

## **RULES AND REGULATIONS FOR MOUNTAIN GATEWAY AT BUCKHORN VALLEY**

These Rules and Regulations (the “Rules”) have been adopted and implemented to protect the investment of the Members and to enhance the values of the properties subject to regulation by the Association. Terms which are defined in the Declaration of Covenants, Conditions and Restrictions for Mountain Gateway at Buckhorn Valley (the “Declaration”) shall have the same meaning herein, unless defined otherwise in these Rules.

### **I. GARBAGE AND TRASH.**

A. No refuse, garbage, trash, lumber, grass, shrub, tree clippings, plant waste, compost, metal, bulk materials, scrap, refuse or debris of any kind shall be kept, stored, or allowed to accumulate within or near any Unit. To reduce potential bear and other wildlife problems, refuse must be disposed of as follows:

1. Prior to disposal, any refuse that might attract bears or other wildlife shall be kept within the community enclosed trash structures in a suitable receptacle with a tight-fitting lid approved by the Association;
2. Trash containers are limited to the community enclosed trash structures and will not be stored anywhere else within the community;
3. There shall be no dumps or underground disposal of construction materials, refuse, waste, oil or chemicals within the Planned Community; and
4. Compost piles shall consist only of leaves, grass, branches, or other plant matter and shall not contain any food items and will be disposed of in the community trash structures only.

### **II. PETS.**

A. Animals such as live stock or poultry, including horses, shall not be raised, bred or kept within or near any Unit, except that domesticated birds or fish and other small domestic animals permanently confined indoors will be allowed, provided that they are not kept, bred, or maintained for any commercial purpose.

B. An Owner must comply with all applicable local, state and federal ordinance, rules and/or regulations regarding the number of domesticated animals allowed per household. The Board, in its sole discretion, may reasonably restrict an owner from keeping domesticated animal or aggregate number of domesticated animals that make an unreasonable amount of noise or odor, is a nuisance, or is a threat to public safety. In addition, all dogs must be kept on a leash within the Community Area, while outside of their Unit.

B. In no event will any animal that is: (1) known for its viciousness or ill temper; (2) that has venom or poisonous capture mechanisms; or (3) that if let loose would constitute vermin, be permitted in the Community Area.

The Board reserves the right, in its sole and absolute discretion, to make a determination that any particular animal is too dangerous to be allowed in the Community Area. No animal of any kind shall be permitted which in the sole opinion of the Board makes an unreasonable amount of noise or odor, is a nuisance, or is a threat to public safety.

C. Pet owners shall clean up after their pet(s) and dispose of any bodily wastes in suitable containers. Pets shall not be allowed to damage grass, shrubs, trees or any other portion of the Association Properties. Expenses and costs resulting from damage to shrubs, trees or Association Properties will be the responsibility of the Owner of the Unit at which the responsible pet is kept.

D. Pets, including dogs and cats, shall not be allowed to roam unrestrained in the Community Area, or outside the Owner's Unit.

E. Pets shall not be chained or tethered outdoors, unattended, so as to become an annoyance or nuisance to others from barking or such other cause.

F. Pets shall not be fed outside.

G. Animals must be licensed and leashed as required by law.

H. The feeding, baiting, salting, or other means of attracting wildlife is prohibited.

I. All household pets shall be controlled by their Owner and shall not be allowed outside of the Owner's Unit except when properly leashed and accompanied by the pet Owner or such Owner's representative.

J. Each Owner of a household pet shall be financially responsible and liable for any damage caused by said household pet, and shall be responsible for all costs incurred by the Association or its agent as result of noncompliance with these animal and pet regulations. Pets should not relieve themselves on irrigated landscaped areas within the community.

K. Dogs shall not be allowed to chase or molest persons or their property, wildlife or domestic animals.

L. Dogs shall not be allowed to bark continuously, which shall be defined as barking for a fifteen (15) minute period, including successive barks or a series of barks which repeat or resume following a brief or temporary cessation.

