

**Marston Shores
Homeowners' Association**

Rules and Regulations

Preface

The Bylaws of the Marston Shores Homeowners' Association give the Board of Directors the authority to "adopt and publish rules and regulations clarifying sections of the Declaration and these Bylaws, describing policies and procedures of the Board of Directors or mandated by Colorado statutes, as well as governing the use of the General and Limited Common Elements, the personal conduct of the Residents and their guests thereon, and establishing penalties for infractions thereof"

These Marston Shores Homeowners' Association's Rules and Regulations contain sections devoted to:

1. Rules and regulations, as well as;
2. Interpretations and clarifications of sections in the Declaration of Covenants, Conditions and Restrictions and in the Bylaws; and
3. Association policies and procedures.

Items 2 and 3 have been added to these Rules and Regulations in order to provide a convenient, single document where Association members can readily find Board decisions that are of general interest.

The various sections in this document are arranged in order of date of adoption by the Board of Directors (starting in May 1999). All other Board decisions that could be interpreted as rules and regulations prior to May 1999 will be reviewed and incorporated, as necessary, into this document as time permits. This document is maintained by the Governing Documents Committee under the auspices of the Board of Directors.

Several sections in these Rules & Regulations have been modified to accommodate the Board of Directors' authority to direct a management company to execute various administrative functions on its behalf.

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¹ Much of this regulation is dictated by FCC rulings.

² These are influenced by Colorado statutes

³ These are mandated by Colorado statutes

Alteration Maintenance

Adopted by the Board of Directors on 20 May 1999.
Modified by the Board of Directors on 11 July 2000.
Modified by the Board of Directors on 21 June 2001.
Modified by the Board of Directors on 16 March 2006.
Modified by the Board of Directors on 18 September 2006.
Modified by the Board of Directors on 20 July 2011.
Modified by the Board of Directors on 25 February 2016.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

The Marston Shores Homeowners' Association Declaration of Covenants, Article VI Maintenance, Section 4 reads as follows:

“As set forth herein, any alteration to the General or Limited Common Elements or to the exterior of any Unit made by an Owner must have the prior written approval of the Board of Directors. After such alteration has been made the Owner(s) shall bear full responsibility for maintaining the alteration and the area upon which it was made. After the initial painting of the alteration by the Owner(s), the Association will assume responsibility for future painting during the regular painting cycles of the building unless otherwise requested in writing by the Owner(s) and agreed to by the Board of Directors, in which case painting of the alteration becomes the responsibility, including all costs, of the Owner(s).”

The first three sections of Article VI clearly hold the Association responsible for all exterior maintenance. Section 4 does not diminish this overall responsibility, but it does shift the financial portion of it, at a minimum, to the homeowner in the case of an alteration.

This interpretation shall serve as further clarification to Article VI, Section 4, and establishes procedures for its implementation.

I. Definitions

- A. Original means as built by the developer. This includes custom work performed by the developer at the request of the initial owner. It will be used in the context of original structures and exteriors and original condition.
- B. Maintenance, as it applies to alterations in this regulation, refers to structural upkeep and repair. It does not include periodic exterior painting or staining which, after the first time exception, is specifically the responsibility of the Association as set forth in Article VI, Section 4. Nor does it include general siding replacement authorized by the Board of Directors. Note, this definition of maintenance is different from than used in Declaration of Covenants, Article VI, Section 1.

- C. Exterior is defined to mean those portions of the General or Limited Common Elements and alterations that are outside of the building, exposed to the weather and elements (even if covered by a roof).
- D. Alteration refers only to the additions and specifically includes the following:
 - 1. The added area to a deck and its support structure. This includes any and all original structures that are modified as a result of the addition.
 - 2. Modified deck railings. Owners should be aware that current Denver Building Code requires railings to be at least 36 inches in height with a baluster spacing of 4 inches or less. Owners shall not modify any railings on their decks without prior written permission from the Board of Directors. Remember, decks are Limited Common Elements and are under the Association's jurisdiction, and as such the Association has primary liability for any accident associated with a deck. Any railing, not in compliance with the above-mentioned requirements, will be brought up to code (potentially grand-fathered under the code in effect at the time of original construction) by the Association at the owner's expense. Once done, the Association will assume responsibility for maintenance.
 - 3. The room formed by an enclosed deck or patio. This includes all walls, floor, support structures and ceiling.
 - 4. Any structure that encloses or incorporates exterior surfaces making them a part of the owner's private living space. This includes Limited Common Elements that have been enclosed by glass, screens or security bars.
 - 5. Adjacent exterior surfaces or structures, which by proximity to an alteration, become more costly to maintain.
 - 6. Any changes made by an owner that modifies the exterior of the building.

II. Responsibilities

- A. The owner has full financial responsibility for maintaining all alterations (as defined above) as set forth in Article VI, Section 4.
- B. The Association has financial responsibility for maintaining all original exterior structures and surfaces surrounding alterations regardless of proximity to the alterations, except as specified in C.
- C. This Paragraph C is stricken from the Rules and Regulations since it is in direct contradiction and violation of the Marston Shores Homeowners' Association Declaration of Covenants, Conditions, and Restrictions, Article VI, Section 4.
- D. Some or all of an alteration may be covered by the Association's insurance policy against certain types of losses. A homeowner may obtain whatever additional insurance he desires to protect an alteration but the premiums are the homeowner's sole responsibility and not the Association's.

III. Maintenance Procedures

- A. The owner has sole responsibility for maintenance of his alterations and, as such, may determine when maintenance is required.
 1. If an owner desires to perform maintenance on his alteration which will impact the structural integrity of the building, the safety of the users of the building, or impact the exterior of the building, the owner shall provide plans to the Board for approval before commencing with said maintenance work. Approval by the Board shall not be unreasonably withheld, as long as the Board is assured that the maintenance work planned is beneficial to the structure and its occupants, and that adequate financing is available to complete the planned project.
 2. If an owner determines that maintenance is required and desires the Association to perform this maintenance, the owner shall submit his request in writing to the Board. The Board has final disposition on all such requests.
 - B. The Association, through the actions of the Board of Directors, shall also have the right to determine when maintenance of an alteration is required. To this end, all alterations shall be accessible to the Association for inspection during reasonable daytime hours upon 15 days notice to the owner. When the Board deems that a need for maintenance of an alteration exists, the owner will be provided with a written explanation of the scope of the needed maintenance project, the date by which the project will be completed and an estimate of anticipated costs to the owner. The owner shall have 15 days in which to acknowledge receipt of this information and provide to the Board in writing any issues he wishes the Board to consider before proceeding. Once these issues, if any, have been resolved, the Board shall then proceed with the maintenance work as proposed, and the owner's costs of said work shall be due and payable by the owner 30 days after repairs have been completed.
 - C. All monies owed by an owner shall be treated as Homeowner Association dues (assessments) for purposes of collection remedies. [Reference Declaration of Covenants, Article IV, Sections 1, 8 & 9.]
- IV. By written notification to and approval by the Board of Directors, an owner may, at his expense, remove an alteration and restore the affected area to its original condition. Once this has been done, the responsibility for future maintenance of the restored area returns to the Association.
 - V. As set out in Declaration of Covenants, Article VI, Section 5, the financial responsibility for maintenance of an alteration passes on to subsequent owners. It is the responsibility of the seller to explain this requirement to the buyer (see Rules & Regulations – Buyer's and Seller's Requirements).
 - VI. Nothing in this interpretation shall alter or amend the owner's and subsequent owner's responsibility to maintain an alteration at his sole expense.
 - VII. Situations not specifically addressed by this regulation will be considered on a case-by-case basis at the discretion of the Board. Their decisions in these circumstances are final.

Glass Maintenance

Adopted by the Board of Directors on 10 February 2000.

Modified by the Board of Directors on 16 March 2006.

Modified by the Board of Directors on 18 September 2006.

Modified by the Board of Directors on 20 July 2011.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

The Marston Shores Homeowners' Association Declaration of Covenants, Article VI Maintenance, Section 1 reads as follows:

“In addition to maintenance upon the General and Limited Common Elements, the Association shall provide exterior maintenance upon each Lot, which includes, but is not limited to: Paint, repair, replace and care for roofs, gutters, downspouts, exterior building surfaces, (except glass), and other exterior improvements, including concrete areas, lawns, trees, shrubbery, and snow removal, and provide such other maintenance as the Board of Directors shall deem necessary, from time to time, for the preservation of the exteriors of buildings and General and Limited Common Elements.”

While the Board believes the intent of this section is clear concerning the exception for glass repair, there exists legal precedent indicating that this language is ambiguous.

Therefore the following interpretation shall serve as further explanation to Article VI, Section 1, and as such, is legally binding.

- I. The Homeowners' Association is not responsible for broken glass, defective glass, cracked glass, or any other defect, which may appear in exterior glass of the units that are a part of Marston Shores. The owner of a unit has the entire obligation of paying the costs of glass breakage and/or injury occurring within or near the owner's unit as a result of broken or defective glass. Glass here and in the following paragraphs refers to all windows and their casements, doors containing glass, or skylights made of glass or Plexiglas or other plastic materials and their casements, which are a part of the exterior of the unit.
- II. If the homeowner, or one of his guests, or any person from the general public including other homeowners is responsible for glass breakage, then the Association shall not be responsible for the repair or replacement of that glass and thus, the homeowner shall be responsible for said repair or replacement.

- III. If an act of nature such as hail, wind blown debris, foundation settling, thermal stress from sunlight, etc. causes glass breakage, including loss of seal on multi-pane windows, then the homeowner shall be responsible for the repair or replacement of that glass unless the Association's insurance policy covers that type of loss. A homeowner may obtain whatever additional insurance he desires to protect exterior glass surfaces but the premiums are the homeowner's sole responsibility and not the Association's.
- IV. If any person hired by or acting at the request of the Association is responsible, in whole or in part, for glass breakage at any unit, then the Association shall assume responsibility for the repair or replacement of that glass. These persons can be, but are not limited to, repairmen, landscapers, painters, members of the Board of Directors or its committees performing inspections, etc. This constitutes the only instance where the Association shall bear the cost of repair or replacement of glass surfaces except as noted in III above.
- V. This clarification is not in any way intended to obligate the Association to be a guarantor if an accident should occur requiring glass repair or replacement. The Association has the right, at its sole discretion, to determine whether or not any Association resources are expended on behalf of an owner who has suffered a loss.
- VI. For any situation not specifically addressed herein, the responsibility for repair or replacement of glass breakage shall be determined solely by the Board of Directors and shall be in keeping with the spirit of what has been set forth above.

