

## **ELK STREAM RANCH**

A Colorado Common Interest Community  
Located in T36N R13W, T35N R13W, T36N R12W and T35N R12W, N.M.P.M  
Montezuma County and La Plata County, Colorado

**Elk Stream Ranch Property Owners Association, Inc.**  
**A Colorado Non-Profit Corporation**

### **POLICIES**

© 2023 Erin J. Johnson Attorney at Law LLC. All rights reserved.

#### **POLICY #2-2010: INSPECTION AND COPYING OF ASSOCIATION RECORDS; RECORD RETENTION POLICY**

Adopted Aug 6, 2010  
Amended Aug 5, 2023

The following procedures have been adopted by the Elk Stream Ranch Property Owners Association, Inc., a Colorado Non-Profit Corporation (“Association”) pursuant to the provisions of C.R.S. §38-33.3-209.5, C.R.S. §38-33.3-209.4, §38-33.3-317, Policy #1, the Governing Documents of the Association, and the Act, at a regular meeting of the Board.

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

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

**1. Association Records Available for Inspection and Copying.** The Association shall maintain records in accordance with C.R.S. §38-33.3-317.

(a) The Association must maintain the following, all of which shall be deemed to be the sole records of the Association for purposes of document retention and production to Members:

(i) Detailed records of receipts and expenditures affecting the operation and administration of the Association;

(ii) Records of claims for construction defects and amounts received pursuant to settlement of those claims;

(iii) Minutes of all meetings of its Members and Board, a record of all actions taken by the Members or Board without a meeting, and a record of all actions taken by any committee of the Board;

(iv) Written communications among, and the votes cast by, Board members that are:

(1) Directly related to an action taken by the Board without a meeting pursuant to C.R.S. §7-128-202, C.R.S.; or

(2) Directly related to an action taken by the board without a meeting pursuant to the Association's bylaws;

(v) The names of Members in a form that permits preparation of a list of the names of all Members and the physical mailing addresses at which the Association communicates with them, showing the number of votes each unit owner is entitled to vote;

(vi) The current Declaration, 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;

(vii) 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;

(viii) A list of the names, electronic mail addresses, and physical mailing addresses of its current Board members and officers;

(ix) A list of the current amounts of all unique and extraordinary fees, assessments, and expenses that are chargeable by the Association in connection with the purchase or sale of a unit and are not paid for through assessments, including transfer fees, record change fees, and the charge for a status letter or statement of assessments due;

(x) All documents included in the Association's annual disclosures made pursuant to C.R.S. §38-33.3-209.4.

(xi) The most recent annual report delivered to the secretary of state;

(xii) Financial records sufficiently detailed to enable the Association to comply with C.R.S. §38-33.3-316(8) concerning statements of unpaid assessments;

(xiii) The Association's most recent reserve study, if any;

(xiv) Current written contracts to which the Association is a party and contracts for work performed for the Association within the immediately preceding two years;

(xv) Records of Board or committee actions to approve or deny any requests for design or architectural approval from Members;

(xvi) Ballots, proxies, and other records related to voting by Members for

one year after the election, action, or vote to which they relate;

(xvii) Resolutions adopted by the Board relating to the characteristics, qualifications, rights, limitations, and obligations of Members or any class or category of Members; and

(xviii) All written communications within the past three years to all Members generally as Members.

(b) All of the above records maintained by the Association must be available for examination and copying by a Member or the Member's authorized agent. The Association may require Members 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 Board meeting if the meeting occurs within thirty days after the request. Notwithstanding any provision of the Governing Documents of the Association to the contrary, the Association may not condition the production of records upon the statement of a proper purpose.

(c) A Membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to a Member's interest as a Member without consent of the Board.

(d) Additionally, without the consent of the board, a Membership list or any part thereof may not be:

(i) Used to solicit money or property unless such money or property will be used solely to solicit the votes of the Members in an election to be held by the Association;

(ii) Used for any commercial purpose; or

(iii) Sold to or purchased by any person.

**2. Records Required to be Disclosed Annually Under C.R.S. §38-33.3-209.4(2).** Within ninety (90) days after the end of each fiscal year, the Association shall make the information listed below readily available at no cost to Members upon reasonable notice, through any of the following methods: 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.

(a) *Fiscal Year.* The date on which its fiscal year commences;

(b) *Budget.* The Association's operating budget for the current fiscal year;

(c) *Assessments.* A list, by unit type, of the Association's current assessments, including both regular and special assessments;

(d) *Financial Statements.* The Association's annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;

- (e) *Audit.* The results of its most recent available financial audit or review;
- (f) *Insurance Policies.* 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) *Governing Documents.* All the Association's bylaws, articles, and rules and regulations;
- (h) *Meeting Minutes.* The minutes of the Board and Member meetings for the fiscal year immediately preceding the current annual disclosure; and
- (i) *Policies.* The Association's responsible governance Policies adopted under C.R.S. § 38-33.3-209.5.

**3. Records That May Be Withheld.** 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 Parcels other than those of the requesting Member.

**4. Records Not Subject to Inspection and Copying.** 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
  - (i) 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 C.R.S. §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.

(b) As used in this provision, written consent and notice of withdrawal of the consent may be given by means of a "record", as defined in the "Uniform Electronic Transactions Act", article 71.3 of title 24, C.R.S., if the parties so agree in accordance with C.R.S. §24-71.3-105.

**5. Fees for Copies.** 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, including the costs of copying, mailing, and any necessary special processing.

(a) If the Association fails to allow inspection or copying of records in accordance with this Policy within thirty calendar days after receipt of a written request submitted by certified mail, return receipt requested, and payment of any required fees, the Association is liable for penalties in the amount of fifty dollars per day, commencing on the eleventh business day after the Association received the written request, up to a maximum of five hundred dollars or the Member's actual damages sustained as a result of the refusal, whichever is greater.

#### **6. General Policies Regarding Association Records.**

(a) A right to copy records under this Policy 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 Member.

(b) The Association is not obligated to compile or synthesize information.

(c) Association records and the information contained within those records shall not be used for commercial purposes.

(d) At the discretion of the Association, certain records may only be inspected in the presence of a Board member or employee of the Manager. No records may be removed from the office without the express written consent of the Board. Further, if a Member requests to inspect records, the Association may photocopy and provide the requested records to the Member in lieu of the Member's inspection of the records if consented to by the Member.

(e) The Association reserves the right to pursue any individual for damages or injunctive relief or both, including reasonable attorneys fees, for abuse of these rights.

**7. Electronic Availability.** The Association's website contains a directory of available records, including links directly to the records, or information on how to request the record. The Association website: <http://elkstreamranch.org>. Members are encouraged to check the website for immediate access to frequently requested records and documents. Records are available on the web

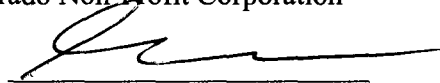
site for a Member's self-service copying at no cost.

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

**PRESIDENT'S CERTIFICATION:** The undersigned, being the President of the Elk Stream Ranch Property Owners Association, Inc., a Colorado Non-Profit Corporation, certifies that the foregoing Resolution was approved and adopted by the Board, at a duly called and held meeting of the Board on (date) 8/5/23 and in witness thereof, the undersigned has subscribed his name.

**Elk Stream Ranch Property Owners Association, Inc.,**  
a Colorado Non-Profit Corporation

By:



STEPHEN PEROU,

President

ATTEST:

By:



Sam Moore,

Secretary