



Mar 10, 2023

Dear Poudre Overlook Homeowner:

At the upcoming Poudre Overlook HOA Board meeting at 6:30 pm on March 22 at the Senior Center, the Poudre Overlook HOA Board of Directors will vote on five (5) policies. In accordance with the Procedure for the Adoption and Amendment of Policies, Procedures and Rules, these new policies for adoption are being mailed to all homeowners in advance of the meeting. Homeowners are invited to either comment on the policy by email to atftcpoudreoverlook@gmail.com prior to the meeting or to attend the meeting and comment. Please remember that the vote will be by the board only.

The meeting agenda can be found on the website attached to the calendar.

Sincerely,

Poudre Overlook HOA Board of Directors

**Poudre Overlook Homeowners Association of Fort Collins
Covenant Enforcement Procedure Policy**

The following covenant enforcement procedure policy was adopted by the Board of Directors of Poudre Overlook Homeowners Association of Fort Collins (“Association”) pursuant to C.R.S. § 38-33.3-209.5.

Effective Date: _____.

This Policy shall replace and supersede all previous policies, rules, and regulations regarding the subject matter of this Policy.

I. DEFINITIONS, ENFORCEMENT & SCOPE, PURPOSE

1. Definitions.

- a. As used in this policy, the term “Board” shall mean the Board of Directors, any committee of the Board, or any other body established by the Association’s Governing Documents such as, but not limited to, an independent architectural control committee.
- b. The term “Owner” used in this policy shall refer to the Owner of record. If the person causing the violation is a guest, tenant, family member, or invitee or licensee of an Owner, then the Owner shall be responsible for the act or omission.
- c. As used in this policy, the term “Governing Documents” shall include the Association’s Declaration, Bylaws, Articles of Incorporation, Rules and Regulations, Policies, and Resolutions.
- d. The term “Notice of Violation” shall refer to the notice sent in the manner and containing the information as required in Article III or Article IV herein.
- e. “Continuing Violation” shall mean any violations that do not threaten public safety or health and are either: 1) uninterrupted by time for a period of more than sixty (60) days from the Notice of Violation, or 2) occur on more than three separate occasions within a period of sixty (60) consecutive days from the Notice of Violation.
- f. The term “Courtesy Notice” shall refer to any communication other than a Notice of Violation, in whatever manner or form, to an Owner notifying the Owner of a violation of the Association’s Governing Documents.

2. Enforcement & Scope. Pursuant to the Declaration of Covenants, Conditions, and Restrictions for Poudre Overlook (a Common Interest Community) (“Declaration”) and pursuant to the Colorado Common Interest Ownership Act (“Act”), the Association or any member of the Association, or both, may bring an action to enforce the terms of the Association’s covenants and

rules. The collection of delinquent assessments shall be governed by the Association's Collection Policy, except to the extent that the Association desires to suspend an Owner's membership privileges for the non-payment of assessments, in which case the suspension procedure set forth herein shall apply, but it shall not apply to the Association's efforts to collect the assessments. All capitalized terms not herein defined shall be as defined as in the Declaration.

3. **Purpose.** The Association's primary objective is to uphold the terms of the Declaration and other Governing Documents that benefit the community at large. To the extent that a neighbor-to-neighbor dispute exists that is not a violation of the Association's Governing Documents, the Board encourages the neighbors to resolve the dispute in an informal and cooperative manner if possible.

II. INITIAL COMPLAINT

1. **Complaint of Alleged Violation.** In the event that a claimed violation of the Association's Governing Documents is brought to the Board's attention through a written complaint, the Board shall review the written complaint. Any complaint submitted to the Board shall be sufficiently detailed to provide the provisions of the Governing Documents alleged to have been violated together with the time, date, and place of the violation and any witnesses thereto. The Board may, but need not, review claimed violations that are submitted anonymously or verbally. The Board may also prosecute alleged violations of the Association's Governing Documents without receipt of a written complaint if one or more of the Board members or the Association's manager or agents have personal knowledge of an alleged violation.

2. **Initial Determination After Receipt of Complaint.** After the Association receives a complaint or otherwise becomes aware of an alleged violation as set forth above in Section 1 of this Article, the Association, either through the Board or the Association's manager, shall take the following action:

- a. Determine whether there is sufficient information to support an alleged violation of the declaration, bylaws, covenants, or other Governing Documents of the association; and
- b. Determine whether the alleged violation threatens the public safety or health.

3. **Designated Contact.** An Owner may identify another person to serve as a designated contact for the Owner to be contacted on the Owner's behalf for purposes of contact related to the alleged violation. If an Owner has identified a designated contact, the Owner and the Owner's designated contact must receive the same correspondence and notices any time communications are sent out. To identify a designated contact, an Owner must complete the attached Designated Contact Form, a blank copy of which is attached to this Policy and return it to the Association by (a) certified mail, return receipt requested, and (b) e-mail.

4. **Language Preference.** An Owner may notify the Association if the Owner prefers that correspondences and notices sent to the Owner by the Association regarding the Owner's alleged

violation be in a language other than English. If the Owner does not notify the Association of a language preference, then the Association shall send all correspondences and notices to the Owner in English. If the Owner does notify the Association of a language preference, then the Association shall send all correspondences and notices related to the Owner's alleged violation to the Owner in English and in the language identified by the Owner as the Owner's preferred language. NOTICE: The Association's obligation to provide notice and correspondence in a language other than English is expressly limited to notices and correspondences about an Owner's alleged violation that are sent to the Owner. The Association is not obligated to provide notices and correspondences to the Owner related to any other subject matter in a language other than English. To identify a preference that correspondence and notices from the Association be made in a language other than English, an Owner must deliver a written language preference request to the Association by certified mail, return receipt requested.

III. VIOLATIONS THAT THREATEN THE PUBLIC SAFETY OR HEALTH

If the Board or manager reasonably determines the violation threatens the public safety or health per Article II, Section 2:

1. **Notice of Violation.** The Association will promptly provide a written Notice of Violation, in English and in any language for which the Owner has indicated a preference, to the Owner and the Owner's Designated Contact. If the person causing the violation is a guest, tenant, family member, or invitee or licensee of an Owner, then the Owner shall be responsible for the act or omission. The Association may, but need not, send a notice to the person causing the violation if such person is not also an Owner.