Satellite Antennas

Adopted by the Board of Directors on 10 February 2000.

Modified by the Board of Directors on 21 June 2001.

Modified by the Board of Directors on 18 October 2001.

Modified by the Board of Directors on 18 March 2004.

Modified by the Board of Directors on 20 July 2011.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

The following resolution regarding satellite antennas (dishes) supersedes any and all resolutions adopted in the past by the Marston Shores Homeowners' Association (referred to simply as the Association below). This new resolution is in response to and in keeping with the latest FCC ruling issued in September of 2003. This ruling is a clarification to earlier FCC rulings concerning Over-the-Air Reception Devices (OTARD).

- I. Types of antennas covered under the OTARD rule.
 - A. Direct broadcast satellite (DBS) antennas 1 meter or less in diameter;
 - B. Television broadcast antennas of any size (These are the old style of TV antennas);
 - C. Multipoint distribution service (MDS) antennas 1 meter or less in diameter;
 - D. Masts used to attach any of these antennas;
 - E. Transmission-only antennas that are necessary for the use of one of the antennas listed above. These antennas must also be 1 meter or less in diameter;
 - F. Antennas that transmit or receive fixed wireless signals (These include antennas used for high speed internet connections).
- II. Homeowner rights and restrictions.
 - A. Homeowners may install, maintain and use any OTARD certified antennas (See section I) on their Limited Common Elements such as balconies, patios and decks without Board approval. Because these areas are under the jurisdiction of and maintained by the Association, the Board requests that these installations be communicated to the Board.
 - B. Antennas cannot be installed on the above mentioned Limited Common Elements where the antenna would extend beyond the envelope of the exclusive use area into common area airspace (as in the case of an antenna installed on a deck and extending outside the deck and above the roof line) without first obtaining written permission from the Board.
 - C. Tenants may install antennas in accordance with the above without having to show they have the owner's permission.
 - D. Homeowners or tenants are liable for any personal injuries or damages occurring to Association residents or personnel, common property or other

resident's property as a result of antenna installations regardless of where the antennas are installed, i.e., on Limited Common Elements or General Common Elements (See section III, paragraphs C and E).

E. Additional homeowner restrictions are described in section III.

III. Association rights and restrictions.

A. The Association may not:

1. Prevent or unreasonably delay antenna installation, maintenance or use;
2. Unreasonably increase the cost of antenna installation, maintenance or use;
3. Preclude reception of acceptable quality signals.

B. Installation of antennas not covered by the OTARD ruling, such as large diameter (greater than 1 meter) satellite dishes, regardless of where they are to be installed, must be authorized in advance and in writing by the Board.

C. Installation of antennas covered by the OTARD ruling on General Common Elements must be authorized in advance and in writing by the Board. These areas include walls not directly associated with homeowner exclusive use areas (Limited Common Elements), the common grounds, etc. Except under very special circumstances, the Board will not authorize the mounting of an antenna or its mast on any roof area.¹ Vertical surfaces such as walls and chimneys above roofs will be given consideration.

D. In so far as practical, antenna installations should not be visible from Stetson Place.

E. Antenna installations, which pose a legitimate safety concern as determined by the Board, must be authorized in writing from the Board before installation. The Board has the right to require homeowners to have antennas used for fixed wireless signals to be professionally installed. This is to guarantee that minimum distances between these antennas and humans comply with federal radio frequency radiation emission requirements. The satisfactory resolution of the safety concern, as deemed by the Board, shall take precedence over any homeowner right described above.

F. Homeowners requiring authorizations from the Board should allow reasonable and sufficient times for the Board to perform its inspections, make its rulings and provide written responses to the homeowners. The Board will make every effort to expedite homeowner requests.

¹ There exists legal precedent indicating that the Association may not have the authority to require owners to obtain permission to mount antennas on the roof. Our Declaration of Covenants specifically defines Special Common Elements as "porches, decks, driveways, and walkways ... used exclusively by the Owner of a unit." If this definition is all-inclusive, the above restriction is legally binding. If it is not all-inclusive and if an owner has exclusive use, even though not exclusive control, of his roof, then section II, A above would apply. While mounting locations other than roofs are generally more suitable, the Association is committed to negotiating in good faith with owners on this issue.

Insurance Claims Procedure

Adopted by the Board of Directors on 20 March 2003.

Modified by the Board of Directors on 20 March 2006.

Modified by the Board of Directors on 18 September 2006.

Modified by the Board of Directors on 20 July 2011.

Modified by the Board of Directors on 18 January 2017.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

The rising costs of Marston Shores Homeowners' Association insurance have prompted the Board to establish the following procedure for handling insurance claims for losses or damages to property within our community.

Actions by Homeowner:

- I. Secure the property to prevent further loss or damage.
- II. Call the management company and a Board member to report the loss. It is imperative that the Board be aware of all potential claims against the Association's insurance policy.
- III. The Insurance Manager will assist the homeowner in getting a cost estimate and in preparing a Maintenance Request based on that estimate. The Insurance Manager will include in the request a coverage assessment, which describes those portions of the loss covered by the Association's insurance policy, if any, and those portions covered by the homeowner's individual insurance policy (overlap in coverage is possible). He or she will also include a claims recommendation based on this coverage assessment.
- IV. According to Colorado statutes, "A unit owner may file a claim against the policy of the unit owner's association to the same extent, and with the same effect, as if the unit owner were a named insured if the following conditions are met:" Essentially, these three conditions are:
 - A. The unit owner has contacted the Board in writing regarding the subject matter of the claim;
 - B. The unit owner has given the Association a reasonable opportunity to inspect the damage and at least fifteen days to respond in writing as to actions to be taken by the Association; and
 - C. The subject matter of the claim falls within the Association's insurance responsibilities.

This notwithstanding, the homeowner is strongly encouraged to work with the Board and the management company in terms of deciding whether to file a claim or not according to the deductible guidelines set forth in VI below. Remember, the claims history against the Association's insurance policy will have a direct effect on our premiums. Frequent and/or expensive claims activity will raise the following year's premium, which, in turn, affects our monthly assessments. The Board prefers to submit all claims against the Association's policy. However, it will not take steps to prohibit or unnecessarily prevent valid claims by individual homeowners.

Actions by Insurance Manager and Board:

- V. The Insurance Manager will submit the Maintenance Request to the Board.
- VI. Based on the information contained in the Maintenance Request, one of the following actions will be taken:
 - A. If the estimated cost to remedy the portion of the loss covered by the Association's insurance policy is less than the deductible (\$5000), the Board will authorize the repair work to proceed immediately.
 - B. If the estimated cost to remedy the portion of the loss covered by the Association's insurance policy is more than the deductible (\$5000), the Board will either submit a formal insurance claim or authorize the repair work without involving the insurance carrier. If a claim is submitted, repair of the damage may have to await inspection and authorization by the insurance carrier.
- VII. The Board's responsibilities to the homeowner are as follows:
 - A. In fairness to the homeowner suffering the loss, the Board will make every effort to expedite this process by convening an ad hoc meeting, if necessary, for the purpose of resolving any and all issues associated with this situation.
 - B. The Board will advise the homeowner in writing of the action taken by the Association and which part, if any, of the loss should be handled by his or her insurance carrier.
- VIII. The Board will advise the management company of the estimated cost to be covered by the insurance reserve and relate the invoice(s) for the actual cost to the Maintenance Request number.

Landscaping Policy

Adopted by the Board of Directors on 10 February 2000.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations as an addendum to the Landscaping Policy:

Preface

The growth of trees and shrubbery after twenty-five years along with increasing costs of water and annual maintenance make it necessary to review and adjust the landscape plans for the future. The Association operating through the Board of Directors, the Architectural Committee, and the Landscape Manager, hereby establishes the following Landscaping Plans and Policy Standards to control costs, growth and maintain all landscaping located in the General Common Elements. The plans will be submitted to the Board for approval prior to the establishment of the budget at the end of the calendar year.

Policy Statements

I. Landscaping Plans

A. Short-term plan

This plan will define the work to be done during the coming year that will be in addition to the landscaping maintenance contract. It will also form the basis for the annual landscaping budget.

B. Long-term plan

This plan will specify the removal and planting of trees, shrubbery and turf over a multi-year period. This plan will gradually allow for reduced water usage and less maintenance.

II. Landscaping Policy Standards

A. Safety

Personal – Landscaping will not unreasonably obstruct the visibility from the front entrance of units or driveway exits. Homeowner privacy and desired seclusion will be a consideration. Landscaping should provide adequate access to vehicles and individuals.

Building – Shrubby, tree limbs or the entire tree or shrub will be removed when age or overgrowth poses a hazard or danger to the buildings or individuals.

B. Maintenance

All trees, shrubbery and turf will be selected based on growth rate, mature size and suitability under semi-arid conditions. When it is determined that overgrowth of existing plants and turf are creating excessive maintenance costs, they will be removed and may not be replaced.

C. Building access

All trees and shrubbery will be selected so that at maturity they will not hinder building maintenance access or create irrigation and drainage problems. Existing shrubbery that does not meet these standards will be removed.

D. Aesthetics

Compatibility with the overall appearance of the area will be considered in the selection of all trees, shrubbery and turf.

The relative importance of these criteria will be considered on a case-by-case basis. That is, the landscaping needs at each location within our complex, be it at the unit level or the building level, will be considered individually as well as in the context of the whole of Marston Shores. The Board, the Architectural Committee, and the Landscape Manager will consider the total landscape in accordance with the Landscape Policy Standards prior to finalizing a plan for each year.

Tree and Shrubbery Replacement Guidelines

Adopted by the Board of Directors on 12 September 2001.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations as an addendum to the Landscaping Policy:

This document establishes guidelines for tree and shrubbery replacements after the effectivity date above. Many existing trees and shrubs, planted prior to this date, are in violation of these guidelines. While there is no intent to enforce these guidelines retroactively, trees and/or shrubbery that have clearly grown beyond reasonable bounds for their own health, pose a safety hazard, limit access, are creating damage to our buildings, sidewalks or irrigation systems, or have become overly expensive to maintain, are subject to removal. This is in keeping with the Landscaping Policy adopted by the Board of Directors on 10 February 2000.

Tree and shrubbery replacement requests should be submitted to the Board in writing on a "Maintenance Request Form". The Landscape Manager will make a recommendation to the Board concerning each application. Recommendations from the Architectural Committee will be provided only at the request of the Board. The Board has ultimate and final authority over all replacement requests.

The following guidelines shall be considered when making decisions concerning tree and shrubbery replacement requests.