M. Any violation of the Declaration or of these Rules and Regulations concerning pets, shall subject an Owner to the rights and remedies allowed or provided the Association in the Declaration, and shall also subject the Owner to a reasonable fine assessment imposed by the Association, after notice and a hearing, as follows:

1. First offense/violation: Written notice warning letter to pet owner and/or Owner.
2. Second offense/violation: A one-hundred-dollar (\$100.00) fine may be assessed against the Owner.

3. Third offense/violation: A two-hundred-dollar (\$200.00) fine may be assessed against the Owner.
4. Fourth offense/violation and each subsequent offense/violation: A five-hundred-dollar (\$500.00) fine may be assessed against the Owner.
5. Fifth or continuing offense/violation: The Association may take action to have the pet removed from the Community Area by mandatory injunction or otherwise.

### III. **MOTOR VEHICLES/PARKING.**

A. Vehicle Repairs. No maintenance, servicing, repair, mechanical work, body work, engine work, dismantling or repainting of any type of vehicle, boat, machine or device may be carried within the community. Car washing is not allowed in the community. In the event of violation hereof, in addition to the rights and remedies available under the Declaration, a reasonable fine may be assessed, after notice and hearing, as follows:

1. First offense/violation: Written notice/warning letter to the Owner and/or vehicle owner.
2. Second offense/violation: A one-hundred-dollar (\$100.000) fine may be assessed against the Owner and/or vehicle owner.
3. Third offense/violation: A two-hundred-dollar (\$200.00) fine may be assessed against the Owner and/or vehicle owner.
4. Fourth offense/violation: A five-hundred-dollar (\$500.00) fine may be assessed against the Owner and/or vehicle owner.

B. Trailers, Campers and Junk Vehicles. No boat, camper (on or off supporting vehicles), trailer, tractor, truck, industrial or commercial vehicle (both cabs or trailers), towed trailer unit, motorcycle, disabled, junk, or abandoned vehicles, motor home, camper, recreational vehicle, or any other vehicle, the primary purpose of which is recreational, sporting or commercial use, shall be parked or stored in, on, or about any Unit or street within the Community Area. For the purposes of this covenant, a 3/4-ton or smaller vehicle commonly known as a pickup truck shall not be deemed a commercial vehicle or truck.

C. Inoperative, Unused or Abandoned Vehicles. No inoperative, unused or abandoned vehicle shall be stored, parked, maintained or kept upon any part of the Community Area, including any street, or way of access within the Community Area. "Inoperative, abandoned or unused vehicle" shall mean any automobile, truck, motorcycle, motorbike, boat, trailer, camper, house trailer, or similar vehicle which has not been driven under its own propulsion or has not been moved out of the Community Area for a period of two (2) weeks or longer.

In the event that the Board shall determine that the vehicle is an abandoned or inoperable vehicle, shall be conspicuously placed upon the vehicle. If the vehicle is not then removed within forty-eight (48) hours of such notice, the Board shall have the right to remove the vehicle and the vehicle owner shall be responsible for all towing and storage charges.

D. Restrictions on Parking and Storage. At no time shall any automobile, recreational vehicle or accessory vehicle be parked on, beside or along the roadways in the Community Area. This restriction, however, shall not restrict trucks or other commercial vehicles within the Community Area, which are necessary for construction or for the maintenance of the Association Properties or Units. Storage of items including fuel is not allowed in the anteroom space in the lower stairwell of each building; bicycles only are allowed to be stored at the anteroom area at designated bicycle racks. Other recreational vehicles may not be stored in the anteroom space or outside of a Unit. The provisions of this section shall be subject to, and may be modified and/or supplemented by, the Association.