2. **Content of Notice of Violation.** The Notice of Violation shall:

- a. State with reasonable detail the circumstances of the claimed violation as known by the Board or manager;
- b. State the action or actions required to cure the alleged violation;
- c. State the interval upon which fines may be levied for the violation;
- d. Inform the Owner that the Owner shall have seventy-two (72) hours to cure the violation before the Association may pursue fines; and
- e. Provide the Owner an opportunity for a hearing before the Board to refute the complaint as provided in Article V below.

3. **Means of Sending the Notice of Violation.** In addition to sending the notice to any Designated Contact, the notice of violation shall be sent to the Owner at the address registered with the Association, and if no such address is registered, then to the address of the Owner's Lot within the Association's community. All notices shall be delivered by certified United States Mail, return receipt requested, postage prepaid. The Association, upon the written request of the Owner delivered to the Association personally, by certified mail, return receipt, postage prepaid,

or any other form of delivery allowed by the Association, will mail the notice of violation to another address as set forth in the Owner's written request.

4. **Inspection.** After the seventy-two (72) hours' notice period expires, the Association may, to the extent permitted under the Association's Governing Documents and/or the law, inspect the Lot or area where the violation is alleged to have taken place to determine whether or not the violation has been cured.

- a. If the Association determines that the violation has not been cured, the Association may proceed to fine the Owner and/or pursue legal action as needed and/or pursue all other remedies allowed in the Association's Governing Documents or at law.
- b. If the Association determines that the violation has been cured, the Association shall notify the Owner, in English and any other language that the Owner has indicated a preference, that the Owner will not be fined.

5. Requesting a hearing does not preclude or prevent the Association from entering the Lot to conduct necessary measures to abate the violation(s) as described in this Article VI of this policy to the extent permitted by the Declaration.

6. Nothing in this Article III shall preclude the Association from assessing any costs incurred by the Association in either remediation of the violation or repair of damage to the Common Elements or one or more Lots.

IV. VIOLATIONS THAT DO NOT THREATEN THE PUBLIC SAFETY OR HEALTH

If the Board or manager reasonably determines the violation does not threaten the public health or safety per Article II, Section 2:

1. **Notice of Violation.** The Board shall send a notice, in English and in any language for which the Owner has indicated a preference, to the Lot Owner and the Owner's Designated Representative. If the person causing the violation is a guest, tenant, family member, or invitee or licensee of an Owner, then the Owner shall be responsible for the act or omission. The Board may, but need not, send a notice to the person causing the violation if such person is not also an Owner.

2. **Content of Notice of Violation.** The notice of violation shall:

- a. State with reasonable detail the circumstances of the claimed violation as known by the Board;
- b. State the action or actions required to cure the alleged violation;
- c. State the interval upon which fines may be levied for the violation;

- d. Provide the Owner an opportunity for a hearing before the Board to refute the complaint as provided in Article V below;
- e. Inform the Owner that the Owner has an initial thirty (30) day period in which to cure the violation or the Association may, after conducting an inspection and determining the Owner has not cured the violation, fine the Owner; and
- f. Inform the Owner that the Association may continue to fine and also pursue legal action against the Owner if the violation remains uncured after a second thirty (30) day period and inspection by the Association.

3. **Means of Sending the Notice of Violation.** In addition to sending the notice to any Designated Contact, the Notice of Violation shall be sent to the address registered with the Association, and if no such address is registered, then to the address of the property within the Association's community owned by the Owner. All notices shall be sent by certified mail, return receipt requested.

4. **Uncured Violation after Initial Thirty (30) Days.** Upon the expiration of the thirty (30) days and unless the Owner has provided satisfactory visual evidence that the violation has been cured prior to that date, the Association shall inspect the Lot within seven (7) days. If the Association's inspection determines that the violation has not been cured, the Association may issue fines to the Owner, and a second thirty (30) day period to cure shall commence. The Association may, but is not required to, send a second Notice of Violation. The Association also may, but is not required to, send a Courtesy Notice of the uncured violation to the Owner.

5. **Uncured Violation after the Second Thirty (30) Days** Upon the expiration of the second thirty (30) day cure period and unless the Owner has provided visual evidence that the violation has been cured prior to that date, the Association shall inspect the Lot within seven (7) days. If the Association's inspection determines that the violation has not been cured, the Association may take legal action and/or continue to fine the Owner.

6. **Courtesy Notices.** At any time, the Association may, but is not required, to send a Courtesy Notice of the violation informing the Owner of the violation. The Association may send the Courtesy Notice in any manner chosen by the Board.

V. FAIR AND IMPARTIAL FACT-FINDING HEARING AND DETERMINATION

1. **Requesting and Scheduling Hearing.** If the Owner charged with a violation timely responds in writing and requests a hearing, a hearing shall be set and written notice of the date, time, and place of hearing shall be provided to the Owner.

2. **Fair And Impartial Fact-Finding Process.** If a hearing is held, it will include a fair and impartial fact-finding process concerning whether the violation occurred and whether the Owner is the one who should be held responsible for the violation.

3. **Decision Makers.** The hearing will be held before the Board or a committee having authority to make a decision but the people making the decisions shall not have any direct personal or financial interest in the outcome. A decision maker will not be deemed to have a direct personal or financial interest in the outcome if the decision maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association.

4. **No Request for Hearing.** If the Owner does not respond in writing with a request for a hearing within the time frame set forth in the Notice(s) of Violation, then the Board or committee will make its determination based on the facts available and the Board or committee may impose a fine or penalty.

5. **Hearing Procedure.** The procedure to be followed at a hearing shall be as follows:

- a. The President of the Board or committee chair or their designee shall be the chairperson of the meeting (“Chair”). The Chair shall conduct the hearing and shall recognize people prior to them speaking and shall direct them to stop speaking as the chair deems appropriate. At the conclusion of the hearing, the Board or committee may, but need not, make a final decision at the hearing. In any case, the Board or committee shall send written notice of its decision to the Owner within a reasonable time after the meeting. Any fine, penalty, or suspension of privileges shall not take effect until at least five (5) days after the decision.
- b. If any person present at the hearing continues to speak or continues to be disruptive during the remainder of the meeting, the decision maker may vote to adjourn the hearing. In the alternative, or in addition to adjourning the hearing, the chair, in the exercise of his/her reasonable discretion shall be entitled to contact law enforcement and request that the disruptive person be removed from the hearing.

