

**RESOLUTION OF THE
PENN PLAZA OWNERS ASSOCIATION, INC.
REGARDING POLICY AND PROCEDURE FOR INSPECTION AND COPYING OF
ASSOCIATION RECORDS**

SUBJECT: Adoption of a procedure for the inspection and copying of Association records by Owners and retention of Association permanent records.

PURPOSE: To adopt a policy regarding an Owner's right to inspect and copy Association records and identification of records to be permanently retained by the Association. To adopt a standard procedure to be followed when an Owner chooses to inspect or copy Association records.

AUTHORITY: The Declaration, Articles of Incorporation and Bylaws of the Association and Colorado law.

EFFECTIVE DATE: April 1, 2015

RESOLUTION: The Association hereby adopts the following Policy and Procedures:

1. The Association shall make the following information available to Owners upon reasonable notice.
 - a. The name of the Association;
 - b. The name of the Association's designated agent or management company, if any, together with the agent's or management company's license number if the agent or management company is subject to licensure under part 10 of article 61 of title 12, C.R.S.;
 - c. A valid physical address and telephone number for both the Association and the designated agent or management company, if any;
 - d. The name of the common interest community;
 - e. The initial date of recording of the declaration; and
 - f. The reception number or book and page for the main document that constitutes the declaration.

If the Association's address, designated agent, or management company changes, the Association shall make updated information available to Owner's within ninety days after the change. Disclosure shall be accomplished by one of the following means: posting on an internet web page with accompanying notice of the web address via first-class mail or e-mail; the maintenance of a literature table or binder at the Association's principal place of business; or mail or personal delivery. The information shall be readily available to the Unit Owner at no cost. The cost of such distribution shall be accounted for as a common expense liability.

2. Within ninety days after the end of each fiscal year thereafter, the Association shall make the following information available to Owners upon reasonable notice:
 - a. The date on which its fiscal year commences;
 - b. Its operating budget for the current fiscal year;

- c. A list, by unit type, of the association's current assessments, including both regular and special assessments;
- d. Its annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
- e. The results of its most recent available financial audit or review;
- f. A list of all association insurance policies, including, but not limited to, property, general liability, association director and officer professional liability, and fidelity policies. Such list shall include the company names, policy limits, policy deductibles, additional named insureds, and expiration dates of the policies listed.
- g. All the association's bylaws, articles, and rules and regulations;
- h. The minutes of the executive board and member meetings for the fiscal year immediately preceding the current annual disclosure; and
- i. The Association's responsible governance policies adopted under C.R.S. § 38-33.3-209.5.

Disclosure shall be accomplished by one of the following means: Posting on an internet web page with accompanying notice of the web address via first-class mail or e-mail; the maintenance of a literature table or binder at the Association's principal place of business; or mail or personal delivery. The information shall be readily available to the Unit Owner at no cost. The cost of such distribution shall be accounted for as a common expense liability.

3. Association Records. In addition to any records specifically defined in the Association's declaration or bylaws and the records the Association is required to disclose within 90 days after the end of the fiscal year as set forth in Paragraph 2 above, the following are the records of the Association which shall be deemed to be the sole records of the Association for purposes of document retention and production inspection to Owners:
- a. Detailed records of receipts and expenditures affecting the operation and administration of the association;
 - b. Records of claims for construction defects and amounts received pursuant to settlement of those claims;
 - c. Minutes of all meetings of its Owners and Board, a record of all actions taken by the Owners or Board without a meeting, and a record of all actions taken by any committee of the Board;
 - d. Written communications among, and the votes cast by, Board members that are:
 - e. Directly related to an action taken by the Board without a meeting pursuant to section 7-128-202, C.R.S.; or
 - f. Directly related to an action taken by the Board without a meeting pursuant to the Association's Bylaws;
 - g. The names of Owners in a form that permits preparation of a list of the names of all Owners and the physical mailing addresses at which the Association communicates with them, showing the number of votes each owner is entitled to vote;
 - h. Its current declaration, covenants, bylaws, articles of incorporation, rules and regulations, responsible governance policies adopted pursuant to C.R.S. § 38-33.3-209.5, and other policies adopted by the Board;
 - i. Financial statements as described in C.R.S. § 7-136-106, for the past three years and tax returns of the Association for the past seven years, to the extent available;
 - j. A list of the names, electronic mail addresses, and physical mailing addresses of its current Board members and officers;
 - k. Its most recent annual report delivered to the secretary of state, if any;