E. E. Motor Vehicle Fines. In the event of any violation of the Declaration or those Rules concerning motor vehicles and parking, then in addition to all rights and remedies provided by the Declaration, a reasonable fine assessment may be imposed, after notice and hearing, as follows:

1. First offense/violation: Written notice of intent to tow may be given to the Owner/vehicle owner or posted on subject vehicle. If the vehicle in violation is not removed within forty-eight (48) hours after notice of intent to tow, the Association shall be entitled to tow the subject vehicle and the Owner and vehicle owner (if different) shall be jointly and severally liable for all expenses, costs and fees incurred in such towing and/or storage.
2. Second offense/violation: A one-hundred-dollar (\$100.00) fine may be assessed against the Owner. Additionally if the vehicle in violation is not removed within forty-eight (48) hours after notice of intent to tow, the Association shall be entitled to tow the subject vehicle and the Owner and vehicle owner (if different) shall be jointly and severally liable for all expenses, costs and fees incurred in such towing and/or storage.
3. Third offense/violation: A two-hundred-dollar (\$200.00) fine may be assessed against the Owner. Additionally if the vehicle in violation is not removed within forty-eight (48) hours after notice of intent to tow, the Association shall be entitled to tow the subject vehicle and the Owner and vehicle owner (if different) shall be jointly and severally liable for all expenses, costs and fees incurred in such towing and/or storage.
4. Fourth and Subsequent offense/violation: A five-hundred-dollar (\$500.00) fine may be assessed against the Owner. Additionally if the vehicle in violation is not removed within forty-eight (48) hours after notice of intent to tow, the Association shall be entitled to tow the subject vehicle and the Owner and vehicle owner (if different) shall be jointly and severally liable for all expenses, costs and fees incurred in such towing and/or storage.

#### IV. **WATERING RESTRICTIONS.**

Water and watering of landscaping shall be in the sole and absolute control of the Association. No connection to the irrigation system is allowed. Any resident tampering with the watering or irrigation of the community shall be subject to a reasonable fine assessment imposed by the Association, after notice and a hearing, as follows:

1. First offense/violation: Written notice warning letter to Owner.
2. Second offense/violation: A one-hundred-dollar (\$100.00) fine may be assessed against the Owner.
3. Third offense/violation: A two-hundred-dollar (\$200.00) fine may be assessed against the Owner.
4. Fourth offense/violation and each subsequent offense/violation: A five-hundred-dollar (\$500.00) fine may be assessed against the Owner.

v. **OTHER RESTRICTIONS.**

A. Nuisance.

- a. No noxious, offensive, dangerous or unsafe activity shall be carried on, on any Unit or the Association Properties; nor shall anything be done therein, either willfully or negligently, which may be or become an annoyance or nuisance to the other Owners or occupants or which may interfere with their peaceful enjoyment of their own Unit.
- b. No Owner shall make or permit any disturbing noises or nuisance activities or do or permit anything to be done that will interfere with the rights, peaceful enjoyment and comforts of convenience of other Owners or occupants.
- c. No Owner or occupant shall play, or suffer to be played, any musical instrument or operate, or suffer to be operated, an engine, device, phonograph, television set or radio at high volume or in any other manner that shall cause unreasonable disturbances to other Owners or occupants.
- d. No Owner or occupant shall grow, smoke, or process marijuana anywhere in the Association area that shall cause unreasonable disturbances to other Owners or occupants.

B. Compliance with Laws. No unlawful use may be made of any portion of the Community Area. Owners shall comply with and conform to all applicable laws and regulations of the United States and of the State of Colorado, and with all local ordinances, rules and regulations. The violating Owner shall hold the Association and other Owners harmless from all fines, penalties, costs and prosecutions for any violation or noncompliance.

C. No Temporary Structures. No tent, shack, temporary structure, or temporary building shall be placed upon any property within the Community Area.

D. Restrictions on Signs and Advertising. No sign, poster, billboard, advertising device, or display of any kind shall be erected or maintained anywhere within the Community Area so as to be evident to public view, except: (a) the display of the American flag, a service flag, or political signs as allowed and provided for in C.R.S. § 38-33.3-106.5(1)(a)-(c), as the same may be amended from time to time; (b) signs as may be approved in advance in writing by the Design Review Committee; or (c) signs, posters, billboards or any other type of advertising device or display erected by Declarant incidental to the development, construction, promotion, marketing or sales of Units within the Community Area. A sign advertising a Unit for sale or for lease may be placed on a Unit; provided, however, that standards relating to dimensions, color, style, and location of such sign shall be determined from time to time by the Design Review

Committee.