VI. FINE INTERVAL SCHEDULE

1. **Violations that Threaten the Public Health and Safety.** The Board or committee shall exercise its discretion with regard to the amount of any particular fine levied. The Association may impose a fine every other day.

2. **Violations that Do Not Threaten the Public Health and Safety.** The Board or committee shall exercise its discretion with regard to the amount of any particular fine levied but shall be limited to the following fine schedule in cases of violations which, in the Association's sole discretion, do not threaten the public health and safety:

- a. **First Violation** of the Governing Documents occurring within a one calendar year period, uncured after the Association's inspection within seven (7) days following the expiration of the initial thirty (30) day period stated in the Notice of Violation establishing that the violation has not been cured: fine not to exceed \$100.00;

- b. **Second Violation** of the Governing Documents occurring within a one calendar year period of the first violation, uncured after the Association's inspection within seven (7) days following the expiration of the initial thirty (30) day period stated in the Second Notice of Violation establishing that the violation has not been cured: fine not to exceed \$150.00;
- c. **Third and Subsequent Violations** of the Governing Documents occurring within a one calendar year period of the Second Violation, uncured after the Association's inspection within seven (7) days following the expiration of the initial thirty (30) day period stated in the Third (or subsequent) Notice of Violation establishing that the violation has not been cured: fine not to exceed \$250.00; and
- d. **Continuing Violations** of the Governing Documents as defined in Article I herein: a fine imposed every other day not to exceed \$500.00 in total for the violation.

3. **Damages.** The above-listed fine schedule shall not limit the Association's ability to assess the Owner for any damages including but not limited to costs incurred by the Association to cure the violation arising from the Owner's violation of the Governing Documents.

4. **Enforcement Action Other Than Fines.** Notwithstanding anything in this policy to the contrary, the Association shall have the right, at any time and without proceeding through the steps outlined herein and without regard to the fine schedule, to take the following action as the Board deems appropriate and if allowed by the Governing Documents of the Association:

- a. Enforce the provisions of the Governing Documents through court action;
 - i. For a threat to public health and safety, after 72 hours following Owner's failure to comply after receiving written Notice of the Violation as described in Article I herein above.
 - ii. For any other violation, after the Notice of Violation and the two thirty (30) day cure periods have elapsed with the violation not having been cured pursuant to Section 4 and 5 of Article IV herein above.
- b. Suspend the Owner's membership privileges, voting privileges, and/or rights to use the Common Elements.
- c. Exercise self-help.
- d. Request that the court appoint a receiver to take possession of the Lot and exert control over the Lot in accordance with the court's order.

Nothing in this section constitutes an election of remedies nor precludes the Board from levying fines as set forth above while at the same time seeking injunctive relief for violations of a continuing nature or violations that affect the health, safety, or welfare of the residents or the

property pursuant to the Act. The prevailing party to any action shall be entitled to recover its costs, expenses and reasonable attorneys' fees.

VII. GENERAL PROVISIONS

1. Notice of Cured Violation. For any violation that is deemed cured either by the Owner submitting notice of the cure to the Association with satisfactory visual evidence and subsequently verified by the Association or as determined by the Association, the Association shall send a written notice to the Owner that includes the following: (1) confirmation that the violation was cured; (2) notice that fines may have been assessed against the Owner for the violation; (3) notice that fines shall not be further assessed with regard to the violation; (4) notice of any outstanding balance owed to the Association or a statement that the Owner's outstanding balance owed to the Association shall be sent to the Owner within the next thirty (30) days. If the Owner's outstanding balance is not provided with the cured violation notice, then the notice must also include information regarding how the Owner may obtain information related to the Owner's outstanding balance.

2. Address for Notices. All notices and correspondences shall be mailed to the address of the Lot owned by the Owner that is within the Association's community. However, upon the registration/written request of the Owner delivered to the Association by certified mail, return receipt, postage prepaid, or any other form of delivery allowed by the Association, the Association will mail notices and other correspondence to another address as set forth in the Owner's written request.

3. No Waiver. Failure of the Association to enforce its Governing Documents pursuant to this Policy shall not constitute a waiver of the right to enforce the same thereafter.

4. Enforcement Costs. The Association may require reimbursement for enforcement costs incurred as a result of an Owner's violation of the Governing Documents. Enforcement costs include, but are not limited to, attorneys fees, mailing fees, the cost of posting notice at an Owner's Lot, and enforcement services provided by the Association's agent.

5. Effective Date. This Policy shall control the actions of the Association and Owners from the effective date of this Policy and going forward. This policy shall replace all previous policies, rules, and regulations regarding the subject matter of this Policy from the effective date of this Policy and forward, subject to the right of the Board to amend this Policy. Any transactions or conduct that occurred prior to the effective date of this Policy, but which were related to the subject matter of this Policy, shall be controlled by the policy, rule or regulation that was in effect at the time the conduct or transaction occurred or was supposed to occur.

6. Savings Clause; Reformation. In the event that a court of competent jurisdiction finds any portion of this policy void or otherwise unenforceable, the other provisions shall remain in full force and effect.

7. Headings. The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

The undersigned hereby certifies that the foregoing resolution was adopted and made a part of the minutes of the meeting of the Board of Directors of the Association conducted on the _____ day of _____, 20_____.

Poudre Overlook Homeowners Association of Fort Collins

By: _____

_____, _____
(Print Name) (Print Title)

**Poudre Overlook Homeowners Association of Fort Collins
Addendum to Covenant Enforcement Policy
Designated Contact for Covenant Violation Form**

An Owner may identify another person to serve as a designated contact for the Owner to be contacted on the Owner’s behalf for purposes of contact related to the violation. If an Owner has identified a designated contact, the Owner and the Owner’s designated contact must receive the same correspondence and notices anytime communications are sent out. To identify a designated contact, an Owner must complete this Designated Contact Form and return it to the Association by (a) certified mail, return receipt requested, and (b) e-mail. Such notice is required due to the increased cost a designated contact imposes upon the Association.

