

Shadow Run Townhomes Homeowners Association

POLICY No. 005-2020: INSPECTION AND COPYING OF ASSOCIATION RECORDS; RECORD RETENTION POLICY

Adopted prior to December 31, 2007; last amended 3/31/2021

The following Policy has been adopted by the Shadow Run Townhomes Homeowners Association ("the Association") pursuant to Colorado Revised Statute ("C.R.S."), C.R.S. §38-33.3-209.5, and in accordance with C.R.S. §38-33.3-308, at a regular meeting of The Board of Directors ("The Board"). Additional policies, procedures, rules and regulations may exist separately.

PURPOSE: The ACT establishes the obligation of the Association to keep adequate records and give all Owners the right to examine and copy the financial and other records of the Association for a proper purpose. This Policy has been adopted to establish uniform procedures for the inspection and copying of Association records by Association Owners; To establish the type of records to be maintained by the Association or its agent and where they are stored, including the availability of records on a website; and to establish the cost of copying Association records. This Policy also facilitates delivery or transmission of written statements to permitted persons or organizations describing the amount of unpaid Assessments currently levied against any Lot and its current status.

NOW, THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following Policy governing the inspection, copying and retention of Association records.

- A. Procedures.** The Association shall maintain permanent records in accordance with C.R.S. §38-33.3-317, including minutes of all meetings of Owners and the Board; a record of all actions taken by the Board by written ballot or written consent in lieu of a meeting; a record of all actions taken by a committee of the Board, in place of the Board on behalf of the Association; and a record of all waivers of notices of meetings of Owners and of the Board or any committee of the Board. The Association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.
- B. Permanent Records.** The Association shall permanently retain the following records as required by Colorado Law:
- 1. List of Owners.** A record of Lot Owners in a form that permits preparation of a list of the names and addresses of all Owners;
 - 2. Articles of Incorporation.** The Association's Articles of Incorporation or other organizational documents;
 - 3. Declaration.** The Association's Declaration;
 - 4. Covenants.** The Association's covenants and Restrictions;
 - 5. Bylaws.** The Association's bylaws;
 - 6. Policies and Resolutions.** Resolutions and Policies adopted by its Board relating to the characteristics, qualifications, rights, limitations, and obligations of Owners.
 - 7. Minutes.** The minutes of all Owner meetings, and records of all action taken by Owners without a meeting, for the past three years;
 - 8. Written Communications.** All written communications, including e-mail, within the past three years to Members generally as Owners;
 - 9. Directors and Officers.** A list of the names and business or home addresses of its current Directors

and Officers;

10. Annual Report. The Association's most recent annual report, if any;

11. Financial Audits and Reviews. All financial audits or reviews of the Association conducted during the immediately preceding seven (7) years;

12. First Mortgagees for each Lot. A list of the names and addresses of the first Mortgagees or persons holding a Deed of Trust on any Lot;

13. Proof of Insurance. A Proof of Insurance from the Owner(s) of each Lot, detailing the amount and effective dates of insurance for his particular Lot(s).

C. Inspection and Copying of Association Records. An Owner or authorized agent is entitled to inspect and copy any of the books and records of the Association, subject to the limitations, exclusions, conditions and requirements as set forth below:

1. The inspection and/or copying of the records of the Association shall be at the Owner's expense;
2. The inspection and/or copying of the records of the Association shall be scheduled with the Association during the regular business hours of 9:00 a.m. to 4:00 p.m. Monday through Friday, at the Association's principal office or at the Association's management company, if applicable;
3. The Owner shall give the Association's managing agent a written request at least 10 business days before the date on which the Owner wishes to inspect and/or copy such records;
4. At the Association's option, the inspection and/or copying of records may alternatively be made available at the next regularly scheduled meeting of the Association or the Board of Directors if such meeting occurs within thirty (30) days after the written request to inspection or copy documents is received.

D. Limitations. At the discretion of the Board, certain records may only be inspected in the presence of a Board member or Agent of the Board. No records may be removed from the office without the express written consent of the Board. Further, if an Owner requests to inspect records, the Association may photocopy and provide the requested records to the Owner in lieu of the Owner's inspection of the records provided the Owner consents.

