

***Higby Estates***  
**SB 100 Policies and Procedures**

**This Is A State Required Addendum**

**To**

**The Higby Estates**

**Homeowners Association**

**Operations and Procedures Manual**

**July 1, 2013**

WAYNE W. WILLIAMS  
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El Paso County, CO



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## **Highby Estates - SB 100 Policies and Procedures**

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### **SB 100 Policies and Procedures**

#### **1) Adoption and amendment of policies, procedures, and rules (38-33.3-209.5)**

Policies, procedures, and rules are established by the Board of Directors and may be amended by the Board as deemed necessary.

#### **2) Collection policy and procedures (38-33.3-209.5)**

Annual Association Payments are due on January 1 of each year. Beginning February 1 of each year, delinquent payments will be charged a \$50.00 late fee. Owners must allow ample time for the arrival of mailed payments

Payments shall be applied to outstanding balances in the following order of priority:

1. Interest
2. Late charges
3. Legal costs and fees
4. Assessments

There will be a \$25.00 handling charge, plus postage, for all returned checks.

Procedure for administering past due accounts:

1. An overdue payment notice will be sent by the Board of Directors via certified mail not less than 30 days after the due date
2. At sixty days past due, the Association will start the process to place a lien against the owner's property if the delinquent amount has not been paid in full and a Notice of Intent to Foreclose may be sent at the same time as the lien is recorded with the costs ultimately paid by the subject homeowner. The minimum cost to the homeowner will be \$21.00
3. At ninety days the Association may choose to turn the matter over to legal counsel and either foreclose the lien or file a Money Complaint for all accrued assessments, interest and costs (cost \$500.00 to \$2,200.00).
4. Prior to the release of any lien, all monies due must be paid in full to the Association, together with a further handling fee of \$21.00.
5. The costs shown above are estimates only, may in fact be greater, or lesser, than stated herein, and are subject to change without notice.

It is essential that owners notify the Association immediately, in writing, of any change in mailing address.

All dollar amounts above are subject to annual revision at the Boards discretion, based upon current costs of collection.

#### **3) Meetings policy and procedures (Board and member meetings) (38-33.3-209.5, 308, and 310)**

Process/procedures for assigning proxies, use of secret ballots – as stated in the By-Laws.

#### **Rules for Owner Participation at Board Meetings.**

1. All meetings of the Association and Board of Directors are open to every homeowner.

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2. Homeowners shall be permitted to attend, listen, and speak at an appropriate time during the meeting. However, they may not participate in any deliberation by Board members.
3. Homeowners who wish to speak at a meeting of the Board of Directors must request time on the agenda by contacting the Board president at least five (5) days prior to the scheduled meeting.
4. The total length of time for homeowners speaking at a meeting of the Board of Directors shall not exceed forty-five (45) minutes. The Board president shall set time limits, if necessary, to accommodate homeowners who wish to speak. No single discussion topic will exceed 45 minutes.

### **Rules for Owner Participation at Annual or Special Meetings.**

1. Any homeowner may speak at the designated time in the agenda.
2. The total length of time for owners speaking on a single issue at an annual or special meeting of the Association shall not exceed forty-five (45) minutes. The Board president shall set time limits, if necessary, to accommodate homeowners who wish to speak.

### **Process for Providing Notices of Meetings.**

#### **Homeowners meetings:**

1. Homeowners shall be notified by mail at least five (5) days prior to the Annual Association meeting or any special meeting of the Association members.
2. Such written notices must include the general nature of any proposed amendment to the declaration or by-laws, any budget changes, or any proposed Board member changes.
3. The Association may use the internet to post notices of meetings to homeowners who have internet access.

#### **Executive sessions:**

1. The Board may deem it necessary to meet in an executive session, excluding homeowner attendance, to discuss sensitive matters such as pending litigation, contractual issues and confidential disputes among homeowners.

### **4) Examination, inspection, and copying of association records, policies, and procedures (38-33.3-209.5 and 317)**

#### **Association Records – Retention and Inspection**

##### **1. Required permanent records:**

- a. Minutes of all Board and Homeowner meetings
- b. All actions taken by the Board or Homeowners by written ballot instead of holding a meeting
- c. All actions taken by a committee on behalf of the Association
- d. All waivers of notice requirements for Homeowners meeting, Board member meetings or committee meetings
- e. Articles of Incorporation
- f. The Declaration
- g. The Covenants
- h. The By-laws

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- i. Board resolutions affecting homeowners
- j. Minutes of all homeowner meetings and records of any actions taken by Homeowners without a meeting in the last three (3) years
- k. All written communications to homeowners in the last three (3) years
- l. A list of names and addresses of the current Board and its officers
- m. The most recent annual report, if any
- n. All financial audits or reviews (as required by law) conducted in the past three (3) years

### 2. Storage of Records:

- a. Complete Association records will be maintained in the Association Board president's home and on line.