Category	Information
Owner Name	
Owner Property Address	
Owner Mailing Address (if different from Property Address)	
Owner Telephone Number	
Owner E-mail Address	
Designated Contact Name	
Designated Contact Mailing Address	
Designated Contact Telephone Number	
Designated Contact E-mail Address	

By and through this Designated Contact Form, the Owner identifies the Designated Contact set forth above to be contacted by the Association, its agents, and representatives, on the Owner’s behalf for purposes of contact related to the violation.

Date: _____

Signature: _____

Poudre Overlook Homeowners Association of Fort Collins
Alternative Dispute Resolution Policy

The following policy regarding alternative dispute resolution was adopted by the Board of Directors of the Poudre Overlook Homeowners Association of Fort Collins (“Association”) pursuant to C.R.S. § 38-33.3-209.5 and 124.

Effective Date: _____.

Policy Purpose

The Board desires to encourage the use of certain types of alternative dispute resolution (“ADR”) to resolve certain claims between Owners and the Association that do not involve the imminent threat to the peace, health, or safety of the community,

This Policy shall replace and supersede all previous policies, rules, and regulations regarding the subject matter of this Policy.

I Alternative Dispute Resolution Policy

1. The Board has determined that mediation can be an effective method of resolving certain disputes if both parties to the dispute genuinely desire to mediate the dispute. Consequently, the term “ADR” as used in this policy shall apply only to mediation. Furthermore, compliance with this policy is purely voluntary but encouraged nonetheless.

2. This policy shall be inapplicable to disputes involving the collection of delinquent assessments or other similar charges that may be assessed to Owners’ accounts, and any issue that may arise under the declaration of the Covenants, Conditions, and Restrictions.

3. If an Owner or the Association desires that a matter between the two, other than those excluded above, be submitted to mediation, the moving party shall submit a written request for mediation, sent by certified United States Mail, return receipt requested. The other party shall respond in writing, by certified United States Mail, return receipt requested, within thirty (30) days of receipt of the request for mediation. Should the parties agree to mediate, the parties shall work cooperatively to select a mutually-acceptable mediator and shall endeavor to mediate the dispute in a good faith manner.

4. Any agreement reached through mediation shall be documented in a signed writing. Unless the parties agree to the contrary, the cost of the mediation shall be divided equally between the Owner and the Association. Any costs the mediator requires prior to mediation shall be paid in advance. If the dispute is resolved through mediation, the parties’ respective attorneys’ fees shall be paid as set forth in the writing.

5. If an Owner requests mediation but fails to appear at the date and time scheduled for the mediation, the Owner shall pay all expenses of the Association related to the mediation, including attorneys’ fees and costs, and those expenses shall be assessed against the Owner as part of the Owner’s Assessment.

6. If the parties resolve any dispute through mediation, and the other party fails to abide by the terms of the written agreement pertaining to such resolution, then the other party may file suit to enforce such agreement immediately. In such event, the party taking action to enforce the agreement shall be entitled to recover from the non-complying party all costs incurred in enforcing such agreement, including without limitation, attorney fees and costs.

7. If mediation is to be pursued, the Association may request an agreement with the Owner be executed prior to the commencement of the mediation, which tolls any applicable statute of limitations while the parties are attempting to resolve the dispute through ADR.

8. The parties may be, but do not need to be, represented by counsel at the mediation proceedings.

9. Compliance with this policy shall not be a pre-requisite to seeking redress through litigation; either party can request mediation in accordance with this policy before or after a suit is filed.

10. Either party to the mediation may terminate the mediation process without prejudice.

In the event that a court of competent jurisdiction finds any portion of this policy void or otherwise unenforceable, the other provisions shall remain in full force and effect.

The undersigned hereby certifies that the foregoing resolution was adopted and made a part of the minutes of the meeting of the Board of Directors of the Association conducted on the _____ day of _____, 20_____.

Poudre Overlook Homeowners Association of Fort Collins

By: _____

(Print Name)

(Print Title)

**Poudre Overlook Homeowners Association of Fort Collins
Procedures for the Adoption and Amendment of Policies, Procedures and Rules**

The following procedures regarding the power to adopt and amend policies, procedures and rules were adopted by the Board of Directors of the Poudre Overlook Homeowners Association of Fort Collins (“Association”) pursuant to C.R.S. § 38-33.3-209.5.

Effective Date: _____.

Policy Purpose

To clarify that the Association’s power to adopt and amend policies, procedures and rules (collectively, the “Policies”) rests with the Board, while providing that Owners receive notice and the opportunity to comment on such Policies before they are adopted or amended.

This Policy shall replace and supersede all previous policies, rules, and regulations regarding the subject matter of this Policy.

I. Power to Adopt or Amend

1. The Board shall have the sole power to adopt and amend the Policies of the Association.

II Notice to Owners

1. Except as otherwise required by the Association Documents, prior to the adoption or amendment of Policies, the Board shall provide notice of the proposed adoption or amendment to all Owners. Notice shall be provided by mail to each Owner at least 10 days prior to the meeting at which the Board intends to adopt or amend the Policy. The proposed Policy will be mailed to each Owner or posted on the Association’s website at the same time the notice is mailed, or both. Owners may provide written comments or attend the meeting and provide comments prior to the Board’s vote. The Board may consider Owner comments but is not bound to act on those comments. The Board shall have the discretion and final authority to adopt or amend all Policies in accordance with the Association Documents and Colorado law. A copy of all Policies adopted or amended by the Board shall be made available to Owners by posting them on the Association’s website.

In the event that a court of competent jurisdiction finds any portion of this policy void or otherwise unenforceable, the other provisions shall remain in full force and effect.

The undersigned hereby certifies that the foregoing resolution was adopted and made a part of the minutes of the meeting of the Board of Directors of the Association conducted on the _____ day of _____, 20____.