- E. Storage. No building materials shall be stored on any Unit. Decks may not be used as storage for cardboard boxes, trash, or unsightly construction or landscaping materials.
  
- F. Barbeque Grills, Torches, Firepits and Open-Flame Appliances. Cooking flame appliances that are contained and covered with a lid such as gas or electric barbeque grills are restricted to a six-foot distance from any building and must be utilized on top of a concrete or gravel pad. Cooking appliances are not allowed on Unit decks. Tiki torches, firepits, smokers or open flame appliances are not allowed in the community for fire safety measures.
  
- G. Window treatments such as blinds, curtains or screens are the only allowed décor on windows; newspaper, paper or plywood coverings are not allowed.
  
- H. Window Air Conditioners must be professionally installed in designated areas of each unit; window Air Conditioner units are not allowed.
  
- I. Exterior Storage Closet assigned to each unit may be used as storage only and may not be occupied or treated as a sleeping or living space at any time.
  
- J. Other Restrictions Fines. Any violation of the Declaration or of these Rules and Regulations concerning these Other Restrictions, shall subject an Owner to the rights and remedies allowed or provided the Association in the Declaration, and shall also subject the Owner to a reasonable fine assessment imposed by the Association, after notice and a hearing, as follows:
  - 1. First offense/violation: Written notice warning letter to Owner.
  
  - 2. Second offense/violation: A one-hundred-dollar (\$100.00) fine may be assessed against the Owner.
  
  - 3. Third offense/violation: A two-hundred-dollar (\$200.00) fine may be assessed against the Owner.
  
  - 4. Fourth offense/violation and each subsequent offense/violation: A five-hundred-dollar (\$500.00) fine may be assessed against the Owner.
  
- K. Owner's Right to Lease Unit/Unit. All Owners shall have the right to lease such Owner's Unit provided that: (a) all Leases shall be in writing; (b) all Leases shall be for an entire Unit with a completed residence thereon; (c) all Leases shall provide that the terms of the Lease and the lessee's occupancy of the Unit shall be subject to this Declaration, the Rules and Regulations and that any failure by the lessee to comply with any of the aforesaid documents in any respect shall be a default under such Lease; and (d) such Owner shall notify the Association immediately upon the leasing of such Unit and register with the Association both the name(s) of the tenant(s) and new mailing information for notices to be sent by the Association directly to such Owner. A lease may not be made for a portion

of the Unit; Units may not sublet to multiple families. Any Lease by owner must be a period of at least six months; short term rentals are prohibited.

VI. **COLLECTION PROCEDURES.**

The Association has adopted the following procedures and policies for the collection of assessments and other charges of the Association.

Due Dates. The annual assessment as determined by the Association and as allowed for in the Declaration shall be due and payable in four (4) installments due on the first (1<sup>st</sup>) day of the month following the close of the calendar quarter. It is the policy of the Association to bill for each installment of the annual assessment in advance, however, the Owner’s obligation to pay assessments or other charges of the Association is not conditioned upon receipt of an invoice. All other assessments shall be paid in such manner and on such date as the Board may establish as provided in the Declaration. Assessments or other fines or charges not paid to the Association by the tenth (10<sup>th</sup>) day of the month in which it is due shall be considered past due and delinquent.

A. Receipt Date. The Association shall post payments on the day that the payment is received in the Association’s offices.

B. Late Charges, Interest, and Other Charges on Delinquent Installments. The Association shall impose a twenty dollar (\$20.00) late charge on the outstanding or past due balance then due the Association. An additional twenty dollar (\$20.00) late charge may accrue during each and every subsequent ten (10) day period that the assessment remains unpaid. Interest may be charged on all unpaid assessments (computed from the date the delinquency first occurs), late charges, and all other Association charges at a rate of 18% per annum at the discretion of the Board of Directors. In addition to late charges and interest, the following charges may also be imposed and charged to each Owner:

Return Check Charge	\$50.00 *
Filing of Lien Charge	\$150.00
Release of Lien Charge	\$150.00
Collection Costs	Reasonable Attorney Fees and Court Costs
Other Charges	As incurred and deemed appropriate by the Board

\*If two or more of an Owner’s checks are returned unpaid by the bank within any (fiscal) year, the Association may require that all of the Owner’s future payments, for a period of one (1) year, be made by certified check or money order.