E. Limited Availability of Certain Records. Consistent with individual Owner's right to privacy, attorney-client confidentiality and other considerations, the following records will not be made available without the express written consent of the Board:

1. **Personnel.** Confidential personnel records;
2. **Litigation.** Confidential litigation files and matters covering consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings or are privileged or confidential between attorney and client;
3. **Misconduct.** Files dealing with investigative proceedings concerning possible or actual criminal misconduct;
4. **Privacy.** Any matter the disclosure of which would constitute an unwarranted invasion of individual privacy;
5. **Work in Progress.** Inter-office memoranda, preliminary data, working papers and drafts, and general information or investigations which have not been formally approved by the Board;
6. **Criteria for Limitation.** In determining whether records may be inspected, the Association shall consider, among other things:
 - a) **Good Faith.** Whether the request is made in good faith and for a proper purpose;

- b) **Relevant Purpose.** Whether the records requested are relevant to the purpose of the request;
 - c) **No Improper Purpose.** Whether disclosure is for an illegal or improper purpose, or would violate a constitutional, statutory provision or public policy;
 - d) **Legal Limitations.** Whether disclosure may result in an invasion of personal privacy, breach of confidence or privileged information, as set forth above.
7. **Ownership Lists.** An Ownership list or any part thereof may not be obtained or used by any person for any purpose unrelated to an Owner's interest as an Owner without the consent of the Board. Without the consent of the Board, an Ownership list or any part thereof may not be used to solicit money or property unless such money or property will be used solely to solicit the votes of the Owners in an election to be held by the Association, and may not be used for any commercial purpose or sold to or purchased by any person.
- F. **Exclusions.** The following records shall NOT be available for inspection and/or copying as they are deemed confidential:
- 1. Attorney-client privileged documents and records, unless the Board of Directors decides to disclose such communications at an open meeting;
 - 2. Any documents that are confidential under constitutional, statutory or judicially imposed requirements;
 - 3. Any documents, or information contained in such documents, disclosure of which would constitute an unwarranted invasion of individual privacy, including but not limited to: social security number, dates of birth, bank account information, driver's license numbers, telephone numbers, and electronic mail addresses. Owners may provide the Association with consent to disclose contact information such as telephone numbers and electronic mail addresses for the purpose of maintaining an Owners list;
- G. **Fees/Costs.** Any Owner requesting copies of Association records shall be responsible for all actual costs incurred by the Association, which have been determined to be \$.20 per page and \$100.00 per hour for the cost to search, retrieve and copy the record(s) requested. For copy requests estimated to be \$25.00 or more, the Association shall require a deposit, from the Owner, an amount equal to the anticipated actual cost of the requested records. If an Owner fails to pay the deposit, the Association shall be justified in denying the Owner the requested records. If after payment of the deposit it is determined that the actual cost was more than the deposit, the Owner shall pay such amount prior to delivery of the copies. If after payment of the deposit it is determined that the actual cost was less than the deposit, the difference shall be returned to the Owner with the copies. There shall be no cost to any Owner accessing records that are required to be disclosed at no cost to Owners by Colorado Law.
- H. **Inspection.** The Association reserves the right to have a third party present to observe during any inspection of records by an Owner or the Owner's representative.
- I. **Original.** No Owners shall remove any original book or record of the Association from the place of inspection nor shall any Owner alter, destroy or mark in any manner, any original book or record of the Association.
- J. **Creation of Records.** Nothing contained in this Policy shall be constructed to require the Association to create records that do not exist or compile records in a particular format or order.
- K. **Abuse of Rights.** The Association reserves the right to pursue any individual for damages or injunctive relief or both, including reasonable attorney's fees, for abuse of the rights of the Owner contained within this Policy.
- L. **Enforcement.** Upon certification, the Board shall give notice of the adoption of the Policy to all Owners of the Association. Notice to the Owners shall be by any reasonable method as determined by the Board. Any Owner's failure, to notice or gain access to the new Policy, shall not be a defense against any attempt by the Association

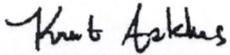
to enforce the new Policy, levy fines, and recover costs and/or attorneys' fees as a result of a violation of the new Policy.

- M. Definitions.** As used in this Policy, capitalized terms shall have the same meanings as defined in the Declarations.
- N. Conflicts.** The Policies adopted by the Association are supplemental to the Project Documents and the ACT. In the event of a conflict between the provisions of this Policy and the Declaration, the Declaration shall control. In the event of a conflict between this Policy and the ACT, the ACT shall control.
- O. Severability.** The provisions of this Policy shall be independent and severable. The invalidity of any one or more of the provisions of this policy by judgment or court order or decree shall in no way affect the validity or enforceability of any of the other provisions, which shall remain in full force and effect.

PRESIDENT'S CERTIFICATION:

The undersigned, being the President of Shadow Run Townhomes Homeowners Association, a Colorado non-profit corporation, certifies that the foregoing Resolution, amending and codifying Policy III, was introduced as Policy No. 005-2020 for first reading at a duly called and held meeting of the Board on May 6, 2020. Policy No. 005-2020 was presented for a second, final reading and adopted at a duly called and held meeting of the Board on March 31, 2021. Policy No. 005-2020 is hereby certified as adopted by the Board on March 31, 2021 and in witness thereof, the undersigned has subscribed their names and titles in performance of their duties as officers of:

Shadow Run Townhomes Homeowners Association, Inc., a Colorado non-profit corporation.



Knut Aakhus, President



Connie Cooper, Secretary