Poudre Overlook Homeowners Association of Fort Collins

By: _____

(Print Name)

(Print Title)

**Poudre Overlook Homeowners Association of Fort Collins
Collection Policy**

The following collection policy was adopted by the Board of Directors of the Poudre Overlook Homeowners Association of Fort Collins (“Association”), pursuant to C.R.S. § 38-33.3-209.5.

Effective Date: _____

Policy Purpose

To provide a framework for the assessment and collection of delinquent accounts.

This Policy shall replace and supersede all previous policies, rules, and regulations regarding the subject matter of this Policy.

I. DUE DATE, LATE FEES, INTEREST, ITEMIZED LIST, DESIGNATED CONTACT, LANGUAGE PREFERENCE

1. **Due Date.** Assessments are due on or before the 21st day of each month, or an alternate date specified by the Board. Assessments not received on or before the date due shall be past due. If the full amount of any past due assessment is not received by the Association within 15 days of the due date, the assessment shall be considered delinquent.

2. **Late Fees.** When an assessment is delinquent, a late fee of up to \$100.00 per month, but in no event on a daily basis, may be assessed to the delinquent account.

3. **Interest.** Delinquent assessments shall bear interest at the rate of eight percent (8%) per annum from the delinquency date until paid in full.

4. **Itemized List.** For each Owner who has a delinquent balance owed to the Association, the Association shall send an itemized list of all assessments, fines, fees, and charges that the Owner owes to the Association. The Association shall send the itemized list as follows:

- a. *Period:* On a monthly basis, until the Owner is no longer delinquent.
- b. *Means of Sending:* To the Owner and, if applicable, to the Owner’s designated contact by (i) first-class mail; and (ii) if the Association has the relevant e-mail address, by e-mail.
- c. *Language Preference:* The itemized list shall be sent in English unless the Owner has indicated a preference for receiving correspondence and notices from the Association in another language, per Section 6 herein below. If the Owner indicates a language preference other than English, then the itemized list shall be sent in the language indicated.

- d. *Designated Contact*: If the Owner has identified another person to serve as a designated contact for the Owner, per Section 5 herein below, then the Association shall also send a copy of the itemized list in English to the designated contact for the Owner.
- e. *Courtesy Notices*: The itemized list may be included in one or more courtesy notices sent to the Owner prior to sending a Notice of Delinquency in accordance with Section 10 herein below.

5. **Designated Contact.** An Owner may identify another person to serve as a designated contact for the Owner to be contacted on the Owner's behalf for purposes of contact related to delinquency. If an Owner has identified a designated contact, the Owner and the Owner's designated contact must receive the same correspondence and notices any time communications are sent out. To identify a designated contact, an Owner must complete the attached Designated Contact Form, a blank copy of which is attached to this Policy, and return it to the Association by certified mail, return receipt requested.

6. **Language Preference for Delinquent Account.** An Owner may notify the Association if the Owner prefers that correspondences and notices sent to the Owner by the Association regarding the Owner's delinquent account be in a language other than English. If the Owner does not notify the Association of a language preference, then the Association shall send all correspondences and notices to the Owner in English. If the Owner does notify the Association of a language preference, then the Association shall send all correspondences and notices related to the Owner's delinquent account to the Owner in English and in the language identified by the Owner as the Owner's preferred language. NOTICE: The Association's obligation to provide notice and correspondence in a language other than English is expressly limited to notices and correspondences about an Owner's delinquent account and/or alleged violations that are sent to the Owner. The Association is not obligated to provide notices and correspondences to the Owner related to any other subject matter in a language other than English. To identify a preference that correspondence and notices from the Association be made in a language other than English, an Owner must deliver a written language preference request to the Association by certified mail, return receipt requested.

II. PRIOR TO REFERRAL TO ATTORNEY OR COLLECTION AGENCY – CONTACT, NOTICES OF DELINQUENCY

1. **Record of Contacts.** The Association shall maintain a record of any contacts with an Owner regarding a delinquency. These records shall include the following information:

- a. *Type of Communication*: The type of communication used to contact the Owner (e.g., letter by mail, e-mail, telephone call, text); and
- b. *Date and Time*: The date and time that the contact was made.

2. **Contact / Notices of Delinquency.** In the event of a delinquent assessment, the Association shall take the following steps:

Step	Action	When Action Taken (Not Earlier Than)
1.	Courtesy Notice, Itemized List.	Courtesy notice(s): at the discretion of the Board of Directors; itemized list: on a monthly basis when an account has an outstanding balance
2.	Notice of Delinquency. The Association shall alert the Owner of the delinquency by sending a Notice of Delinquency.	When an Owner has a delinquent account if a courtesy notice/itemized list has not already been sent to the Owner
3.	Referral Board Vote in Executive Session. The Association’s Board shall vote on what action the Association will take, in a recorded vote at a meeting conducted pursuant to C.R.S. § 38-33.3-308(4)(e). <i>See C.R.S. § 38-33.3-209.5(1.7)(a)(I)</i>	If the Owner has not paid the delinquency within the time frame set forth in the Notice of Delinquency.

3. **Notice of Delinquency – Definition.** “Notice of Delinquency” means the written notice that an Association sends to an Owner to notify the Owner of any unpaid assessments, fines, fees, or charges that the Owner owes the Association, as required by C.R.S. § 38-33.3-209.5(1.7)(a)(I).

4. **Content of Notice of Delinquency.** The Notice of Delinquency must:
- a. Specify the total amount due, with an accounting of how the total was determined;
 - b. Specify whether the opportunity to enter into a payment plan exists pursuant to C.R.S. § 38-33.3-316.3 and instructions for contacting the entity to enter into such a payment plan;
 - c. Specify the name and contact information for the individual the Owner may contact to request a copy of the Owner's ledger in order to verify the amount of the debt;
 - d. Be written in English and in any language that the Owner has indicated a preference for correspondence and notices;
 - e. Specify whether the delinquency concerns unpaid assessments; unpaid fines, fees, or charges; or both unpaid assessments and unpaid fines, fees, or charges;
 - f. If the Notice of Delinquency concerns unpaid assessments, the Notice of Delinquency must notify the Owner that unpaid assessments may lead to foreclosure; and
 - g. Include:
 - i. A description of the steps the Association must take before the Association may take legal action against the Owner, including a description of the Association's

cure process for violations of the Association's governing documents established in accordance with C.R.S. § 38-33.3-209.5(1.7)(b); and