I. Maintenance

- A. Special pruning requirements for a particular tree or shrub make it less desirable. Homeowners should be aware that special pruning or upkeep will influence the Board's decision to plant a replacement tree or shrub.
- B. Trees and shrubbery that are susceptible to diseases common to our area pose a threat to our existing, healthy vegetation and impose an unreasonable expense on the Association. Trees and shrubbery that fall into this category will not be considered.

II. Drainage

Our complex has drainage problems that are being addressed by the Board. All tree and shrubbery replacements shall not create or exacerbate a drainage problem. Homeowners are asked to be cooperative in this regard.

III. List of approved trees

Compatibility with the overall appearance of our community will be considered in the selection of all trees and shrubbery. A list of trees, which have been approved for limited-space applications such as narrow entryways, is available upon request. All trees will be selected based on growth rate, size at maturity and suitability under semi-arid conditions.

IV. Proximity to Structures

A. Buildings

1. New trees and shrubbery should not have to be specially pruned to be kept away from our buildings.
2. No trees, tree limbs or shrubbery shall be allowed to brush against the buildings.
3. No trees or shrubbery shall be allowed to unreasonably interfere with the maintenance of the buildings. Maintenance refers to siding replacement, painting, access to electrical boxes, etc.
4. No trees shall be permitted whose root systems pose a threat to the foundation.
5. No vegetation of any kind shall be allowed to grow on the buildings. This includes vines such as ivy and flowering plants such as pyracantha, clematis, etc.

B. Sidewalks

1. Trees and shrubbery shall not interfere with access to building entrances. Easy access should be the general rule.
2. Trees and shrubbery shall not provide a hiding place for undesirable individuals. The personal safety of our owners, their guests and delivery personnel is paramount. Homeowner desires for privacy and seclusion will be taken into consideration.
3. The sidewalks fronting Stetson Place should be free of overhanging limbs and crowding shrubbery. Sound judgment will be exercised here. An overhanging limb may only pose a problem when it snows and then only when the snow falls off the limb. An overhanging limb many feet above the sidewalk can be perfectly acceptable as long as it poses no safety concern to the general public.

C. Driveways

1. Many of the guidelines above for sidewalks are equally applicable here.
2. Trees and shrubbery shall not infringe on vehicle access.

Investment of Reserve Funds Policy

Adopted by the Board of Directors on 15 December 2005.

Modified by the Board of Directors on 15 November 2006.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

The policy contained herein is intended to provide assurance to homeowners residing in Marston Shores that their annual assessments (monthly dues), specifically those targeted for reserves, are being properly protected.

Pursuant to the Marston Shores Homeowners' Association Bylaws, Article IX Officers And Their Duties, Section 8, Paragraph (d), which states "The Treasurer shall receive and deposit in appropriate bank accounts all moneys of the Association ... as directed by resolution of the Board of Directors", the treasurer and the Board of Directors shall jointly decide how to invest the Associations reserve funds. The following directions and restrictions apply to such investments:

- I. All Association funds, reserve and otherwise, that do not require immediate access shall be placed in non-speculative accounts with a guaranteed positive return on investment. Examples of these accounts include, but are not limited to, interest-bearing savings accounts and certificates of deposit.
- II. In the case of certificates of deposit, the amounts and terms (durations) shall be consistent with anticipated fund availability requirements. Penalties for early withdrawal will be taken into consideration and minimized insofar as possible.
- III. The Board shall be held solely responsible for all policies that influence protection of Associations funds.
- IV. The Board of Directors are subject to the standard of care set out in section 7-128-401 of the Colorado Revised Nonprofit Code, which addresses the general standards of care required by directors and officers of nonprofit corporations. Martson Shores Homeowners' Association is such a nonprofit corporation. This section requires board members to exercise their authority:
 - “(a) In good faith;
 - (b) With the care an ordinarily prudent person in a like position would exercise under similar circumstances; and
 - (c) In a manner the director or officer reasonably believes to be in the best interests of the nonprofit corporation.”
- V. Should an investment situation arise, not specifically addressed herein, the Board of Directors shall make its determinations in keeping with the spirit of what has been set forth above.

Board of Directors' Conflicts of Interest

Adopted by the Board of Directors on 15 December 2005.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

The Board of Directors has a legal responsibility of fiduciary duty to the Association's homeowners. Fiduciary duty means loyalty to the association and the exercise of ordinary care. Loyalty to the association prohibits Board members from using their positions to take unfair advantage of the association. Board members may not make decisions for the association that benefit their own interests, interests of family and friends or selected owners, at the expense of the association and its members. To this end, the association requires the following of its Board members:

- I. If any contract or action taken by the Board will financially benefit (now or in the future):
 - A. a Board member, a Board member's parent, grandparent, spouse, child, or sibling, or the parent or spouse of any of those persons;
 - B. a friend; or
 - C. selected owners,that Board member must disclose his or her conflict of interest at an open meeting of the Board prior to any action being taken on said issue.
- II. After disclosure the Board member with the conflict of interest may participate in discussions, but under no circumstances shall he or she vote on that issue.
- III. Any contract entered into in violation of this regulation is null and void.
- IV. Any decision rendered by the Board in violation of this regulation must be reconsidered as quickly as possible should a conflict of interest be subsequently discovered or admitted to after that decision has been made.
- V. Board members who also hold positions on any committee that makes recommendations to the Board and who have a conflict of interest on a committee matter, must abstain from voting on any such recommendation.
- VI. This regulation extends to all committee members and special appointees elected by the Board who could benefit from actions taken by the Board.
- VII. Situations that have even the perception of a conflict of interest should be examined carefully by all members of the Board and the actions taken shall be in keeping with the spirit of what has been set forth above.

Conduct of Owner and Board Meetings

Adopted by the Board of Directors on 15 December 2005.

Modified by the Board of Directors on 15 November 2006.

Modified by the Board of Directors on 16 January 2008.

Modified by the Board of Directors on 20 July 2011.

Modified by the Board of Directors on 18 January 2017.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

These procedures dictate the conduct of annual and special meetings of the owners and monthly and special meetings of the Board of Directors.

I. Annual and Special Meetings of the Owners

Special meetings of the owners may be called at any time by the president, the Board or upon written request by at least 20% of all voting members (owners) of the Association.

A. Meeting Notices

1. Meeting Notification

- a. Date, time and place – The annual meeting of the Members shall be held during the first third of each of the Association's fiscal years (i.e. no later than the end of April of each calendar year), at a date, time and location selected by the Board of Directors.
- b. The president or the Board reserves the right to change the date and time of the annual or a special meeting so long as the meeting notification conforms to that in (d) and (e).
- c. Written notice of the meeting shall be sent to all owners, either delivered to each resident owner's home or by US Mail to the last registered address contained in the Association's records for nonresident owners.
- d. This written notification shall be sent at least ten (10) days but not more than fifty (50) days before the meeting.

2. Posting of Agendas

- a. The agenda shall be included in the written notification for the annual meeting. For special meetings, a description of the purpose for the meeting shall be included with the agenda.
- b. Other written material pertinent to discussions to be held at the meeting may also be provided.

B. Meeting Conduct

1. Attendance

- a. All owners are entitled and encouraged to attend.

- b. An owner may designate, in writing to the Board in advance, his or her representative to attend in the owner's absence. This representative may participate in voting only if a proxy has been duly executed.
 - c. A quorum (majority) of the Board must be present.
 - d. A quorum of the owners must be present. Quorums vary depending on the issue(s) to be voted upon and are described in the Declaration of Covenants, Article IV, Section 5 and the Bylaws, Article IV, Section 4.
 - 2. Owner Participation
 - a. The president shall preside over the meeting, calling it to order, controlling agenda adherence, acknowledging speakers, indicating the outcome of votes, etc., and ending with adjournment.
 - b. The president shall allow owners to speak before taking any formal action on any item under consideration
 - c. Notwithstanding the foregoing, the president may place reasonable time limits on persons speaking.
 - d. The president shall provide for a reasonable number of persons to speak to various sides of an issue. Speakers are encouraged to be well-organized and succinct with their arguments and avoid unnecessary repetition.
- C. Voting Procedures
 - 1. Voting Rights
 - a. Each unit shall have one vote. When there is more than one owner of a unit, they collectively shall have only one vote. If a person owns more than one unit, that owner is entitled to cast one vote for each unit.
 - b. The Board of Directors has the right to suspend the voting rights of the owner(s) of a unit for any period during which any assessment against his unit remains unpaid; or for any period during which an infraction of the Association's Rules and Regulations is in effect.
 - 2. Open Voting
 - a. Except as noted in (3), all actions requiring a simple majority vote for passage may be counted by a show of hands or equivalent means.
 - b. Formal or informal polling of the owners to provide guidance in upcoming Board matters will be by open voting.
 - 3. Secret Ballots
 - a. Votes taken for contested Board members shall be taken by secret ballot.
 - b. If requested by twenty percent of unit owners present at the meeting in person or represented by proxy, secret ballots must be used for a vote on any matter on which all unit owners are entitled to vote.
 - 4. Absentee (Written) Ballots
 - a. An owner may cast his or her vote by absentee ballot on any issue known ahead of time as described by the meeting agenda. This includes, but is not limited to, votes for Board members.

- b. Absentee ballots shall be supplied by the Association along with the meeting notification.
 - c. Absentee ballots are valid only when signed and dated.
 - d. Secret balloting by this method shall be guaranteed procedurally by the Association.
 - 5. Proxies
 - a. An owner may assign his or her voting privileges to a representative who has the authority to vote for the owner in the owner's absence.
 - b. Proxy statements shall be supplied by the Association along with the meeting notification.
 - c. Proxy statements are valid only when signed and dated. These proxies will terminate after the close of the meeting.
 - d. Secret balloting by this method shall be guaranteed procedurally by the Association.
 - 6. Absentee ballots and proxies may be combined into a single form.
- D. Meeting Minutes
 - 1. Minutes shall be taken and distributed to all owners requesting copies of the minutes no later than ten (10) business days following the meeting. The primary method for distribution of minutes is via e-mail. Owners who have requested copies of the minutes but who do not have e-mail accounts will be provided printed copies.
 - 2. Amendments (corrections) to the minutes will be re-distributed as necessary in a timely manner.

II. Monthly and Special Meetings of the Board of Directors

Special meetings of the Board may be called at any time by the president or by any two directors.

A. Meeting Notices

1. Meeting Notification

- a. Date, time and place - Monthly meetings of the Board of Directors shall be held at a regularly scheduled time and location, which may change from time to time to accommodate Directors' attendance conflicts. The date, time and location shall be included in the minutes of the prior month's Board meeting.
- b. At least three days notice must be given to each director for special meetings.
- c. In general and because of the potential for such short notice, notification of special meetings are not required to be provided to Association members.