C. Notice of Delinquency.

1. First Notice. After a monthly installment of the annual assessment or any other assessment or charge due the Association, becomes thirty (30) days past due and before the Association turns over any delinquent account of an Owner to a collection agency or refers it to an attorney for legal action, the Association shall send, via U.S. certified mail, return receipt requested, to the last registered address of the Owner as contained in the Association’s records, a written notice (“First Notice”) of nonpayment to the

Owner containing the following information:

- (i) The total amount due, with an accounting of how the total was determined;
- (ii) Whether the Owner may enter into a payment plan with the Association, as provided herein, and instructions for contacting the Association within thirty (30) days of the date of the notice to enter into such payment plan;
- (iii) The name and contact information of the individual that the Owner may contact to request a copy of the Owner's ledger in order to verify the amount of the debt; and
- (iv) A statement that action is required to cure the delinquency and that failure to do so within thirty days may result in the Owner's delinquent account being turned over to a collection agency, a lawsuit being filed against the Owner, the filing and foreclosure of a lien against the Owner's property, or other remedies available under Colorado law.

2. Second Notice. In the event an Owner fails to cure the delinquency or negotiate a payment plan within thirty days of the date on the First Notice, the Association shall send, via U.S. certified mail, return receipt requested, to the last registered address of the Owner as contained in the Association's records, a second written notice ("Second Notice") of nonpayment to the Owner containing the following information:

- (i) The original due date of the assessment;
- (ii) A statement of the total assessment now past due, including late charges, interest and any other charges;
- (iii) A statement that Owner failed to cure the delinquency or enter into a payment plan within the time period stated in the First Notice;
- (iv) A statement requesting that all unpaid assessments, including late charges, interest and any other charges be paid within ten (10) calendar days of the date of the Second Notice;
- (v) A statement that if the Owner fails to pay all outstanding assessments, including late charges, interest and any other charges within ten (10) calendar days of the date of the Second Notice, the Owner's account of unpaid assessments, late charges, interest and any other charges shall be turned over to the Association's attorneys, staff, and other consultants as needed, for collection. The Association shall also be entitled to pursue all additional remedies at law or in equity; and
- (vi) A statement that the Owner shall be responsible for all collection costs incurred by the Association.

D. Payment Plan. Except as otherwise provided herein, the Association shall negotiate a payment plan with any Owner who is delinquent in paying assessments. The payment plan shall allow the Owner to pay off the deficiency in equal installments over a period of six months and shall include late charges, interest and other charges as set forth herein, unless otherwise waived by the Board or its designee, in its sole discretion. Payment plans to pay off a deficiency over a period greater than six months may be permitted, in the sole discretion of the Board or its designee. The Association shall not be prohibited from pursuing legal action against an Owner if the Owner fails to comply with the terms of his or her payment plan. An Owner's failure to remit payment of an agreed-upon installment, or to remain current with any assessments as such assessments become due during the six-month period, or such other repayment period as authorized herein, constitutes



a failure to comply with the terms of his or her payment plan. The Association is not obligated to negotiate a payment plan with an Owner who does not occupy the Unit and has acquired the Unit as a result of a default of security interest encumbering the Unit; or due to the foreclosure of the Association's lien. In addition, the Association is not obligated to negotiate a payment plan with an Owner who has previously entered into a payment plan with the Association.

E. Application of Payments Made to the Association. The Association reserves the right to apply any and all payments received on account of any Owner, to payment of any and all legal fees and costs (including attorney's fees), expenses of enforcement and collection, late fees, return check charges, lien fees and interest owing or incurred with respect to such Owner pursuant to the Declaration, Bylaws and Rules of the Association prior to application of the payment to the assessments due or to become due with respect to such Owner.

