

STATE OF COLORADO )  
 ) ss. BEFORE THE BOARD OF DIRECTORS  
COUNTY OF JEFFERSON ) OF THE HIWAN HOMEOWNERS  
 ASSOCIATION

Resolution adopting the  
Revised Policies, Rules and Procedures

**RESOLUTION OF THE BOARD OF DIRECTORS**  
**Resolution #8/11-4**


**WHEREAS**, the Board of Directors of the Hiwan Homeowners Association representing Hiwan First, Second, Third, and Fourth Filings (the "HHOA") has submitted the Revised Policies, Rules and Procedures attached as Exhibit A to the HHOA Owners entitled to vote for approval; and

**WHEREAS**, at the mail ballot election held during May and June of 2011, 255 of the Owners voted in favor of the adoption of the Revised Policies, Rules and Procedures, and 21 of said Owners voted against adoption, according to a tabulation by the independent accounting firm of Scripps, Taylor & Associates, PC; and

**WHEREAS**, the approval of the Owners is required and has been obtained for the adoption of the Revised Policies, Rules and Procedures.


**NOW THEREFORE, BE IT RESOLVED** by the Board of Directors of the HHOA that the Revised Policies, Rules and Procedures are adopted effective this 3rd day of August, 2011 and shall hereafter be enforced in accordance with their terms and the provisions of Colorado law;

**FURTHER**, the Secretary of the HHOA Board of Directors is authorized and directed to post a full and complete copy of the Revised Policies, Rules and Procedures on the HHOA's website, to notify the Owners of the adoption and effective date of the Revised Policies, Rules and Procedures in the HHOA's next Newsletter, and to maintain copies of the same at the HHOA's principal office.

  
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President

**CERTIFICATION**

The undersigned secretary of the Hiwan Homeowners Association certifies that the foregoing Resolution is a true, complete and correct copy of a Resolution of the Board of Directors of the Hiwan Homeowners Association adopted by a vote of 7 in favor of adoption and 1 against adoption by the Board at its regular meeting held on August 3, 2011. abstained

  
\_\_\_\_\_  
Secretary

**HIWAN HOMEOWNERS ASSOCIATION**

Representing Hiwan Filings 1, 2, 3 & 4

**POLICIES, RULES AND PROCEDURES**

**Note: These Policies, Rules and Procedures are subject to Federal and State Laws, and should be read to be consistent with those laws wherever possible.**

The attached pages contain policies, rules and procedures for the administration and conduct of the activities of the Hiwan Homeowners Association (hereinafter "Association" or "HHOA") representing all numbered lots shown on the Plats of Hiwan subdivision (Hiwan First, Second, Third, and Fourth Filings), excluding lot 61: including lettered tracts J, K, L, M, N and O as shown on the Plat of Hiwan - Second Filing (hereinafter "Lots"). These policies and procedures were adopted by the owners of the Lots (hereinafter "Owners" on June 30, 2011.

Upon their adoption, these Policies, Rules and Procedures shall be sent to all Owners and posted on the Association website, [www.hiwanhomeowners.org](http://www.hiwanhomeowners.org).

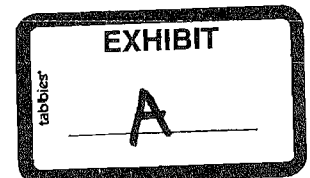
**Section 1**

**Policies and Procedures for Member Meetings, Board Meetings and Election of Directors**

**A. Notice of meetings and posting of minutes:**

Owners will be given notice of all meetings, including Annual or special meetings, Board meetings, and committee meetings. Notices for Annual meetings will be made by mail, postings on the HHOA website, placement of signs at prominent locations in Hiwan, and by publication in the newsletter. Notices for Board meetings and special meetings will be posted on the HHOA website, shown on signs placed at prominent locations and published in the newsletter, if timing permits. Notice of committee meetings will be posted on the website. Notices of Board meetings will be provided via E-Mail if an Owner requests such notice and furnishes their E-Mail address.

Minutes of the Annual meeting shall be posted on the HHOA website and mailed to all Owners. Minutes of all Board meetings will be posted on the HHOA website. Committee meeting minutes will not be posted on the website, but a copy will be sent to the Secretary for filing in a permanent record that could be made available to an Owner if requested. All committees must also keep their own record of all of their meetings and decisions made.



## **B. Board Meetings:**

1. All regular and special Board meetings are open to all Owners in the Association, or to any person designated by an Owner in writing as the Owner's representative.
2. At an appropriate time determined by the Board, but before the Board votes on an issue under discussion, Owners or their designated representatives shall be allowed to speak regarding that issue. If necessary for the orderly and timely conduct of the meeting, remarks from Owners or designated representatives can be limited.