2. Posting of Agendas

Posting of agendas is not required. However, topics of special interest to homeowners may be included with the meeting notification (See section II, paragraph A, 1, a above).

B. Meeting Conduct

1. Attendance

- a. All Board meetings are open to owners or their representatives.
- b. A quorum (majority) of Board members must be present.

2. Owner Participation
 - a. The president shall preside over the meeting, calling it to order, controlling agenda adherence, acknowledging speakers, indicating the outcome of votes, etc., and ending with adjournment.
 - b. The president shall allow owners to speak before taking any formal action on any item under consideration.
 - c. Owners attending who wish to introduce new business, i.e., topics not on the agenda, will be provided a time in the meeting to make their presentations.
 - d. The president may place reasonable time limits on persons speaking.
 - e. The president shall provide for a reasonable number of persons to speak to various sides of an issue. Speakers are encouraged to be well-organized and succinct with their arguments and avoid unnecessary repetition.
3. Executive Sessions
 - a. The following conditions constitute the only reasons under which executive sessions are permitted:
 - a. Employment matters;
 - b. Consultation with the Association's legal counsel regarding pending or imminent litigation or matters that are privileged or confidential between attorney and client;
 - c. Investigative proceedings concerning possible or actual criminal misconduct;
 - d. Matters subject to specific constitutional, statutory or judicially imposed requirements protecting particular proceedings or matters from public disclosure;
 - e. Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy.
 - b. Only Board members may participate in executive sessions; it is closed to all others including officers of the Association normally in attendance at Board meetings.
 - c. No formal actions shall be taken in executive sessions.
 - d. In general and except as agreed to by a majority of the Board members, no minutes will be taken during executive sessions.
4. Consent to action without a meeting of the Board is discouraged but allowable under the following conditions:
 - a. Every Board member¹ in writing must either:
 - i. vote for the action, or
 - ii. vote against the action or abstain from voting, and affirmatively waive the right to demand that a meeting be held.
 - b. Every Board member¹ must sign the consent before it validly authorizes the Association to take action.
 - c. The form *Consent to Action without a Meeting of the Board of Directors of the Marston Shores Homeowners' Association*, attached at the end of this section, should be used for this purpose.

- d. Adoption of or changes to Rules and Regulations can only be effected at regular meetings of the Board of Directors.
 - e. Informal polling of the Board shall not be allowed.
- C. Voting Procedures
- 1. All resolutions before the Board that must be approved or rejected shall be determined by majority vote.
 - 2. Sufficient discussion will take place prior to voting so all known issues can be thoroughly explored.
 - 3. Conflict of interest disclosures shall be made prior to discussion and voting (see *Board of Directors' Conflicts of Interest* regulation).
- D. Meeting Minutes
- 1. Minutes shall be taken and distributed to all owners requesting copies of the minutes no later than ten (10) business days following the meeting. The primary method for distribution of minutes is via e-mail. Owners who have requested copies of the minutes but who do not have e-mail accounts will be provided printed copies.
 - 2. Amendments (corrections) to the minutes will be made at the beginning of the next scheduled Board meeting.

¹ While Section 7-128-202 of the Colorado Revised Statutes, which sets the rules for meetings of a board in a nonprofit corporation such as ours, states all Board members must sign the form, there is legal precedent that under extraordinary circumstances, it may be defensible to proceed with a Board member unavailable. These circumstances could reasonably be described as follows:

- 1. Unavailable means the Board member could not be reached in person, by phone, e-mail or any other means.
- 2. The action(s) to be taken is an emergency requiring immediate action.
- 3. Immediacy means that it is not acceptable to wait even for a special meeting of the Board—where only a quorum (3 or more members) is required to take action—since pursuing this course of action would take 3 days due to notification restrictions.

***Consent to Action without a Meeting of the Board of Directors
of the Marston Shores Homeowners' Association***

Pursuant to Section 7-128-202 of the Colorado Revised Statutes and the Marston Shores Homeowners' Association's Bylaws, the Board of Directors of the Marston Shores Homeowners' Association, a Colorado nonprofit corporation (the "Association"), shall be deemed to have acted to adopt the resolution(s) set forth in this written instrument when this instrument, signed by all of the directors, has been received by the Association (included in the Association's records) and at least a majority of all directors have voted below in favor of the resolution(s).

Important Notice: By signing this written action without a meeting, each director shall be deemed to have waived the right to demand that a meeting of the Board of Directors be held in lieu of taking action by this instrument. If a director wishes to demand that action not be taken without a meeting, that director should **NOT** sign this document. A director's failure or refusal to sign this instrument shall constitute a demand that the action set forth below not be taken without a meeting.

Each director is requested to vote for or against, or abstain from voting, with respect to the following resolution(s):

If approved by majority vote of the entire board, the resolution(s) set forth above shall become effective when this instrument is completed and has been received by the Association.

Vote for one:		
For	Against	Abstain
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

Signatures:

Date received: _____

Instructions:

Taking action without a formal meeting of the Board is a specific case of a Special Board Meeting and as such may be initiated by the President of the Board or any two directors in case the president is unavailable.

The initiating party should enter a clear, unambiguous statement of the resolution or resolutions in the space provided on the form including the date and time by which the directors must respond to the proposed action. Be careful to delineate multiple actions in different (numbered) resolutions.

The initiating party should contact each and every Board director and ask that he or she:

1. Vote *for*, *against* or *abstain* on each resolution and sign the form. Any director who fails or refuses to sign this form shall be deemed to have exercised his or her right to demand that a meeting be held to take action on the resolution(s).
2. Once the form is complete (signed by all Board members), it should be provided to the Association's Secretary.
3. If a Board director is unavailable, enter "Unavailable" in the space provided for that Board member's signature.

Upon receipt of the completed form, the Secretary shall fill in the date at the bottom of the form and enter it into the Association's records.

A resolution on the form will be adopted and becomes effective, unless the resolution specifically states a different effective date, when at least three directors have voted *for* the resolution and the completed form has been received by the Association's Secretary.

The Board must follow up with a formal set of minutes, which shall subsequently be included in the official minutes of the Board and distributed to the Association members by the Secretary.

Reserve Study Policy

Adopted by the Board of Directors on 19 December 2013.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

Marston Shores Homeowners' Association maintains a Reserve Account, which is used as a funding source for major Association projects such as replacement of roofs, gutters and downspouts, siding, porches, patios, decks, driveways, landscaping, etc. as well as exterior painting, major building maintenance, and the like. These items are specific to our general and limited common elements and as such the Association is obligated to maintain them as specified in our Declaration of Covenants, Conditions and Restrictions. Important aspects of maintaining this reserve account are: the identification of the items to be covered; establishing realistic replacement or repair costs; specifying replacement intervals, i.e., the length of time between replacements or repairs; and making sure sufficient funds will be available when required.

While Colorado statutes (Colorado Common Interest Ownership Act or CCIOA) do not require homeowners' associations to perform reserve studies, they do require homeowners' associations to have a Reserve Study Policy.

I. Reserve Study Frequency

Each fall the Board of Directors establishes the Association's budget for the upcoming calendar year. This budget has two parts: **operating expenses**, which include yearly expenses such as property and liability insurance, water and sewer services, grounds maintenance, snow removal, etc.; and **reserve expenses**, which include the items listed in the opening paragraph above. During this budgeting process the Board examines the reserve account to determine if the list of items covered is comprehensive, the replacement costs are realistic, and the replacement intervals seem appropriate. Adjustments to these essential parts of the reserve account are made using the Board's collective best judgment. Another equally essential aspect to maintaining a reserve is the determination of the adequacy of the reserve funds. I.e., will the necessary funds for these projects be available when needed. These Board actions constitute a basic yearly reserve study.

II. Basis for Reserve Study

Establishing estimated expenses and replacement intervals are, for the most part, based on actual expenses incurred the last time a replacement was made and the time that elapsed from that last replacement. If the Board has insufficient experience with an item, it may research the topic, inquire with neighboring associations, etc. For short-term projects, the Board rarely includes an inflation percentage in estimating the cost of replacement the next time around. For long-term projects, the Board does add an inflation adjustment to the projected cost of a project.

III. Reserve Funding Plan

The single most difficult aspect of managing a reserve is assuring sufficient funds are available when needed. Historically our reserve account has been underfunded. Reconstituting our reserves has always been a challenge. Annual assessments, those that are paid monthly, can be increased but this can place a burden on homeowners.

Assuming the annual assessment has been set, the process is to first establish the operating budget and then subtract that amount from the annual assessment income. What's left over all goes into the reserve account as reserve income. The Board then makes every effort to assure that anticipated reserve expenses for the coming year do not exceed this reserve income. When this is the case, then our reserve account is in a state of reconstitution which is where we need to be. When the rate of reconstitution is relatively stable, the Board can project ahead to determine if the reserve account is sufficiently funded to pay for future projects. When the funds won't be entirely available for a particular project, the Board has no other option but to propose a special assessment. Special assessments must be ratified by 67% of the homeowners.

Enforcement Policy and Procedures

Adopted by the Board of Directors on 15 December 2005.

Modified by the Board of Directors on 18 June 2008.

Modified by the Board of Directors on 20 July 2011.

Modified by the Board of Directors on 18 January 2017.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

The following enforcement policy and procedures are applicable to Covenant, Bylaw and Rules and Regulations enforcements exclusive of collecting delinquent assessments, which is addressed under *Collections Policy and Procedures* found elsewhere in these Rules and Regulations. This policy and its procedures are consistent with the Marston Shores Homeowners' Association's Declaration of Covenants, Conditions and Restrictions Article XI, Section 1 and the Marston Shores Homeowners' Association's Bylaws Article VIII, Section 1, Paragraph (a) & Section 3.

The Association and owners have rights guaranteed by these documents and the laws of the State of Colorado.

I. Association Initiated Complaints Against Owners

- A. If the Board determines an owner or tenant, if the unit is rented, is violating the governing documents, it shall send a notice¹ to the owner (and tenant) stating:
1. a description of the alleged violation including date(s) and time(s), it occurred, and, except in those cases justifying immediate action by the Board such as situations involving hazardous materials or exposure to liability;
 2. a reasonable time period during which the alleged violation must be remedied;
 - a. and, for first-time non-egregious offenses, the potential fine if the alleged violation is not remedied in the specified time period; or
 - b. for repeat or egregious offenses, the potential fine (no grace period);and
 3. a date, time and place at which a meeting will be held if the owner (and tenant) wishes to question the validity of the alleged violation and/or the appropriateness of the fine.² At this meeting the alleged violator may provide a statement, evidence and/or witnesses on his or her behalf.