F. Collection by Association. If an Owner fails to pay all outstanding assessments, including late charges, interest and any other charges within ten (10) calendar days of the date of the Second Notice, the Board may commence a collection action through all legally available channels as provided below:

1. Lien. As set forth in Section 38-33.3-316(1), C.R.S., the Association has a statutory lien on a Unit for any assessment levied against that Unit. The amount of the lien shall include the assessment, charges, late charges, attorney fees, fines, and interest charged from the time such items become due. The recording of the Declaration constitutes record notice and perfection of the lien. No further recordation of any claim of lien for Assessments is required, however, the Association may file a Notice of Lien against the property of any delinquent Owner in accordance with the terms and provisions of the Declaration, Articles, Bylaws and the Act, as any of the foregoing may be amended from time to time.
2. Foreclosure. The Association's lien may be foreclosed in like manner as a mortgage on real estate; except that the Association may only foreclose on the lien if:
  - (i) The balance of the assessments and charges secured by its lien equals or exceeds six months of common expense assessments for the Owner based on a periodic budget adopted by the Association; and
  - (ii) The Association's Board has formally resolved, by a recorded vote, to authorize the filing of a legal action against the specific Unit on an individual basis. The Board shall not delegate its duty to act under this subparagraph (II) to any attorney, insurer, manager, or other person, and any legal action filed without evidence of the recorded vote authorizing the action shall be dismissed.
3. Other Remedies. Upon direction from the Board, following any assessment and/or other charges due to the Association becoming more than three hundred thirty (330) days delinquent, the Association may file a summons and complaint in a court of competent jurisdiction for a money judgment. If a judgment or decree is obtained such judgment or decree shall include reasonable attorney fees together with the cost of the action and all unpaid assessments, charges (including filing and releasing of lien charges) and interest as provided herein.

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4. Attorney Fees on Delinquent Accounts. As an additional expense permitted under the Declaration and by Colorado law, the Association shall be entitled to recover its reasonable attorney fees and collection costs incurred in the collection of assessments and other charges due to the Association from a delinquent Owner. The reasonable attorney fees incurred by the Association shall be due and payable immediately when incurred.
5. Appointment of a Receiver. In any action by the Association to collect assessments or to foreclose a lien for unpaid assessments, the Association may seek the appointment of a receiver of the Owner to collect all sums alleged to be due from the Owner prior to or during the pending of the action. The court may order the receiver to pay any sums held by the receiver to the Association during the pending of the action to the extent of the Association's common expense assessments.
6. Waivers. The Association is hereby authorized to extend the time for the filing of lawsuits and any other enforcement action authorized herein or by Colorado law, as the Association shall determine appropriate under the circumstances.

G. Certificate of Status of Assessment. The Association shall furnish to an Owner or such Owner's designee or to a holder of security interest or its designee upon written request, delivered personally or by certified mail, first-class postage prepaid, return receipt, to the Association's registered agent, a written statement setting forth the amount of unpaid assessments currently levied against such Owner's Unit. The statement shall be furnished within fourteen (14) calendar days following the Association's receipt of the request.

H. Ongoing Evaluation. Nothing in this procedure shall require the Association to take specific actions other than to notify Owners of the adoption of these procedures. The Association has the option and right to continue to evaluate each delinquency on a case-by-case basis.

I. Remedies Cumulative. Each remedy provided under these Rules is cumulative and not exclusive.

## VII. **POLICIES AND PROCEDURES FOR ENFORCEMENT OF THE DECLARATION, BY-LAWS AND RULES.**

A. Association's Enforcement Rights. In the event of an alleged violation by an Owner of the Declaration, the Bylaws or these Rules and Regulations, the Board of Directors shall have the right, after Notice and Hearing as hereinafter provided, and upon an affirmative vote of a majority of the Directors on the Board, to take anyone or more of the actions provided herein or as provided in the Declaration. The policies and procedures governing the Notice and Hearing regarding such violations are as set forth herein (the "Policies and Procedures").

