, the terms of the Colorado Solar Access Law for Homes (C.R.S. §38-30-168) as amended by House Bill 08-170, and the following considerations and guidelines:
- a. The ACC shall conduct its deliberations and negotiations consistent with the advice of our attorney with regard to the requirements and implications of the Colorado Solar Access Law for Homes (C.R.S. §38-30-168) as amended by House Bill 08-170. This legislation essentially mandates that HOAs must permit installation of solar energy systems, but can regulate dimensions, placement and external appearance of the device, provided:
 - i. The restriction must be reasonable;
 - ii. The restriction cannot significantly increase the cost of the device; and
 - iii. The restriction cannot significantly decrease the performance or efficiency of the device.
- In summary, ultimate approval of solar devices must be assumed and excessive cost of the solution is legally unacceptable.
- b. Consideration shall be given by the ACC to the proposed site of the panels and their impact on:
 - i. Aesthetics and harmony within the development (see paragraph 11 above).
 - ii. Minimization of visual impact on adjacent properties and roadways in the development, obtrusive lighting, and reflection during daylight hours to the degree possible.
 - iii. While it is presumed that most lots will require ground mounting of solar systems, in some cases roof mounting may actually offer the least obtrusive impact within the development. In such cases, the ACC may approve roof mounts.
 - c. Solar panels shall not be approved for a lot without a residence.