In the case of nonowner-occupied properties, all tenants and owners will be provided copies of all correspondences, and in this instance, the owner shall officially answer to the Association. It is the responsibility of the owner to make tenants comply with the Association's governing documents.

- B. If a meeting is held with the owner (and tenant) and at that meeting the Board reaffirms the governing documents are being violated, the violator may be allowed an extension of the time period provided in (A2) during which the violation must be remedied. Board imposed fines are authorized by Colorado statutes (Colorado Common Interest Ownership Act) and Article VIII, Section 1, Paragraph (a) of the Bylaws. The amount of the fine shall be determined by the Board.³
 - 1. The owner shall be given ten (10) days in which to pay the fine and remedy the violation. If justified by extenuating circumstances, the Board, at its discretion, may extend this pay period.
 - 2. If the fine is unpaid after the allotted pay period, the amount owed by an owner shall be treated as Homeowner Association dues (assessments) for purposes of collection remedies [Reference Declaration of Covenants, Article IV, Sections 1, 8 & 9.] and additional fines may be imposed.
 - C. If a meeting is held with the owner (and tenant) and at that meeting the Board concludes that no violation has occurred, the Board shall send a letter¹ of withdrawal to all appropriate parties absolving them of any violations and fines, if any, and the matter will be considered closed.
- II. Owner Initiated Complaints Against the Association (Board)
- D. In order to initiate the enforcement process, an owner or group of owners must state in writing to the Board the nature of the complaint, identifying the covenant / bylaw restriction or rule violation about which he or she wishes to complain.
 - 3. The complaint should be as specific as possible and should include date(s) and time(s)—approximate if unknown.
 - 4. The person(s) making the complaint must be identified in the complaint.
 - 5. The person initiating the complaint should realize that depending on the actions taken by the Board and other persons involved, if any, he or she may have to appear at a meeting with the Board.
 - E. The complaint will be addressed at the next Board meeting and entered into the official minutes. The Board will send a letter¹ to the complaining party stating:
 - 1. the corrective actions to be taken by the Board if it concludes the governing documents are being violated; or
 - 2. if the Board, in its opinion, concludes the alleged violation is unfounded, a date, time and place at which a meeting will be held with the complaining party in an attempt to resolve the issue.
 - F. Whichever course is taken, the Board's position will be entered into the official meeting minutes to be distributed to the Association members; and
 - G. in the case of the Board's conclusion that there is no violation, the meeting with the complaining party will be open to any member of the Association.

III. Owner Initiated Complaints Against Owners

- A. In order to initiate the enforcement process, an owner or group of owners must state in writing to the Board the nature of the complaint, identifying the covenant / bylaw restriction or rule violation about which he or she wishes to complain.
1. The complaint should be as specific as possible and should include date(s) and time(s)—approximate if unknown.
 2. The person(s) making the complaint must be identified in the complaint. Upon receipt of the complaint, the Board shall determine if the complaint has validity. Owners are reminded that this procedure is applicable only to Covenant, Bylaw and Rules and Regulations violations.
- B. If the Board concludes the complaint has no validity, it will send a letter ¹ to the complaining party stating the Board's position (with explanation) that no violation of the governing documents has occurred.
- C. If the Board concludes the complaint has validity, it will send a notice ¹ to the owner (and tenant, if the unit is rented) stating:
1. a description of the alleged violation including date(s) and time(s), it occurred, and, except in those cases justifying immediate action by the Board such as situations involving hazardous materials or exposure to liability;
 2. a reasonable time period during which the alleged violation must be remedied;
 - a. and, for first-time non-egregious offenses, the potential fine if the alleged violation is not remedied in the specified time period; or
 - b. for repeat or egregious offenses, the potential fine (no grace period); and
 3. a date, time and place at which a meeting will be held if the owner (and tenant) wishes to question the validity of the alleged violation and/or the appropriateness of the fine.² At this meeting the alleged violator may provide a statement, evidence and/or witnesses on his or her behalf.
- A copy of this notice will be sent to the complaining party or any person the Board deems appropriate. In the case of nonowner-occupied properties, all tenants and owners will be provided copies of all correspondences, and in this instance, the owner shall officially answer to the Association. It is the responsibility of the owner to make tenants comply with the Association's governing documents.
- D. If a meeting is held with the owner (and tenant) and at that meeting the Board reaffirms the governing documents are being violated, the violator may be allowed an extension of the time period provided in (C2) during which the violation must be remedied. Board imposed fines are authorized by Colorado statutes (Colorado Common Interest Ownership Act) and Article VIII, Section 1, Paragraph (a) of the Bylaws. The amount of the fine shall be determined by the Board.³

1. The owner shall be given ten (10) days in which to pay the fine and remedy the violation. If justified by extenuating circumstances, the Board, at its discretion, may extend this pay period.
 2. If the fine is unpaid after the allotted pay period, the amount owed by an owner shall be treated as Homeowner Association dues (assessments) for purposes of collection remedies [Reference Declaration of Covenants, Article IV, Sections 1, 8 & 9.] and additional fines may be imposed.
- E. If a meeting is held with the owner (and tenant) and at that meeting the Board concludes that no violation has occurred, the Board shall send a letter ¹ of withdrawal to all appropriate parties absolving them of any violations and fines, if any, and the matter will be considered closed, unless the complaining party, which also receives a copy of this letter, does not accept the Board's decision and he or she requests in writing that a hearing be held at which both parties will be present.

Before a hearing is required the Board shall have made every reasonable attempt to resolve the issue without involving both parties face-to-face. The following are the Association's hearing procedures.

- F. If, after pursuing the actions set forth above a hearing is to be held, the Board will send a notice ¹ to the complaining party and the alleged violator stating:
1. the date, time and place at which this hearing will be held; and
 2. the purpose of the hearing, which is to explore the evidence of the alleged violation and make a final determination to resolve the complaint.
 3. Upon written request to the Board, not later than ten (10) days prior to the date of the hearing, both sides shall be entitled to:
 - a. obtain the names and addresses of witnesses, if any; and
 - b. inspect and make copies of any statements, writings and investigative reports relative to the alleged violation contained in the Association's records. Nothing in this procedure shall, however, authorize the inspection or copying of any information that is privileged from disclosure by law or otherwise made confidential or protected, such as attorney materials.
 4. In order to conduct this hearing, a quorum of the Board must be present.
 5. The general procedure for the hearing shall be as follows. Both parties shall be allowed:
 - a. opening statements;
 - b. presentation of evidence and testimony, including the questioning of witnesses by each party; and
 - c. closing arguments.
 6. Notwithstanding the foregoing, the Board may exercise its discretion as to the specific manner in which the hearing shall be conducted and may question witnesses, review evidence and take such reasonable actions during the course of the hearing as it deems appropriate to reach a just decision.
 7. It shall be incumbent upon each Board member to make a determination as to whether he or she is able to function in a disinterested and objective manner in considering the matter to be heard. Any Board member incapable of

objective and disinterested consideration of the matter to be heard shall so inform the president of the Board prior to the hearing if possible or at the hearing before arguments begin, and that Board member shall be disqualified from all proceedings with regard to the hearing.

8. After all testimony and evidence has been presented to the Board at the hearing, the Board shall render its decision within ten (10) days after the hearing. The decision shall be reached by a majority of the Board members present. The Board shall issue a written decision¹ explaining the reasons for its decision and, if applicable, shall impose a fine on the owner as provided by Colorado statutes (Colorado Common Interest Ownership Act) and Article VIII, Section 1, Paragraph (a) of the Bylaws. The amount of the fine shall be determined by the Board.³
 - a. The owner shall be given ten (10) days in which to pay the fine and remedy the violation. If justified by extenuating circumstances, the Board, at its discretion, may extend this pay period.
 - b. If the fine is unpaid after the allotted pay period, the amount owed by an owner shall be treated as Homeowner Association dues (assessments) for purposes of collection remedies [Reference Declaration of Covenants, Article IV, Sections 1, 8 & 9.] and additional fines may be imposed.

IV. Appeals - In the event the actions of the Board are unsatisfactory to one or more parties, and after all measures of this procedure have been exhausted, they can submit to binding arbitration of the dispute. The cost of this arbitration and the prevailing party's reasonable collection costs and attorney's fees shall be borne by the party judged against.

V. Nothing in this procedure shall alter or amend a person's legal rights guaranteed under Colorado State law.

¹ All notices and letters required or permitted to be sent under these procedures shall be given to an owner or tenant, if the unit is rented, by personal delivery or by US Mail to the last registered address of the owner as contained in the Association's records. All notices and letters may be sent by the management company acting on the Board's behalf.

² The owner shall have **five** (5) days from receipt of the violation notice to inform the Board that he or she intends to appear at the meeting. If the owner waives his or her right to appear at the meeting, the violation will be considered valid and the fine will commence as indicated by the violation notice.

³ The Board reserves the right to impose the fine daily (i.e., each day the violation continues to exist, the fine accumulates.), but under no circumstances shall this accrual extend beyond thirty (30) days **unless the violator clearly demonstrates no intent to ever remedy the violation, and then only with additional Board approval.** This fine accumulation will cease as soon as the violator begins a sincere effort to remedy the violation.

Retention, Inspection and Copying of Association Records

Adopted by the Board of Directors on 15 December 2005.

Modified by the Board of Directors on 15 November 2006.

Modified by the Board of Directors on 20 July 2011.

Modified by the Board of Directors on 19 December 2012.

Modified by the Board of Directors on 18 January 2017.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

The regulation contained herein provides a comprehensive list of Association records and specifies the procedure for owner accessibility and copying.

I. Association Record Retention

The Association shall keep the following records:

A. Current Governing Documents

1. Articles of Incorporation (Marston Shores Homeowners' Association is a Colorado nonprofit corporation.);
2. Declaration of Covenants, Conditions and Restrictions (including amendments);
3. Bylaws (including amendments); and
4. Rules and Regulations.

B. Permanent Records

1. Minutes of all annual and special meetings of the owners;
2. Minutes of all monthly and special meetings of the Board of Directors;
3. All actions taken by the owners or the board by written ballot or written consent in lieu of a meeting;
4. All actions taken by a committee of the board in place of the board on behalf of the Association [Prior to the amendment of the Declaration of Covenants and Bylaws in May, 2001 and recorded on August 27, 2001 the board appointed Architectural Committee had final authority in matters relating to architectural control. This authority notwithstanding, all rulings of the Architectural Committee were made as recommendations to the Board of Directors for its approval. In cases of denial the Architectural Committee either subsequently changed its recommendation or acceded to the board's decision, in effect allowing the board to have de facto final authority in architectural matters. The 2001 amendment to the Declaration of Covenants and Bylaws formally established the Board of Directors as the final authority in these matters.];
5. All waivers of notices of meetings of owners, the board or any committee of the board; and
6. Resolutions adopted by the board relating to the characteristics, qualifications, rights, limitations and obligations of owners.