Written Complaint. A hearing to determine whether enforcement action under the Declaration or these Rules should be taken shall be initiated by the filing of a "Written Complaint" by any Member or by any officer or member of the Board of Directors or the Design Review Committee with the President of the Association or other presiding member of the Board.

B. Notice of Violation. A “Notice of Violation” of any provisions of the Declaration, Bylaws or Rules shall be provided to the applicable Owner as soon as reasonably practicable following the filing of a Written Complaint of such violation with the Board. The Notice of Violation shall contain a written statement of charges which shall set forth in ordinary and concise language the acts or omissions with which the Owner is charged and a reference to the specific provisions of the Declaration, the Bylaws or these Rules and Regulations which the Owner is alleged to have violated. The notice shall further state that the Board may seek to protect its rights as they are specified in the governing legal documents.

A copy of the Notice of Violation shall be delivered to the Owner in accordance with the notice provisions set forth herein, together with a statement which shall be substantially in the following form:

“Unless a written request for a hearing signed by or on behalf of the Owner is delivered or mailed to the Board of Directors within fifteen (15) days after this Notice of Violation was served upon you, the Board of Directors may proceed upon the alleged violation without a hearing, and you will have thus waived your right to a hearing. The request for a hearing may be made by delivering or mailing a written notice stating and describing the grounds and basis for challenging or denying the alleged violation as well as such other information the you may deem pertinent, to the Board of Directors at the following address:

\_\_\_\_\_,  
Attn: \_\_\_\_\_. If you desire the names and addresses or witnesses or an opportunity to inspect any relevant writings or items on file in connection with this matter in the possession, custody or control of the Board of Directors, you may contact \_\_\_\_\_. A written request for such information must be made not later than ten (10) days prior to your hearing.”

The Owner shall be entitled to a hearing on the merits of the matter if the Notice of Defense is timely filed with the Board of Directors.

C. Services of Notices. Service of all notices required or permitted to be given hereunder shall be made as follows:

If to an Owner: By personal delivery to the Owner; or by U.S. Mail, postage prepaid, addressed to the last registered address of the Owner as contained in the Association's records;

If to the Association: By personal delivery or U.S. Mail, postage prepaid, addressed to the Association in care of its registered agent and office, as maintained with the Colorado Secretary of State, or such other address as the parties may be advised of in writing.

Any notice personally delivered shall be deemed received on the date of delivery, and any notice mailed shall be deemed received on the second (2<sup>nd</sup>) day following the date of mailing.

D. Failure to Request a Hearing. In the event a proper and timely request for a hearing is not made as provided herein, the right to a hearing shall be deemed forever waived. If a hearing

is not requested within the aforementioned fifteen (15) day period, the Board shall determine if there was a violation, and if so, impose a reasonable fine, assessment, fee or charge within the guidelines contained in these Rules and the Declaration. The fine, assessment, fee or charge is due and payable immediately upon receipt of notice of the said assessment. The Association's managing agent shall give notice of said assessment to the applicable Owner as provided in these Policies and Procedures.

E. Discovery. Upon written request to the Association, not later than ten (10) days prior to the date of hearing, the Owner shall be entitled to: (a) obtain the names and addresses of witnesses, to the extent known to the Association, and (b) inspect and make copies of any statements, writings and investigative reports relative to the case contained in the Association's records. Nothing in this section shall, however, authorize the inspection or copying of any writing or other thing which is privileged from disclosure by law or otherwise made confidential or protected, such as attorney work product

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

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

H. Notice of Hearing. The Board shall serve a "Notice of Hearing", as provided herein on all parties at least ten (10) days prior to the hearing, if such hearing is requested by the Owner. The hearing shall be held no sooner than thirty (30) days after the Notice of Violation is mailed or delivered to the Owner. The Notice of Hearing to the Owner shall be substantially in the following form but may include other information:

"You are hereby notified that a hearing will be held before the Board of The Mountain Gateway at Buckhorn Valley, Inc. at \_\_\_\_\_, Colorado\_\_\_\_, on the \_\_\_\_\_day of \_\_\_\_\_, 20\_\_\_\_, at the hour of \_\_\_\_\_ upon the charges made in the Notice of Violation served upon you. You may be present at the hearing, may but need not be represented by counsel, may present any relevant evidence, and will be given full opportunity to cross-examine all witnesses testifying against you. You are entitled to compel the attendance of witnesses and the production of books, documents or other items by applying to the Board of Directors of the Association."