## **C. Committee Meetings:**

Committee meetings shall be open to attendance by all Owners or their representatives. To assist in the orderly progress of committee meetings, the committee may require that Owners and representatives in attendance restrict their comments to a specified time or times during the meeting, that comments be limited to a certain number of minutes, or that no comments be made or accepted by the committee.

## **Section 2**

### **Record Retention Requirements**

#### **A. Association Records that must be kept *permanently*, unless otherwise indicated:**

1. Minutes of all Board and Owner meetings.
2. All actions taken by the Board or Owners by written ballot in lieu of holding a meeting.
3. All actions taken by a Committee on behalf of the Board in lieu of the Board acting on behalf of the Association.
4. All waivers of notice required for Owner, Board or Committee meetings.
5. Copies of the following, which must be kept at the Association's principal office:
  - (a) Articles of Incorporation;
  - (b) Covenants;
  - (c) By-Laws;

- (d) Board resolutions affecting Owners;
  - (e) Minutes of Owner meetings held during the past 3 years;
  - (f) Records of all actions (if any) taken by Owners without a meeting during the past 3 years;
  - (g) All written communications to Owners generally as Owners, within the past 3 years;
  - (h) List of the names and addresses (home or business) of the Association's current Board members and officers;
  - (i) Association's most recent annual report (if any); and
  - (j) All financial reviews (or audits, if applicable) of the Association's books and records during the past 3 years.
6. The Association must maintain a list of the names and addresses of all current Owners, which also shows the number of votes to which they are entitled.
7. To the extent practicable, all of the foregoing records shall be maintained on the Association's website. Accordingly, some older records required to be maintained may not be available on the website, but they shall be made available to Owners upon request, if properly submitted.

## **B. Required Disclosures**

### **1. General Disclosures**

- (a) Within ninety days after any change in any of the following information, the Association shall make updated information available to all Owners via the Association's Newsletter and/or its website:
  - i. Name of the Association;
  - ii. Name of the Association's registered agent or manager, if any;
  - iii. Valid physical address and telephone number for both the Association and its agent or manager, if any;
  - iv. Name of the common interest community; and
  - v. Initial date and reception number or book and page of the recording of the Association's declaration or of any main document that constitutes the declaration.

- (b) Within 90 days after the end of the Association's fiscal year, it shall make available to Owners via the Association's Newsletter and/or its website, the following information:
- i. Date on which the Association's fiscal year commences;
  - ii. Association's operating budget for the current fiscal year;
  - iii. List of the Association's current regular and special assessments;
  - iv. Association's annual financial statements, including amounts held in reserve for the fiscal year immediately preceding the current year;
  - v. Results of any accounting review (or audit, if applicable) for the fiscal year immediately preceding the current year;
  - vi. Association's Covenants, Articles of Incorporation, By-Laws, and Policies, Rules and Procedures (including Responsible Governance Policies);
  - vii. Minutes of Board and Owners meetings for the fiscal year immediately preceding the current year;
  - viii. A list of all Association insurance policies, including general liability, association director and officer professional liability and fidelity policies, which list shall include company names, policy limits, policy deductibles, additional named insured, and expiration dates of the policies listed;
  - ix. Annual assessments, ARC fees, lot transfer fees, and any other fees or assessments levied by the Association.

### **Section 3**

#### **Education**

##### **A. Board Education:**

The Board may authorize, and account for as a common expense, reimbursement of Directors for their actual and necessary expenses incurred in attending educational meetings and seminars on responsible governance of unit owners' associations. The course content of such educational meetings and seminars shall be specific to Colorado, and shall make reference to applicable sections of the Colorado Common Interest Ownership Act.

**B. Owner Education:**

The Association shall provide, or cause to be provided, education to Owners at no cost on at least an annual basis as to the general operations of the Association and the rights and responsibilities of Owners, the Association, and its Board under Colorado law. The criteria for compliance with this section shall be determined by the Board.

**Section 4**

**Responsible Governance Policies**

**A. Collection of Unpaid Assessments:**

This policy shall be followed for the collection of the annual and special assessments, transfer fees, fines, charges, related attorney's fees and interest, or any other amounts levied by the Hiwan Homeowners Association in accordance with its Articles of Incorporation, Covenants and federal and state law (collectively, "Assessments"). Assessments will be levied against each Lot, whether built on or not, and to the extent not paid, shall be a lien on the property.