### 3. Homeowner requests to inspect and/or copy Association records:

To inspect or copy any Association record, a Homeowner must

- a. Complete a written request form (available from the Board president, or secretary, or copy Addendum 1 from this document); the Board member will convey the request to the Board president.
- b. State relevant reasons for the request
- c. Allow five working days for access to the records
- d. Inspect or receive copies at the home of the Board President.
- e. Pay the fee for copies or document retrieval as required by the HOA

### 4. Records not available to homeowners for inspection or copying

- a. Privileged attorney-client communication
- b. Personnel matters

## 5) Enforcement policy and procedures (38-33.3-209.5)

### Reporting of Violations

All reports of covenant violations must be submitted to the Board of Directors in writing to include the legible signature of the complaining party. All reports of violations will be held strictly confidential. The only exception to this procedure is if the violation is of a material nature and is noted during a site visit by the Board member during an evaluation of the property.

### Special Assessments and Fines

Any owner who violates rules or regulations promulgated by the Association's Board of Directors or violates any provision of the Declaration of Covenants or the Association's By-laws shall be fined by the Association's Board of Directors, as provided below, for each violation and shall also be assessed a special assessment by the Association's Board of Directors in an amount equal to any cost incurred by the Association to correct or remedy any such violation. Such fine and assessment shall constitute a lien upon the violator's home and may be enforced as any other unpaid assessment is enforced under the Declaration of Covenants. This regulation shall be in addition to and not exclusive of any remedies that are afforded the association (and its individual members) at law or by the Bylaws of Higby Estates.

- (a) The first occurrence of violation will result in a written warning to the violating owner.

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- (b) The second occurrence of the same violation will result in a second written warning to the violating party with the understanding that one more occurrence of the same violation will result in the individual being required to attend a hearing on the subject and will be subject to fines for all occurrences after the first occurrence at the discretion of the Board of Directors
- (c) The Board will assess fines for violations at a rate not to exceed \$500.00 per each occurrence after the owner has had an opportunity to address the Board of Directors at a hearing called for the purpose.
- (d) All special assessments and fines resulting from violations are subject to the delinquency policy that is in force for the collection of regular assessments.
- (e) The Board of Directors reserves the right to change the above stated policy for violation enforcement at any time, upon proper notice given to all homeowners.

The policy for the reporting of violations is as follows:

- (1) Complaints will be taken from Board members in writing, or from the membership in writing
- (2) All reports of violations from membership must be forwarded to a Board member in writing and include the legible signature of the complaining party. The identity of the reporting party will remain confidential and known only to the Board.
- (3) A copy of the complaint letter will be provided to each Board member for investigation.
- (4) Complaining members may be called as witnesses at a special hearing or legal proceeding as necessary.

The Policy for investigation of violation complaints is as follows:

- (1) The Board will investigate the complaint.
- (2) The Board may appoint a committee to investigate the complaint.

### **Enforcement of Rules and Regulations**

- 1. The Association penalties for violation of Declaration, By-laws, or Rules and Regulations of Higby Estates shall be as follows:
  - a. First Offense                      Written warning
  - b. Second Offense                    Written warning
  - c. Third Offense                      \$100 fine
  - d. Each Additional Offense        Up to but not to exceed \$500 fine
- 2. Repair of damage caused, and assessment of the total cost against the responsible homeowner, with corresponding liabilities specified in the Association Declarations for nonpayment.
- 3. Action at law to secure injunctive action against habitual offenders. Cost of any such action would be borne by the offending party (s).
- 4. Any legal fees incurred by the association for enforcement of these rules shall be paid by the homeowner at the Court's discretion.

### **6) Handling Board member conflicts of interest policy and procedure (38-33.3-209.5 and 310.5)**

- 1. A matter creating a conflict of interest is any Board action or contract that would, or might, financially benefit the Board member or the parent, grandparent, spouse, child,

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grandchild, or sibling of the Board member, or a parent or spouse of any of these persons. An example might be the award of a service or construction contract to a company in which one of the above-named family members is employed by the contractor, or had a financial interest in the contracting organization.

2. Each Board member is obligated by law to disclose, in an open Board meeting, any existing conflict of interest prior to any discussion or action on that issue. As a means of verifying that Board members fully understand this requirement, each Board member shall, prior to February 1 of each year, sign a copy of the certification contained herein as Addendum 2.
3. If a Board member is uncertain as to whether a conflict of interest exists, the member must assume that it does in fact exist and proceed accordingly.
4. The above notwithstanding, at any Board meeting, a Board member with a conflict of interest may be counted "present" for the purpose of determining whether a quorum exists.
5. Any contract entered into in violation of the above provisions shall be void and unenforceable.

### 7) Reserve fund and investment policy (38-33.3-209.5)

As a rule, the investment of reserve funds will be affected by the Board, using the collective best judgment of the Board members as defined in the Higby Estates Homeowners Association *Reserve Study and Funding Policy* document as adopted 1 June 2013. However, the following guidelines will be observed:

1. No funds will be invested in stocks, bonds, or real estate or in any other venture that is in any way speculative.
2. Funds will be invested at local financial institutions, in certificates of deposit, money market accounts, and/or savings accounts that are fully insured by a U. S. Government agency (e.g. FDIC/SIPC/FSLIC) and that offer reasonably competitive interest rates.
3. Investments will be scheduled in such a way that maturity dates are staggered to facilitate liquidity at any given period to the extent it is feasible to do so, without incurring withdrawal penalties.
4. Sufficient funds will be retained in cash/money market account (s) to enable the funding of reasonably foreseeable expenses during the periods between investment maturity dates. To this end, maturing C/D's shall not be automatically reinvested, but will be the subject of Board decisions as to the amount, term and banking institution of placement.