I. Hearing. Each hearing shall be held at the scheduled time, place and date, provided that the Presiding Officer may grant continuances for good cause. At the beginning of each hearing, the Presiding Officer shall explain the rules, procedures and guidelines by which the hearing shall

be conducted and shall introduce the case before the Board by reading the Notice of Hearing. The general procedure for hearing shall consist of opening statements by each party; presentation of testimony and evidence, including cross-examination of witnesses by each party; and closing statements by each party. Notwithstanding the foregoing, the Board may exercise its discretion as to the specific manner in which a hearing shall be conducted and shall be authorized to question witnesses, review evidence and take such other reasonable action during the course of the hearing which it may deem appropriate or desirable to permit the Board to reach a just decision in the case. Rules of law regarding trials and presentation of evidence and witnesses shall be applicable to the hearing insofar as the Presiding Officer deems adherence to such rules of law to be in the interests of justice; provided that any relevant evidence should be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the course of serious affairs. Neither the complaining parties nor the Owner must be in attendance at the hearing. However, the decision of the Board at each hearing shall be based on the matters set forth in the Notice of Hearing, request for hearing and such evidence as may be presented at the hearing. Unless otherwise determined by the Board of Directors, all hearings shall be open to attendance by all Members of the Association.

J. Decision. After all testimony and other evidence have been presented to the Board at a hearing, the Board shall render its decision thereon within ten (10) days after the hearing. A decision, either a finding for or against the Owner, shall be by a majority of the Board. The Board shall issue written findings of fact and conclusions, and, if applicable, shall impose a reasonable fine, assessment, fee or charge within the guidelines contained in these Rules and the Declaration. The Board may also issue and present for recording with the Clerk and Recorder of Eagle County, Colorado, a notice of finding of violation. Upon satisfactory compliance with the Association's governing documents, the notice of finding of violations may be released by the Association issuing and recording a release of notice of findings of violations.

K. Modification, Amendments, Repeal and Re-Enactment. Notwithstanding anything to the contrary contained in these Policies and Procedures, the Association hereby reserves the right, at any time and from time to time hereafter, to modify, amend, repeal and/or re-enact these Policies and Procedures in accordance with the Declaration, Bylaws and applicable law.

## **I. MISCELLANEOUS PROVISIONS**

Enforcement and Attorney's Fees. In accordance with the Declaration, Bylaws and Rules, it is hereby declared to be the intention of the Association to enforce the provisions contained therein by any and all means available to the Association at law or in equity, and to seek recovery and reimbursement of all attorney's fees, Association expenses and costs incurred by the Association in connection therewith. The Board and its management company are empowered to enforce these Rules and Regulations. All Rules and Regulations shall be in effect at all times.

A. Modification, Amendments, Repeal and Re-Enactment. The Board shall have the right, at any time and from time to time hereafter, to modify, amend, repeal and/or re-enact these Rules and Regulations after forty five (45) days written notice to Owners.

B. Waiver. Failure by the Association, the Board or any person to enforce any provision of these Rules and Regulations shall in no event be deemed to be a waiver of the right to do so thereafter.

C. Severability. The Provisions of these Rules and Regulations shall be deemed to be

independent and several, and the invalidity of anyone or more of the provisions hereof, or any portion thereof, by judgment or decree of any court of competent jurisdiction, shall in no way affect the validity or enforceability of the remaining provisions, which provisions shall remain in full force and effect.

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

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

Approved by the Board of Directors on April 6, 2022.

[NO OTHER TEXT FOLLOWS]