C. Other Records

1. All written communications from the board to the owners within the past three years;
2. All financial audits or reviews within three years and tax returns of the Association for the past seven years, to the extent available;
3. A list of names, home addresses and electronic mail addresses (if they exist) of the current directors, officers and committee personnel;
4. A list of all owners' names and home addresses. An individual may not obtain a membership list for a purpose unrelated to a unit owner's interest as an owner such as, but not limited to:
 - a. Soliciting money or property
 - b. Any commercial purpose
 - c. Selling or purchasing the list
5. Detailed records of receipts and expenditures affecting the operation and administration of the Association;
6. Records of claims for construction defects and amounts received pursuant to settlement of those claims;
7. The Association's most recent annual report delivered to the Secretary of State, if any;
8. Financial records sufficiently detailed to enable the Association to comply with section 38-33.3-316 (8) of the Colorado Common Interest Ownership Act (CCIOA) concerning settlements of unpaid assessments ["The Association shall furnish to a unit owner ... a written statement setting forth the amount of unpaid assessments currently levied against such owner's unit. ... If no statement is furnished to the unit owner ... then the Association shall have no right to assert a lien upon the unit for unpaid assessments ..."];]
9. The Association's most recent reserve study, if any;
10. Current written contracts to which the Association is a party and contracts for work performed for the Association within the immediately preceding two years;
11. Records of board or committee actions to approve or deny any requests for design or architectural approval from unit owners; and
12. Ballots, proxies and other records related to voting by unit owners for one year after the election, action or vote to which they relate.

II. Record Accessibility

All of the above records shall be made reasonably available for examination and copying by any owner or owner's authorized agent.

A. Record Accessibility Requests

1. An owner must request in writing to the management company a reasonably detailed description of the records sought and the purpose of the request.
2. The requestor should allow ten (10) business days for this request to be processed and the records to be made available unless more time is needed to satisfy 3 in which case the records will be made available after the next regularly scheduled meeting of the Board.

3. The management company, along with the board if necessary, shall determine if the request is made in good faith, for a proper purpose and if the records requested are relevant to the purpose of the request. In the determination of “proper purpose”, a great deal of latitude must be given to the requester. Membership lists are restricted as set forth in section I, paragraph C4 above. Other restrictions are listed in 4 and 5 below.
 4. Records unavailable for inspection include those containing owner confidential information. For example:
 - a. Social security numbers, driver’s license numbers or dates of birth (if known).
 - b. Any data that would contribute toward identity theft.
 - c. Bank account numbers.
 - d. Any personal information such as, but not limited to, medical records, salaries, etc. Information of this nature should not be available to the Association under normal circumstances.
 - e. In general owners may not examine the Unit File of another owner.
 5. Other records unavailable for inspection include those containing:
 - a. Architectural drawings, plans and designs unless released upon the written consent of the legal owner of the drawings, plans and 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; and
 - d. Disclosure of information in violation of law.
- B. Record Examination
1. Except under extraordinary circumstances the records sought for examination must stay at the place designated for record keeping. When records are allowed to be removed, a sign-out sheet must be properly filled out so the Association knows the whereabouts of said records.
 2. The management company will assist the requestor as appropriate and if desired by the requestor during the examination.
 3. If during the examination, the requestor determines additional records need to be made available, the management company will endeavor to locate them immediately if the additional records sought are in the same category as those already provided and/or if the management company is certain that the provisions in (A) above are satisfied.
- C. Copying
1. The requestor may make one or more copies of any records provided.
 2. If the number of copies is reasonably small, there will be no charge for these copies. At the discretion of the management company, if the number of copies is excessive, the requestor will be charged a fee that does not exceed the Association’s copying costs.

Adoption and Amendment of Rules and Regulations

Adopted by the Board of Directors on 15 December 2005.

Modified by the Board of Directors on 20 July 2011.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

The Bylaws of the Marston Shores Homeowners' Association give the Board of Directors the authority to "adopt and publish rules and regulations clarifying sections of the Declaration and these Bylaws, describing policies and procedures of the Board of Directors or mandated by Colorado statutes, as well as governing the use of the General and Limited Common Elements, the personal conduct of the Residents and their guests thereon, and establishing penalties for infractions thereof".

The Association's Rules and Regulations (R&R) is a compendium of

1. Rules and regulations, as well as;
2. Interpretations and clarifications of sections in the Declaration of Covenants, Conditions and Restrictions and in the Bylaws; and
3. Association policies and procedures.

Items 2 and 3 were added to the Rules and Regulations in order to provide a convenient, single document where Association members can readily find Board decisions that are of general interest.

I. Adoption

The identification of the need to create an entry in the R&R is the first step taken by the Board. The following are the most common examples of this discovery process:

- A. Issues arise that are not adequately addressed in the Declaration of Covenants and Bylaws. The Association through the actions of the Board must deal with these situations and in so doing create the need to document a rule, regulation, policy, etc., so future Boards will deal with similar situations in a consistent manner.
- B. Literature searches on particular issues that come to the attention of a Board member, possibly originating with an Association member.
- C. New laws at the federal, state and local levels are enacted that affect homeowner associations. Some of these new laws compel homeowner associations to change their governing documents (Declaration of Covenants, Bylaws and R&R).

These last two are proactive actions taken by the Board, i.e., the Board recognizes the need to adopt a rule, regulation, policy, etc., before it becomes an issue. All resolutions adopted by the board relating to the characteristics, qualifications, rights, limitations and obligations of owners shall be placed in the R&R.

- D. The Board drafts the new rule and incorporates it into the R&R formally by passage of a resolution.
 - E. A copy of every new entry in the R&R is given to each unit owner after adoption.
- II. Amendment
- The need to amend rules arises out of different situations:
- A. Strict application of an existing rule is considered unsatisfactory by the Board.
 - B. Literature searches of issues accommodated by rules surface new information.
 - C. Laws change.
- When any of these occurs, the Board may elect to amend or repeal a specific rule. When amendment is deemed appropriate:
- D. The Board drafts the amended rule and incorporates it into the R&R formally by passage of a resolution.
 - E. A copy of the amended entry in the R&R is given to each unit owner.
- III. Review
- The R&R is periodically reviewed by the Board or its delegated representatives (e.g., the Self-Management Committee). There is no set schedule for these reviews; rather it is performed on an ad hoc basis.

Buyer's and Seller's Responsibilities

Adopted by the Board of Directors on 16 March 2006.

Modified by the Board of Directors on 15 November 2006.

Modified by the Board of Directors on 16 September 2009.

Modified by the Board of Directors on 20 July 2011.

Modified by the Board of Directors on 18 January 2017.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

The following regulations, mandated by Colorado statutes, are required of buyers and sellers of units in common interest communities.

- I. Upon request by the buyer or his agent, the seller (at the seller's expense¹) must either provide to the buyer or authorize the association to provide to the buyer all of the governing and financial documents listed in the most recent available version of the contract to buy and sell real estate published by the Colorado Real Estate Commission as of the contract's date. These documents include, but are not limited to:
 - A. The Declaration of Covenants, Conditions and Restrictions;
 - B. The Bylaws;
 - C. The Association's Rules and Regulations;
 - D. The Association's operating budget;
 - E. The Association's annual income and expenditures statement; and
 - F. The Association's annual balance sheet.

Colorado statutes no longer require minutes of the most recent annual owners' meeting and all board meetings that have occurred within the preceding six months of the title deadline. However, some buyers may request this information and the association is willing to provide them. Consult the *Dates and Deadlines* section of the buyer's *Contract to Buy and Sell Real Estate*. These dates and deadlines are on the first page of this contract. The association or management company will make every effort to furnish these documents at the seller's request (See our Rules & Regulations – Retention, Inspection and Copying of Association Records). The seller may wish to provide, at a minimum, the documents listed in A through C above even if the buyer does not request them in order to help the buyer understand his obligations to the association as stipulated in the disclosure described in section II.

- II. The seller must provide the buyer with a disclosure statement (see *Disclosure of Buyer's Responsibilities to Marston Shores Homeowners' Association*, first attachment)² that substantially states the buyer understands his or her responsibilities as a member of the Marston Shores Homeowners' Association and that architectural approval is necessary for any exterior modifications to his or her unit. Many realtors have a version of this already. However, the one provided here is more binding in so far as architectural control is concerned, and as such should be used in lieu of the realtor's version.
- III. According to Colorado statutes, if the seller fails to provide the above disclosure statement, the buyer has a claim for relief against the seller for actual damages directly and proximately caused by this failure as well as court costs incurred by the buyer. The seller may defend such a claim by showing the buyer had actual or constructive knowledge of the information required to be disclosed. However, protect yourself and obtain a signed receipt for all documents provided to the buyer. See next paragraph.
- IV. The seller is encouraged to obtain from the buyer or his agent a signed acknowledgement of receipt of the information listed above and/or the disclosure statement (see *Receipt of Seller's Disclosures to Buyer*, third attachment)². This could be useful to prove the buyer received these documents if the buyer made a claim against the seller and that claim was predicated on his not having received those documents (See III above).
- V. It is the responsibility of the seller to explain to the buyer that financial responsibility for maintenance of any alterations to the unit passes on to subsequent owners (Reference Declaration of Covenants, Article VI Maintenance, Section 5 and our Rules & Regulations – Alteration Maintenance, section V.). A statement to that effect is in the buyer's disclosure statement to the association. If you are uncertain as to the exact alterations that have been made to your unit, especially by previous owners, contact the management company in writing. Please allow sufficient time for the association to research your unit's records and provide you with a written statement describing your unit's alterations and your financial responsibilities (see *Seller's Alteration Maintenance Disclosure*, second attachment)². While Colorado statutes do not require the seller to provide this written description of your unit's alterations, our Rules and Regulations do (Alteration Maintenance, section V), and it definitely is in keeping with the intent of Colorado statutes. In fact, if tested in the courts, it might be ruled that this architectural disclosure is mandatory. It is recommended that this *Seller's Alteration Maintenance Disclosure* be provided with the documents listed in I.

¹ The expense for preparing this package is limited to association copying costs and, in general, is less than \$20.

² This attachment is available from the Board or the management company.