### 8) Architectural review policy and procedures (38-33.3-302 (3) (b) and 38-35.7-102)

The ARCHITECTURAL CONTROL COMMITTEE Manual of Procedures and Standards shall include as follows:

1. Landscaping – xeriscaping shall be permitted.
2. Signs: Only the following signs are permitted on an owner's property:
  - a. One Realtor's "For Sale/For Rent" sign, of not more than six (6) square feet in area, per home.
  - b. Two security system signs per home.
  - c. One political sign, during the period from forty-five (45) days before the day of an election through ten (10) days after that election, may be displayed on the

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owner's property or in a window of the owner's residence. As used herein the term "political sign" means a sign that carries a message intended to influence the outcome of an election by supporting or opposing the election of a candidate, the recall of a public official, or the passage of a ballot issue. Such a sign shall be no larger than six (6) square feet in area.

- d. A contractor may post a temporary construction sign at the site of work in progress.

### **9) Procedures for claims submissions to association's insurance carrier (10-4-110.8 (5))**

Concerning claims filed against the Association's insurance policy, the claimant shall be responsible for paying the deductible on said policy and any attorney fees that may be generated because of such filing.

### **10) Emergency Vehicle parking policy and procedures (38-33.3-106.5)**

A homeowner may park an emergency vehicle at their residence.

- a) The emergency motor vehicle must be required by the homeowner's employer as a condition of employment and
- b) The emergency motor vehicle must weigh no more than 10,000 pounds and
- c) The homeowner is a member of a volunteer fire department or is employed by an emergency service provider and
- d) The vehicle has a visible emblem designating it as an emergency vehicle and
- e) The parked vehicle does not block emergency access or prevent other homeowners from using streets and
- f) "Emergency Service Provider" is a primary provider to emergency firefighting, law enforcement, ambulance, emergency medical, or other emergency services.

### **11) Procedures to be used by the association in cooperating with owners selling homes (38-33.3-223)**

The Association, at the request of the seller, will provide requested documents from the list below that the Association is required to keep. Boards and Directors must use best effort (reasonable good faith effort) to comply with the request. Homeowner will pay for copies or document retrieval as required by the HOA.

- The Association's By-laws and rules
- The Association's Declaration
- The Association's Covenants
- Minutes of the most recent Annual homeowner's meetings and of any Board meetings held within the six months preceding the title deadline
- The Association's operating budget
- The Association's annual income and expenditures statement; and
- The Association's annual balance sheet

These documents must be mailed or personally delivered to the buyer on or before the title deadline (the time period of this section may be changed by mutual agreement) or if a broker is involved by the time specified in the contract.

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**12) Alternative dispute resolution policy and procedures (38-33.3-124)**

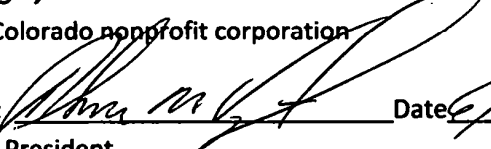
An unresolved controversy between the Association and a Homeowner may be submitted to mediation on a case-by-case basis.

- If a mediation agreement is reached, it may be presented to the court as a stipulation. Either party to mediation has the right to terminate the mediation process without prejudice.
- If either party violates the stipulation, the other party may apply immediately to the court for relief.


IN WITNESS WHEREOF, the undersigned certify that this *Policies and Procedures* document was adopted by resolution of the Board of Directors of the Higby Estates Homeowners Association, Inc, effective the 1st day of July, 2013.

**Higby Estates Homeowners Association, Inc.,**

A Colorado nonprofit corporation

By:  Date 6/29/2013  
President

ATTEST:

By:  Date 6/29/13  
Secretary



**Addendum 1**

**Request to Inspect or Copy Association Records**

I, \_\_\_\_\_, Address: \_\_\_\_\_  
Printed Name of Homeowner

Request to inspect \_\_\_\_\_ Copy \_\_\_\_\_

The following Association records:

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Reason for request (please be specific)

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I understand that this request may take up to five (5) working days and that there is a fee for copying materials. The fee schedule is available from the Board of Directors.

\_\_\_\_\_  
Signature of Homeowner

\_\_\_\_\_  
Date of request

**Addendum 2**

**CONFLICT OF INTEREST CERTIFICATION**

I, \_\_\_\_\_ hereby certify that as of this date \_\_\_\_\_, I have no conflicts of interest between my personal or corporate affairs, except as may be noted below, and that should such conflict (s) arise hereafter, I will notify the other Board members in an open meeting before any discussion or action is taken on the matter. I understand that I am not to actively participate in the discussion of any such matters or cast my vote relative thereto. I further understand that should I knowingly fail to comply; my tenure on the Board will be immediately terminated, in addition to any legal penalties that may be in order.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date