- ii. A description of what legal action the Association may take against the Owner, including a description of the types of matters that the Association or Owner may take to small claims court, including injunctive matters for which the Association seeks an order requiring the Owner to comply with the declaration, bylaws, covenants, or other governing documents of the Association;
- iii. State the following or similar statement, depending on whether more than one Notice of Delinquency will be sent: "Action is required to cure the delinquency. Failure to do so within thirty (30) days may result in your account being turned over to a collection agency, a lawsuit being filed against you, the filing of a lien against your property and foreclosure of a lien against your property if the delinquency is for unpaid assessments, or other remedies available under Colorado law. The Association may but is not required to exercise these remedies, except for foreclosure of a lien against your property, in small claims court if the amount at issue does not exceed \$7,500, exclusive of interest and costs;" and
- iv. The Association may send more than one Notice of Delinquency.

5. Means of Sending Notice(s) of Delinquency. In sending the Owner or a designated contact a Notice of Delinquency, the Association shall send the Notice of Delinquency by the following means:

- a. Certified mail, return receipt requested;
- b. Physically post a copy of the notice of delinquency at the Owner's unit at least one (1) time if more than one Notice of Delinquency is sent; and
- c. One of the following means:
 - i. First-class mail;
 - ii. Text message to a cellular number that the Association has on file because the Owner has provided the cellular number to the Association; or
 - iii. E-mail to an e-mail address that the Association has on file because the Owner has provided the e-mail address to the Association.

6. Owner's Mailing Address for Mail. All notices and correspondences shall be mailed to the address of the unit owned by the Owner that is within the Association's community. However, upon the written request of the Owner delivered to the Association personally, by certified mail, return receipt, postage prepaid, or any other form of delivery allowed by the Association, the Association will mail Notices of Delinquency to another address as set forth in the Owner's written request.

7. **Board Vote in Executive Session.** If the Owner has not paid the delinquency within the time frame set forth in the last Notice of Delinquency sent to the Owner, then the Association may take any or all of the following actions:

- a. Refer a delinquent account to a collection agency or attorney only if a majority of the Board votes to refer the matter in a recorded vote at a meeting conducted pursuant to C.R.S. § 38-33.3-308(4)(e);
- b. Send an additional Notice of Delinquency;
- c. File a claim in Small Claims Court, pursuant to C.R.S. § 38-33.3-209.5(9); or
- d. Take no current action to collect the delinquency, except that the Association's statutory lien may continue to encumber the Owner's property, subject to the six-year statute of limitations, pursuant to C.R.S. § 38-33.3-316(5).

III. PAYMENT PLANS

1. **Legal Authority and Standard.** The Association shall make a good-faith effort to communicate with an Owner to set up a payment plan that meets the requirements of C.R.S. § 38-33.3-316.3 and, if seeking foreclosure, §38-33.3-209.5(7)(a)(II), unless the Association is not obligated to negotiate or enter into a payment plan with an Owner.

2. **Right to a Payment Plan.** The Association is obligated to negotiate, coordinate, and enter into a payment plan with an Owner, unless:

- a. The Owner has previously entered into a payment plan with the Association under this Policy; or
- b. The Owner does not occupy the property and has acquired the property as a result of:
 - i. A default of a security interest encumbering the property; or
 - ii. Foreclosure of the Association's lien.

3. **Minimum Period of Payment Plan and Minimum Installment Amount.** The Association must permit the Owner to pay off the deficiency in installments over a period of at least eighteen (18) months. The Owner may choose the amount of each installment payment as long as each installment payment is at least \$25.00 and the total amount owed is paid by within the eighteen (18) month period and the Owner remains current on payment of regular assessments.

4. **Failure to Comply with Payment Plan.** An Owner fails to comply with the terms of the payment plan if the Owner fails:

- a. To remit payment of three (3) or more agreed-upon monthly installments within fifteen (15) days after the monthly installments were due; or

- b. To remain current with regular assessments as they come due during the eighteen-month agreed-upon payment period.

5. **Effect of Failure to Comply with Payment Plan.** If an Owner fails to comply with the terms of his or her payment plan, the Association may pursue legal action against an Owner without further notice to the Owner.

IV. REMEDIES

1. **Remedies.** The remedies available to the Association to collect on an Owner's delinquent account include:

- a. Recording a notice of assessment lien against a delinquent Owner's property, in addition to the Association's statutory lien;
- b. Bringing an action at law for entry of a money judgment in favor of the Association and against a delinquent Owner;
- c. Bringing an action for appointment of receiver, pursuant to C.R.S. § 38-33.3-316(9);
- d. Bringing an action for foreclosure of the Association's lien against the property of the delinquent Owner;
- e. Suspend the voting privileges for a delinquent Owner;
- f. The right to suspend a delinquent Owner's right to use the Common Elements;
- g. Filing necessary claims, documents, and motions in bankruptcy court in order to protect the Association's interest;
- h. File a claim in Small Claims Court, pursuant to C.R.S. § 38-33.3-209.5(9); and
- i. Turning over a delinquent account of an Owner to a collection agency or attorney.

V. FORECLOSURE OF ASSOCIATION LIEN

1. **Conditional Right to Foreclose.** The Association shall not commence a legal action to initiate a foreclosure proceeding based on an Owner's delinquency in paying assessments unless:

- a. The balance of the assessments and charges secured by its lien equals or exceeds six (6) months of common expense assessments based on a periodic budget adopted by the Association;
- b. The Board has formally resolved, by a recorded vote, to authorize the filing of a legal action against the specific unit on an individual basis;

- c. The Association has complied with each of the requirements in C.R.S. § 38-33.3-209.5 and 316.3 related to an Owner's delinquency in paying assessments;
- d. The Association has provided the Owner with a written offer to enter into a repayment plan pursuant to C.R.S. § 38-33.3-316.3(2) that authorizes the Owner to repay the debt in monthly installments over eighteen (18) months. Under the repayment plan, the Owner may choose the amount to be paid each month, so long as each payment must be in an amount of at least twenty-five dollars (\$25.00) until the balance of the amount owed is less than twenty-five dollars (\$25.00); and
- e. Within thirty (30) days after the Association has provided the Owner with a written offer to enter into a repayment plan, the Owner has either:
 - i. Declined the repayment plan. An Owner declines a payment plan by failing to accept in writing the Association's offer to enter into a payment within thirty (30) days from the date of the Association's written offer; or
 - ii. After accepting the repayment plan, the Owner failed, on at least three (3) separate occurrences, to pay a monthly installment within fifteen (15) days after the monthly installment was due or fails to pay ongoing assessments levied following the acceptance of the payment plan.