DISCLOSURE OF BUYER'S RESPONSIBILITIES TO MARSTON SHORES HOMEOWNERS' ASSOCIATION

The property is located within a common interest community and is subject to the declaration of covenants for this community. The owner of the property will be required to be a member of the Marston Shores Homeowners' Association and will be subject to the governing documents of the association, which include the Declaration, Bylaws and Rules and Regulations. These governing documents impose financial obligations upon the owner of the property, including an obligation to pay assessments of the association. Assessments are secured by statutory liens on the properties that can be foreclosed if owners fail to pay these assessments.

The owner also understands that any modification to the exterior of the property desired by the owner is subject to architectural review and written approval by the association's board of directors. The buyer further acknowledges and understands that financial responsibility for maintaining any and all alterations of the property by previous owners is now the owner's responsibility.

Purchasers of this property within Marston Shores should investigate the financial obligations of association members. Purchasers should carefully read the Declaration, Bylaws, and Rules and Regulations of the association.

Seller's Alteration Maintenance Disclosure

Unit _____ at Marston Shores has an alteration, the maintenance of which is the responsibility of the unit owners and not the Marston Shores Homeowners' Association (the "Association"). This disclosure statement describes the alterations to this unit and the maintenance responsibilities assumed by the buyer of this unit as required by the Declaration of Covenants, Conditions and Restrictions of the Marston Shores Homeowners' Association. A copy of this disclosure will be provided to the buyer along with the *Disclosure of Buyer's Responsibilities to Marston Shores Homeowners' Association* as required by law. The buyer(s) will be responsible for signing a *Receipt of Seller's Disclosures to Buyer* at or before closing indicating receipt of this disclosure.

Description of alteration(s): _____

Maintenance responsibilities: _____

Owner(s) should be aware of and are bound by the *Alteration Maintenance* regulation in the Association's Rules and Regulations except as stated herein.

By signing this disclosure, the sellers listed below acknowledge it is their responsibility to inform any buyer of their unit of these alteration maintenance responsibilities.

_____,
PRINT SELLER'S NAME

_____,
PRINT SELLER'S NAME

_____,
SELLER'S SIGNATURE

_____,
SELLER'S SIGNATURE

_____, Date _____

Receipt of Seller's Disclosures to Buyer

Check one

I, _____ acknowledge receipt of the following Marston Shores
PRINT BUYER'S NAME
Homeowners' Association documents:

I, _____ agent for and on behalf of _____
PRINT AGENT'S NAME PRINT BUYER'S NAME
acknowledge receipt of the following Marston Shores Homeowners' Association
documents:

Check all that apply

- 1. The Declaration of Covenants, Conditions and Restrictions;
- 2. The Bylaws;
- 3. The association's Rules and Regulations;
- 4. The association's operating budget;
- 5. The association's annual income and expenditures statement;
- 6. The association's annual balance sheet;
- 7. Other _____; and
the
- Disclosure of Buyer's Responsibilities to Marston Shores Homeowners' Association
from _____, owner of Marston Shores unit _____.
PRINT SELLER'S NAME

_____, _____, Date _____
Buyer's signature Agent's signature

Lease Addendum Requirement

Adopted by the Board of Directors on 21 March 2007.

Modified by the Board of Directors on 18 April 2011.

Modified by the Board of Directors on 20 July 2011.

Modified by the Board of Directors on 18 January 2017.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

For any unit being leased¹ or any lease renewal occurring after the effective date of this regulation, owners must attach to the Primary Lease the Lease Addendum, signed by both the owner and the renter(s), in the form provided by the Association and incorporated herein (see attached *Marston Shores Lease Addendum*). Owners may include in their Primary Leases any provisions they desire, provided such provisions do not contradict the Lease Addendum, Declaration of Covenants, Bylaws, or these Rules and Regulations. In the absence of a Primary Lease (not advised even for short-term occupancies), the Lease Addendum shall apply and remain fully enforceable.

The attached Lease Addendum covers the following:

- I. The lease addendum takes precedence over the primary lease.
- II. Renter(s) must abide by the Association's governing documents. These include the Declaration of Covenants, Bylaws, and the Rules and Regulations. Copies of these documents are available from the management company. (See our Rules and Regulations – Inspection and Copying of Association Records).
- III. The Association's governing documents take precedence over the lease².
- IV. The Association's authority to enforce the lease against the renter(s) in the event the owner fails in this regard. The actions specified in this section are consistent with the Declaration of Covenants, Article IX, Section 11 and the Association's Enforcement Policy and Procedures, which are described elsewhere in these Rules and Regulations.

A copy of the signed Lease Addendum must be provided to the Board or management company within ten days of execution by a tenant of any new primary lease or any primary lease renewal. Owners are requested to inform the Board of lease terminations.

¹ In this regulation the terms "lease" and "rental agreement" are synonymous and one may be substituted for the other without changing meaning or intent.

² Lease in this sense includes both the primary lease and the lease addendum.

Storage Restrictions on Common Elements

Adopted by the Board of Directors on 19 December 2012.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

In keeping with the Marston Shores Homeowners' Association's Declaration of Covenants, Article II, Section 3 which gives the Association the right to "adopt Rules and Regulations governing the use of the General and Limited Common Elements, the personal conduct of the Residents and their guests thereon, and establishing penalties for infractions thereof" and the Bylaws, Article VIII, Section 1 which gives the Board of Directors the authority to "adopt and publish rules and regulations clarifying sections of the Declaration and these Bylaws, ... as well as governing the use of the General and Limited Common Elements", the following regulation adds further clarification and specificity regarding unsightly objects to the Marston Shores Homeowners' Association Declaration of Covenants, Article IX Use and Restrictions, Section 4 which reads as follows:

"Unsightly Objects and Hazardous Materials. No Lot or Unit situated on a Lot or any part thereof, including garage, patios and decks shall be used or maintained as a dumping ground for rubbish or other unsightly materials or objects, or for the storage of hazardous materials. Trash, garbage or other waste shall not be kept except in sanitary containers. All equipment for the storage or disposal of trash, garbage and other waste shall be kept in clean and sanitary condition. The Board of Directors shall have the right to enter upon any Lot or Unit and at the expense of the Owner(s) of that Lot, remove rubbish, trash, garbage, waste and unsightly objects and materials not kept in accordance with this Section, and such entry shall not be deemed a trespass."

Residents are not permitted to use the General Common Elements or Limited Common Elements, specifically driveways, unit sidewalks, porches, decks and patios, for storage. Additional clarifications and procedures are described in the following two sections:

- I. Tables and chairs readily accessible and usable by residents or their guests are permitted on porches, decks and patios. Other objects such as, but not limited to, pots or small planters containing live flowers or plants, the occasional "knick-knack" or personal items having sentimental value are permitted so long as they are appropriate for these areas. The Board shall have the right to determine what constitutes "appropriate for these areas" as opposed to items simply being stored.
- II. Any resident noncompliant with these restrictions shall be deemed to be in violation of the Declaration of Covenants. The *Enforcement Policy and Procedures, Section I* of the Marston Shores Homeowners' Association's Rules and Regulations will be followed to resolve this issue. That portion of the Rules and Regulations is printed below:
 - A. If the Board determines an owner or tenant, if the unit is rented, is violating the governing documents, it shall send a notice¹ to the owner (and tenant) stating:
 1. a description of the alleged violation including date(s) and time(s), it occurred, and, except in those cases justifying immediate action by the

- Board such as situations involving hazardous materials or exposure to liability;
2. a reasonable time period during which the alleged violation must be remedied;
 - a. and, for first-time non-egregious offenses, the potential fine if the alleged violation is not remedied in the specified time period; or
 - b. for repeat or egregious offenses, the potential fine (no grace period); and
 3. a date, time and place at which a meeting will be held if the owner (and tenant) wishes to question the validity of the alleged violation and/or the appropriateness of the fine.² At this meeting the alleged violator may provide a statement, evidence and/or witnesses on his or her behalf.

In the case of nonowner-occupied properties, all tenants and owners will be provided copies of all correspondences, and in this instance, the owner shall officially answer to the Association. It is the responsibility of the owner to make tenants comply with the Association's governing documents.

- B. If a meeting is held with the owner (and tenant) and at that meeting the Board reaffirms the governing documents are being violated, the violator may be allowed an extension of the time period provided in (A2) during which the violation must be remedied. Board imposed fines are authorized by Colorado statutes (Colorado Common Interest Ownership Act) and Article VIII, Section 1, Paragraph (a) of the Bylaws. The amount of the fine shall be determined by the Board.³
 1. The owner shall be given ten (10) days in which to pay the fine and remedy the violation. If justified by extenuating circumstances, the Board, at its discretion, may extend this pay period.
 2. If the fine is unpaid after the allotted pay period, the amount owed by an owner shall be treated as Homeowner Association dues (assessments) for purposes of collection remedies [Reference Declaration of Covenants, Article IV, Sections 1, 8 & 9.] and additional fines may be imposed.
- C. If a meeting is held with the owner (and tenant) and at that meeting the Board concludes that no violation has occurred, the Board shall send a letter¹ of withdrawal to all appropriate parties absolving them of any violations and fines, if any, and the matter will be considered closed.

¹ All notices required or permitted to be sent under these procedures shall be given to an owner or tenant, if the unit is rented, by personal delivery or by US Mail to the last registered address of the owner as contained in the Association's records.

² The owner shall have 5 days from receipt of the violation notice to inform the Board that he or she intends to appear at the meeting. If the owner waives his or her right to appear at the meeting, the violation will be considered valid and the fine will commence as indicated by the violation notice.

³ The Board reserves the right to impose the fine daily (I.e., each day the violation continues to exist, the fine accumulates.), but under no circumstances shall this accrual extend beyond thirty (30) days. This fine accumulation will cease as soon as the violator begins a sincere effort to remedy the violation.

Collections Policy and Procedures

Adopted by the Board of Directors on 15 December 2005.

Modified by the Board of Directors on 20 July 2011.

Modified by the Board of Directors on 22 December 2013.

Modified by the Board of Directors on 27 March 2014.

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

The following enforcement policy and procedures are applicable to collection of delinquent assessments. This policy and its procedures are consistent with the Marston Shores Homeowners' Association's Declaration of Covenants, Conditions and Restrictions Article IV, Sections 1, 8 & 9 and the Colorado Common Interest Ownership Act.

I. Assessment Due Dates

A. Annual Assessments

1. Annual assessments are divided into twelve equal installments, each of which is due on the first day of each month.
2. A grace period of ten days, for each payment due, is in effect during which no late fees or other punitive measures may be pursued by the Association.