- l. Financial records sufficiently detailed to enable the Association to comply with C.R.S. § 38-33.3-316(8) concerning statements of unpaid assessments;
 - m. The Association's most recent reserve study, if any;
 - n. Current written contracts to which the Association is a party and contracts for work performed for the Association within the immediately preceding two years;
 - o. Records of Board or committee actions to approve or deny any requests for design or architectural approval from Owners;
 - p. Ballots, proxies, and other records related to voting by Owners for one year after the election, action, or vote to which they relate;
 - q. Resolutions adopted by its board of directors relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members; and
 - r. All written communications within the past three years to all Owners generally as unit owners.
 - s. Subject to subsections (3), (3.5), and (4) of this section, all records maintained by the association must be available for examination and copying by a unit owner or the owner's authorized agent. The association may require unit owners to submit a written request, describing with reasonable particularity the records sought, at least ten days prior to inspection or production of the documents and may limit examination and copying times to normal business hours or the next regularly scheduled executive board meeting if the meeting occurs within thirty days after the request. Notwithstanding any provision of the declaration, bylaws, articles, or rules and regulations of the association to the contrary, the association may not condition the production of records upon the statement of a proper purpose.
4. Exceptions. Records maintained by the Association MAY BE WITHHELD from inspection and copying to the extent that they are or concern:
- a. Architectural drawings, plans, and designs, unless released upon the written consent of the legal owner of the drawings, plans, or designs;
 - b. Contracts, leases, bids, or records related to transactions to purchase or provide goods or services that are currently in or under negotiation;
 - c. Communications with legal counsel that are otherwise protected by the attorney-client privilege or the attorney work product doctrine;
 - d. Disclosure of information in violation of law;
 - e. Records of an executive session of an executive board;
 - f. Individual units other than those of the requesting owner; or
 - g. The names and physical mailing addresses of unit owners if the unit is a time-share unit, as defined in section 38-33-110(7).
5. Exclusions. Records maintained by the Association are not subject to inspection and copying, and they MUST BE WITHHELD, to the extent that they are or concern:
- a. Personnel, salary, or medical records relating to specific individuals; or
 - b. Personal identification and account information of members and residents, including bank account information, telephone numbers, electronic mail addresses, driver's license numbers, and social security numbers; except that, notwithstanding section 38-33.3-104, a member or resident may provide the association with prior written consent to the disclosure of, and the association may publish to other members and residents, the person's telephone number, electronic mail address, or both. The written consent must be kept as a record of the association and remains valid until the person withdraws it by providing the association with a written notice of withdrawal of the consent. If a person withdraws his or her consent,

the association is under no obligation to change, retrieve, or destroy any document or record published prior to the notice of withdrawal.

6. Inspection/Copying Association Records. An Owner or his/her authorized agent is entitled to examine and copy the records maintained by the Association, as listed in Paragraph 3, subject to the Exceptions listed in Paragraph 4 above and Exclusions listed in Paragraph 5 above, upon submission of a written request to the Association describing with reasonable particularity the records sought. The Association shall provide access to the requested records by:
 - a. Making the requested records available for examination and copying by the Owner within 10 days of the Association's receipt of such written request, which inspection shall be during the regular business hours of 9:00 a.m. to 3:30 p.m. Tuesday through Thursday by appointment only, **at the office of the Association's management company;** or
 - b. Making the requested records available for examination and copying by the Owner during the next regularly scheduled Board meeting, if the meeting occurs within 30 days after the request.

A right to copy records includes the right to receive copies by photocopying or other means, including the receipt of copies through an electronic transmission if available, upon request by the unit owner.

7. Fees/Costs. The Association may impose a reasonable charge, which may be collected in advance and may cover the costs of labor and material, for copies of Association records. The charge may not exceed the estimated cost of production and reproduction of the records. The Association may require a deposit equal to the anticipated charge. If after payment of the deposit it is determined that the actual cost was more than the deposit, Owner shall pay such amount prior to delivery of the copies. If after payment of the deposit it is determined that the actual cost was less than the deposit, the difference shall be returned to the Owner with the copies. There shall be no cost to any Owner accessing records which are required to be disclosed by Colorado law at no cost to the Owner.
8. Use of Records. Association records and the information contained within the records shall not be used for commercial purposes. Furthermore, while Owners are not required to state a purpose for any request to inspect the records of the Association, the membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to a unit owner's interest as a unit owner without consent of the Board. In addition thereto, a membership list of any part thereof may not be, without the consent of the Board, be:
 - a. Used to solicit money or property unless such money or property will be used solely to solicit the votes of the unit owners in an election to be held by the association;
 - b. Used for any commercial purpose; or
 - c. Sold to or purchased by any person.
9. Inspection. The Association reserves the right to have a third party present to observe during any inspection of record by an Owner or the Owner's representative.
10. Original. No Owner shall remove any original book or record of the Association from the place of inspection nor shall any Owner alter, destroy or mark in any manner, any original book record of the Association.
11. Creation of Records. Nothing contained in this Policy shall be construed to require the Association to create records that do not exist or compile or synthesize information.

12. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Community.
13. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.
14. Amendment. This policy may be amended from time to time by the Board of Directors.

PRESIDENT'S

CERTIFICATION: The undersigned, being the President of the Penn Plaza Owners Association, Inc., a Colorado nonprofit corporation, certifies that the foregoing Resolution was approved and adopted by the Board of Directors of the Association, at a duly called and held meeting of the Board of Directors of the Association on March 31, 2015 and in witness thereof, the undersigned has subscribed his/her name.

**PENN PLAZA OWNERS
ASSOCIATION, INC.,**
a Colorado non-profit corporation,

By:


President

**AGREEMENT REGARDING INSPECTION AND COPYING OF RECORDS
OF THE PENN PLAZA OWNERS ASSOCIATION, INC.**

I have requested to inspect and/or obtain copies of the following Association records. (Be as specific as possible) _____

Date & Time requested: _____
(Must be between 9:00 am & 3:30 pm, Tuesday – Thursday)

I understand that under the terms of the Colorado Revised Nonprofit Corporations Act, Association records *including membership lists* may not be obtained or used for any purpose unrelated to my interest(s) as an Owner. I further understand and agree that without limiting the generality of the foregoing, Association records may not be:

- A. 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 held by the Association;
- B. Used for any commercial purpose;
- C. Sold to, otherwise distributed to, or purchased by any person;

I agree to pay for all costs incurred by the Association, including \$1.00 per single-sided page for copies and \$50.00 per hour for the cost to search, retrieve and copy the record(s) requested. I understand the Association may require a deposit in an amount equal to the anticipated actual cost of the requested records.

In the event any document requested is used for an improper purpose, I will be responsible for any and all damages, penalties and costs incurred by the Association, including attorney fees resulting from such improper use. I will additionally be subject to any and all enforcement procedures available to the Association through its governing documents and Colorado law.

Understood and agreed to by:

Owner

Date: _____

Owner

Address: _____

Telephone #: _____