2. **Conditions Under Which Foreclosure is Prohibited.** The Association shall not:

- a. Foreclose on an assessment lien if the debt securing the lien consists only of one or both of the following:
 - i. Fines that the Association has assessed against the Owner; or
 - ii. Collection costs or attorney fees that the Association has incurred and that are only associated with assessed fines; or
- b. Commence a foreclosure action based only on outstanding fees, charges, late charges, attorney fees up to the maximum amount authorized, fines, and/or interest.

VI. REFERRAL TO ATTORNEY

1. **Post-Referral Communication.** After an Owner's delinquent account has been referred to the Association's attorney (hereinafter "Association Attorney") for legal action, the Owner and, if applicable, the Owner's designated contact shall direct all communications regarding the delinquent account to the Association Attorney.

2. **Association Attorney Demand Letter.** The Association Attorney shall mail a demand letter to the address of the property within the Association's community owned by the delinquent Owner, if any.

3. **Action After Attorney Demand Letter – Delinquency Cured.** If the amount set forth in the Association Attorney demand letter is received by the Association Attorney by the date set forth in such demand letter, the Association Attorney shall take no further action and shall return the account back to the Association.

4. **Action After Attorney Demand Letter – Delinquency Not Cured - Lawsuits.** If the Owner fails to timely pay the full amount set forth in the initial demand letter, the Association Attorney may file a lawsuit in County Court or District Court against the Owner. In the alternative, or in addition thereto, the Association Attorney may also pursue the other remedies set forth above in Article IV (Remedies). Lawsuits shall set forth the sum of alleged delinquent assessments, late fees, costs of collection, attorney fees, court costs, and any other expenses due as of the approximate date of the lawsuit. Lawsuits shall be prosecuted as the Association Attorney deems appropriate.

5. **Attorney Fees.** Except to the extent limited by Colorado law, the Association is entitled to costs and reasonable attorney fees that the Association incurs in collecting a delinquency under this Policy.

VII. APPLICATION OF PAYMENTS, RESTRICTIVE INDORSEMENT, ACCORD AND SATISFACTION, RETURNED-CHECK CHARGE, NO SETOFF, AND MISCELLANEOUS

1. **Application of Payments.** Payments received by the Association or the Association Attorney shall be applied in the following order, as may be applicable:

- a. To the regular assessments owed, with partial payments being applied first to the oldest delinquent assessment and then continuing until the most recent assessment is paid;
- b. To any special assessments levied and owed;
- c. To attorney fees and legal costs and expenses;
- d. To the Association's other out-of-pocket costs, expenses and charges associated with the delinquency;
- e. To fines levied by the Association with regard to the delinquency or other violations of the Association's governing documents, regardless of when incurred;
- f. To late fees; and
- g. To interest.

2. **Restrictive Indorsement.** If an Owner intends to satisfy the entire debt of the Association by restrictive indorsement on a check or money order for an amount less than the full balance then due on the Owner's delinquent account, that check or money order must be delivered to the Association Attorney by prepaid certified mail, return receipt requested. Any

payment of less than the outstanding balance that contains a writing that the Association's representatives, including but not limited to the Association Attorney, believe could be a restrictive indorsement or any other restriction, including an accord and satisfaction, on the receipt of the funds, or that is accompanied by any letter, note or other communication that could be considered a restrictive indorsement or any other restriction on the receipt of the funds may, at the discretion of the Association Attorney, be returned.

3. **Returned-Check Charge.** If a check or other instrument tendered to the Association is returned or dishonored for any reason, the Association may charge a returned check fee of up to \$20.00. Additionally, or in the alternative, the Association may pursue all other remedies available at law that may be applicable, including the right to seek treble damages plus costs and attorneys' fees.

4. **Collection Costs.** The Association may require reimbursement of collection costs incurred by the Association as a result of an Owner's failure to timely pay assessments or any money or sums due to the Association. Collection costs include, but are not limited to, mailing fees, the cost of posting notice at an Owner's Lot, and collection services provided by the Association's agent.

5. **No Setoff.** In the event of any legal action brought to collect delinquent assessments, an allegation that the Association has failed to comply with the terms of the Association's governing documents, including this Collection Policy, shall not constitute a defense for non-payment or entitle the Owner to a setoff of any assessments owed.

6. **Effective Date.** This Policy shall control the actions of the Association and Owners from the effective date of this Policy and going forward. This policy shall replace all previous policies, rules, and regulations regarding the subject matter of this Policy from the effective date of this Policy and forward, subject to the right of the Board to amend this Policy. Any transactions or conduct that occurred prior to the effective date of this Policy, but which were related to the subject matter of this Policy, shall be controlled by the policy, rule or regulation that was in effect at the time the conduct or transaction occurred or was supposed to occur.

7. **Terms.** Any terms not identified in this Policy shall have the meaning given them in the Association's recorded Declaration, together with all amendments and supplements thereto.

8. **Savings Clause; Reformation.** If a Court finds that any portions of this collection policy unenforceable, the Court shall reform this policy to the least extent necessary to give effect to the intent of this collection policy. In such event, all remaining portions of this collection policy shall remain in force and effect.

9. **Headings.** The headings contained in this Agreement are for reference purposes only and shall not affect in any way the meaning or interpretation of this Agreement.

The undersigned hereby certifies that the foregoing resolution was adopted and made a part of the minutes of the meeting of the Board of Directors of the Association conducted on the _____ day of _____, 20_____.