B. Special Assessments

1. The Board will establish the payment schedule for all special assessments on a case-by-case basis. Special assessment payment schedules include, but are not limited to, a single lump sum payment or installments payable on a limited monthly or limited quarterly basis.
2. A grace period of ten days, for each payment due, is in effect during which no late fees or other punitive measures may be pursued by the Association.

Any assessment payment or installment thereof, which is not paid when due, shall be considered past due and delinquent.¹ If the assessment is not paid within the ten-day grace period, the owner is subject to late charges and interest penalties as well as other collection remedies as specified in Section II.

II. Late Payments After Grace Period Expiration (Delinquent Accounts)

The following applies to payments of annual and special assessments:

A. If an assessment is not paid within ten days of the due date, the Association or its assignee² shall:

1. Impose a late charge and further assess interest on the assessment at a rate determined by the Board. The annual notice³ to all owners establishing the annual assessment for the upcoming year will also include late charges and interest penalties to be levied on delinquent accounts. The Board shall set late charges and interest penalties in accordance with Section II, B. Late charges and interest may be levied anytime after the expiration of the

ten day grace period by a vote of the Board. Due dates for late charges and interest must be included in a letter sent to the owner as specified in Section II, A, 2.

2. Send a letter to the owner stating these late charges and interest, the due date for these penalties, and the Association's collection options as stated in the Declaration of Covenants, Article IV, Section 8. To wit: if payment has not been received by the Association after a delinquency of thirty days, the Association may institute legal action to effect collection. This legal action includes:
 - a. continued interest accrual as specified in Section II, B;
 - b. placing a lien upon the property against which the assessment is made;
 - c. foreclosing the lien (see Section V);
 - d. a lawsuit for personal judgment filed against the owner as a collection option;
 - e. adding attorney's fees to carry out these legal actions to the assessment due; and
 - f. turning over the collection of these payments to a collection agency or an attorney (see Section IV).

This letter will also indicate if the owner is entitled to enter into a payment plan with the Association and, if so, include instructions to the owner as to how to setup that payment plan (see Section III).

3. An account remains delinquent as long as the original assessment and any and all late charges and interest penalties plus any legal fees associated with the delinquent assessment have not been paid in full.

B. Late Charges and Interest Penalties

1. A late charge is a onetime fee for any delinquent assessment payment. Its due date shall be included in the next billing cycle. This will be described in the letter sent to the owner as specified in Section II, A, 2. Current late charges are \$25.00 per occurrence.
2. Interest penalties are levied on delinquent assessment payments and are calculated from the original due date of the assessment. Interest penalty payments accrue monthly as long as any portion of the assessment plus any late charges, fees, etc., are outstanding and shall be included in the next billing cycle. This too will be described in the letter sent to the owner as specified in Section II, A, 2. Current interest is 18% per annum. These penalties are calculated as simple interest on a monthly basis, i.e., interest does not compound from one payment cycle to the next. When a delinquent assessment is paid along with its late charge and interest, the final month's interest will be prorated on a daily basis.
3. Notwithstanding the late charges and interest penalties listed here, the Board reserves the right to deviate, either higher or lower (including suspension), from these penalties at its discretion based on reasonable and compelling extenuating circumstances which may include, but are not limited to, continued and repeated delinquencies, late payments as the

result of bank errors, isolated delinquencies resulting from TDY (temporary duty) assignments, vacations, moving, etc.

4. Returned check charges are \$20.00 per check. This charge plus any additional bank charges levied against the Association resulting from the returned check will be added to the balance due for the assessment payment in question.

C. Application of Payments

Partial payments on delinquent accounts shall be applied to the outstanding balance in the following order of precedence:

1. legal fees including, but not limited to, reasonable attorney's fees, filing fees, collection agency fees, etc.;
2. returned check charges;
3. late charges and interest penalties; and finally
4. the assessment payment.

Partial payments accompanied by restrictive endorsements will not be accepted by the Association.

III. Payment Plan Options

Payment plans are available for an owner having a delinquent account unless the owner does not occupy the unit and has acquired the property as a result of: (1) a default of a security interest encumbering the unit; or (2) foreclosure of the Association's lien; and as long as the owner has not defaulted on any payment plan already in place.

A. Terms and Conditions

Once the payment plan between the Association and the owner has been negotiated, all interest accrual will cease and the total due, which includes the assessment or assessments if there is more than one, late charges and interest penalties to date, will be divided into equal monthly installments payable over a term of at least six months unless the Association and the owner agree to a lesser period. The total amount due and the due dates (including a ten day grace period) for payment of the installments shall be placed in a written document and signed by a representative of the Association. The owner's signature on this document is desired but not required. The Association will verify the owner has received a copy of this document.

B. Payment Plan Default

An owner's failure to remit a payment in accordance with the terms of an existing payment plan or who does not remain current with other regular assessments as they come due during the period of an existing payment plan will be considered to have defaulted on the payment plan. In this instance, interest accrual on the balance due may commence as determined by a vote of the Board and all legal collection remedies available to the Association may be exercised.

IV. Collection Agency or Attorney Referrals

Before a delinquent account can be turned over to a collection agency or an attorney, the Association is required to provide a written notice of delinquency specifying the following:

- A. the total amount due with an accounting of how the total was determined;
- B. contact information for the owner to request a ledger of outstanding charges on his unit in order to verify the amount of the debt;
- C. whether the owner has an opportunity to enter into a payment plan with the Association along with instructions for contacting the Association to enter into such payment plan; and
- D. a statement indicating that action is required to cure the delinquency and that failure to do so within 30 days may result in the unit 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 to the Association under Colorado law.

V. Foreclosure Restrictions

The Association may only foreclose on the assessment lien if:

- A. the balance of the assessments and any and all charges secured by the lien equals or exceeds six months of assessment payments; and
- B. the Board has formally resolved by a recorded vote to authorize the filing of a legal action against the unit owner.

The Board may not delegate its duty as specified in B to any attorney, insurer, management company, or any other person or entity. Failure to comply will result in dismissal of the foreclosure and absolve the owner of any attorney's fees, court costs or other charges incurred by the Association in connection with this foreclosure.

¹ From a collections perspective past due and delinquent are synonymous and one may be used in lieu of the other.

² There exist several instances of "Association" in this policy. In many of these instances the phrase "Association or its assignee" is equivalent and should be interpreted as such. Assignees may include, but are not limited to, a management company, collection agency, and attorneys.

³ The annual notice is sent to all owners every year at least 30 days in advance of the annual assessment period which corresponds to the calendar year.

Definitions Pertaining to Maintenance of Altered Decks

Adopted by the Board of Directors on 18 January 2017

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

The Amended and Restated Declaration of Covenants, Conditions, and Restrictions (CC&Rs) define exterior decks as Limited Common Elements. The term "decks" is understood to mean all wood-framed exterior decks, balconies and porches attached to individual dwelling units. Decks consist of several elements, including but not necessarily limited to:

1. Understructure, which includes joists, beams, posts or columns, foundations or footings, and all hardware associated therewith.
2. Decking, including natural or synthetic wood planking which forms the surface of the deck, including all hardware associated therewith.
3. Railings, including vertical balusters and horizontal top or intermediate rails and all hardware associated therewith.
4. Structural and non-structural fascias or skirt boards, including all hardware associated therewith.

In accordance with CC&R Article VI, maintenance of all exterior surfaces, including decks but excluding glass, is generally the responsibility of the Association; however, special provisions for maintenance of decks which have been altered by property owners are defined in the Association's governing documents. In order to clarify and define deck alterations, the Board of Directors considers the following features to be alterations to decks.

1. Extensions in deck dimensions beyond the originally-constructed deck.
2. Sunrooms or similar enclosed or semi-enclosed structures which structurally bear on, enclose, or partially enclose original or altered decks.
3. Alterations to railings, including rail height or baluster spacing.
4. Overhead roofs or sun control structures which have been added subsequent to original construction and which bear structurally on any part of a deck. Retractable awnings which are not supported by decks are not considered deck alterations.
5. Any other alteration which modifies the original decking or substructure. Examples of such alterations include, but are not limited to built-in spas or hot tubs which require removal of all or parts of the decking or substructure.

Property owners' responsibilities for maintenance of altered decks may extend beyond the deck itself in certain circumstances where the deck alteration is the direct cause of increased exterior costs to surrounding building surfaces. Examples of such circumstances are sunrooms or other structures which necessitate additional costs of special scaffolding for painting or other maintenance operations.

Underground Sewer Maintenance

Adopted by the Board of Directors on 18 January 2017

The Board of Directors hereby incorporates the following into the Marston Shores Homeowners' Association's Rules and Regulations:

For the purpose of this rule, the portion of the sanitary sewer line serving an individual dwelling unit which is located within the building footprint is considered to be the property of the individual unit owner, and the portion of the sanitary sewer line located between the exterior building wall and the city sewer main (usually located within the street right-of-way) is considered to be a Limited Common Element as defined in the Amended and Restated Bylaws of the Association. Maintenance of underground sanitary sewer lines, including the clearing of blockages and obstructions, may, depending on the location of the blockage or obstruction, be the responsibility of either the Homeowners' Association or the unit owner as follows:

Blockages or obstructions are typically discovered by sewage backing up into a unit's basement through a floor drain in the unit's utility room. Upon discovery of a blockage or obstruction, the unit owner shall immediately notify the management company, who will arrange for an independent plumbing contractor to address and rectify the blockage. The management company is available 24 hours per day, seven days per week, year-round.

Blockages or obstructions occurring within the footprint of the building shall be the responsibility of the unit owner. Blockages or obstructions occurring outside the building footprint shall be the responsibility of the unit owner if the blockage or obstruction is determined to be caused by the unit owner's negligence. Examples of such negligence include, but are not necessarily limited to flushing of inappropriate materials down toilets; disposing of inappropriate materials down sink, shower, bathtub, or lavatory drains; disposal of cooking grease or other coagulants down sink or other interior drains, which are attributable to the unit owner.

Blockages or obstructions occurring outside the building footprint which are the result of natural or man-made causes which are not attributable to the unit owner shall be the responsibility of the Homeowners' Association. Examples of such blockages or obstructions include roots from naturally-occurring trees and other plantings, roots from trees and other plantings introduced by the Homeowners' Association, shifting soils, or adjacent construction.

Determination of location of the blockages or obstructions shall be determined by either physical measurement using the length of the drain cleaning equipment (also known as "roter") or by visual inspection using video camera. If separate video inspection is done, the cost of the inspection shall be borne by the party determined to be responsible for the blockage or obstruction.

Overflows or stoppage of interior toilets and sink drains are typically caused by problems within the drains immediately adjacent to the affected fixture, and are not related to the main underground sewer piping. As such, they are clearly the responsibility of the homeowner.