Poudre Overlook Homeowners Association of Fort Collins

By: _____

(Print Name)

(Print Title)

Poudre Overlook Homeowners Association of Fort Collins
Addendum to Collection Policy
Designated Contact for Delinquent Account Form

An Owner may identify another person to serve as a designated contact for the Owner to be contacted on the Owner's behalf for purposes of contact related to delinquency. If an Owner has identified a designated contact, the Owner and the Owner's designated contact must receive the same correspondence and notices anytime communications are sent out. To identify a designated contact, an Owner must complete this Designated Contact Form and return it to the Association by certified mail, return receipt requested. Such notice is required due to the increased cost a designated contact imposes upon the Association.

Category	Information
Owner Name	
Owner Property Address	
Owner Mailing Address (if different from Property Address)	
Owner Telephone Number	
Owner E-mail Address	
Designated Contact Name	
Designated Contact Mailing Address	
Designated Contact Telephone Number	
Designated Contact E-mail Address	

By and through this Designated Contact Form, the Owner identifies the Designated Contact set forth above to be contacted by the Association, its agents, and representatives, on the Owner's behalf for purposes of contact related to delinquency.

Date: _____

Signature: _____

Poudre Overlook Homeowners Association of Fort Collins
Conduct of Meetings Policy

The following procedures regarding conduct of meetings were adopted by the Board of Directors of the Poudre Overlook Homeowners Association of Fort Collins (“Association”) pursuant to C.R.S. § 38-33.3-209.5.

Effective Date: _____.

Policy Purpose

To govern the conduct of meetings.

This Policy shall replace and supersede all previous policies, rules, and regulations regarding the subject matter of this Policy.

I. Meetings of the Members/ Meetings of the Board

1. All regular and special meetings of the Members, of the Board or Committees thereof are open to all Members of the Association or to any person designated in writing as a Member’s representative (“Designated Representative”). At an appropriate time determined by the Board, but before the Board votes on an issue under discussion, Members or their Designated Representatives shall be permitted to speak regarding that issue. The Board may place reasonable time restrictions on persons speaking during the meeting. If more than one person desires to address an issue and there are opposing views, the Board shall provide for a reasonable number of persons to speak on each side of the issue but may place reasonable time restrictions on those persons speaking during the meeting.

2. The Board, through the President, shall set agendas for Member and Board meetings.

3. All regular and special meetings of the Members and of the Board shall be conducted in accordance with (a) Robert’s Rules of Order Newly Revised, or (b) such other generally recognized rules of parliamentary procedure as may be adopted by resolution of the Board.

4. Minutes of Member and Board meetings will be taken by (a) the Association Secretary, (b) in the absence of the Secretary, any other officer designated by the President, or (c) a representative of the Association's management company, provided that the Secretary must review and sign the minutes prepared by such representative, and further provided that the Secretary is ultimately responsible for the accuracy of the minutes. The minutes will be maintained in the Association's permanent records.

II. Voting

1. Votes for positions on the Board shall be taken by secret ballot. At the discretion of the Board or upon the request of twenty percent of the Owners who are present at the meeting or represented by proxy, if a quorum has been achieved, a vote on any matter affecting the common interest community on which all Owners are entitled to vote shall be by secret ballot.

2. Ballots shall be counted by a neutral third party or by a committee of volunteers. Such volunteers shall be Owners who are selected or appointed at an open meeting, in a fair manner,

by the chair of the Board or another person presiding during that portion of the meeting. The volunteers shall not be Board members and, in the case of a contested election for a Board position, shall not be candidates. The results of a vote taken by secret ballot shall be reported without reference to the names, addresses, or other identifying information of Owners participating in such vote.

III. Legal Matters

1. Upon the final resolution of any matter for which the Board has received legal advice or that concerned pending or contemplated litigation, the Board may elect to preserve the attorney-client privilege in any appropriate manner, or it may elect to disclose such information, as it deems appropriate, about such matter in an open meeting.

2. Audio and video recording of Board or Member meetings is prohibited. Notwithstanding the foregoing, the official record-keeper at any meeting may, at the discretion of the Board, record the proceedings of that meeting for record-keeping purposes. The audio or video tapes of any meeting kept by the official record-keeper shall be retained until such time as the information has been memorialized in the minutes of said meeting and such minutes have been adopted by the Board. Any audio or video tapes shall be retained by the Association until such time as the Board has adopted the minutes for the recorded meeting.

IV. Executive Session

1. Notwithstanding the foregoing, the Board or a committee thereof may hold an executive or closed-door session during any regular or special Board meeting and may restrict attendance to Board members and such other persons requested by the Board. The matters to be discussed at such an executive session are limited to:

- a. Matters pertaining to employees of the association or the managing agent's contract or involving the employment, promotion, discipline, or dismissal of an officer, agent, or employee of the association;
- b. Consultation with legal counsel concerning disputes that are the subject of pending or imminent court proceedings 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, including a disciplinary hearing regarding an Owner and any referral of delinquency; except that an Owner who is the subject of a disciplinary hearing or a referral of delinquency may request and receive the results of any vote taken at the relevant meeting; and

- f. Review of or discussion relating to any written or oral communication from legal counsel.

2. Prior to convening an executive session, the Board or committee thereof, as may be applicable, shall announce the general matters to be discussed in the executive session. No rule or regulation may be validly adopted during an executive session.

V. Etiquette / Remediating Disruptive Behavior

1. At either a meeting of the Members or the Board, if a member refuses to stop talking after his/her allotted time has ended or otherwise disrupts the meeting, the chair of the meeting shall be entitled to request that the speaker cease speaking. If the speaker continues to speak or continues to be disruptive during the remainder of the meeting, the Board may vote to adjourn the meeting. In the alternative, or in addition to adjourning the meeting, the chair of the meeting, in the exercise of his/her reasonable discretion shall be entitled to contact law enforcement and request that the disruptive person be removed from the meeting.

In the event that a court of competent jurisdiction finds any portion of this policy void or otherwise unenforceable, the other provisions shall remain in full force and effect.

The undersigned hereby certifies that the foregoing resolution was adopted and made a part of the minutes of the meeting of the Board of Directors of the Association conducted on the _____ day of _____, 20____.

Poudre Overlook Homeowners Association of Fort Collins

By: _____

_____, _____

(Print Name)

(Print Title)