The Treasurer shall mail an invoice for the Assessment amount to each Owner's address of record within four weeks of the assessment date, except the annual Assessment invoice shall be mailed in January of each year. Annual assessments shall be due upon receipt unless otherwise specified. If not paid by March, a first reminder shall be promptly issued by mail or telephone, and a second reminder (together with a \$10.00 late fee) shall be issued in April. Unless paid, a Notice of Intent to File a Lien shall be delivered by certified mail in June, establishing a payment deadline of three weeks from date of mailing. The lien amount shall be the total of the unpaid dues, plus the \$10.00 late fee, plus the prevailing lien-filing fee, plus the prevailing future lien release fee, plus collection costs of \$50.00, or actual collection costs incurred, if higher than \$50.00.

If payment has not been received by the established deadline, the Board shall direct that a lien be filed with Jefferson County against the owner's property, in the amount of the delinquency.

When a lien has been paid, the Association shall record a release of lien and provide the Owner with the original thereof.

Upon being notified of a pending sale, the Treasurer shall provide the closing company or equivalent with a report of any unpaid assessments, liens and transfer fees owed the Hiwan Homeowners Association. If a property sale closes between the annual meeting and the end of the year, the Treasurer shall include the following year's dues in the report of amounts due and payable at closing.

**B. Conflicts of Interest:**

If any contract, decision or other action taken by or on behalf of the Board would financially benefit any Director or any person who is a parent, grandparent, spouse, child or sibling of a Director or a parent or spouse of any of those persons, an estate or trust in which the Director or a party related to the Director has a beneficial interest, or any entity in which the Director or a party related to the Director is a director, officer, or has a financial interest, that Director shall declare a conflict of interest on that issue. A Director shall be deemed to not have a conflict of interest if the Director will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association. The Director shall declare the conflict in an open meeting and disclose the material facts as to the Director's relationship or interest and as to the conflicting transaction prior to any discussion or action on that issue. After making such declaration, the Director may participate in the discussion and vote on that issue. No contract entered into in accordance with this section is void and unenforceable so long as the conflicting interest transaction is fair to the Association.

**C. Enforcement of Covenants and Rules:**

Covenant enforcement will be conducted as follows:

Covenant complaint must be filed by conventional mail or E-Mail with the Board of Directors or the Complaint Resolution Committee (CRC). Any Owner or the Board has the right to file a complaint, citing a specific Covenant violation. The Board will also accept notices of potential Covenant violations from a tenant of an Owner. Such notices will be investigated according to the following procedures, and the owner of the rental property will be included in any subsequent correspondence. During all investigations and deliberations of the CRC none of the records shall be made available to any Owner or the Board.

The CRC will make a preliminary evaluation to determine if the complaint has merit. If the complaint appears valid, the CRC will meet or have a discussion with the party or parties involved, seeking a mutually agreeable resolution. If such resolution occurs, the CRC will submit a written report to the Board, citing the complaint and the particulars of the resolution. The subject is then considered closed.

If a valid complaint cannot be resolved by the CRC, a letter will be sent to the violator, describing the complaint, the identity of the complainant, and the Owner's options, including the right to request a hearing by the Board to present the Owner's position. If the violator agrees to cease violation within a specified time, the matter will be considered closed and the Board will confirm such a finding by letter to the involved parties.

If the violation continues, the Board shall weigh the merits of the Owner's position and notify each involved person in writing of its decision to drop the

complaint or to require compliance with the Covenants. The Owner will be advised that compliance is required by a date certain and of his or her right to a hearing before the Board.

Should the Board determine that compliance is obligatory and there is no request for a hearing or if said conclusion is reached by the Board after a hearing, and the violation persists beyond the stipulated date, the Board will refer the matter to an attorney, in accordance with the enforcement procedures described in the Covenants.

All costs of enforcement will be assessed to the Owner found in violation and if not paid within 30 days after assessment shall become a lien on the property of the violator if the assessment is not paid within one year. In the event multiple Owners are subject to legal action to require compliance, enforcement costs will be assessed on a pro rata basis. However, in any case in which the Owner is found not to have violated the provision of the Covenants, the Bylaws, or these Rules specified in the initial notice, no portion of the Association's costs or attorneys' fees incurred in asserting or otherwise prosecuting the claimed violation shall be allocated to said Owner.

**D. Inspection and Copying of Association Records by Unit Owners:**

1. All Association records must be maintained in writing.
2. Except as provided in paragraph D.3 of this Section, all of the financial and other records of the Association shall be made reasonably available for examination and copying by any Owner or such Owner's authorized agents in accordance with the following provisions:
  - (a) All requests shall describe the records sought and the purpose of the request with reasonable particularity;
  - (b) Notice of the availability of records for copying or inspection or of denial shall be given within five business days of the date of the request and shall provide the requestor;
  - (c) The Secretary or other custodian of records shall attempt to establish a date, time, and location for inspection or delivery of copies that is mutually agreeable with the requestor or advise the requestor that inspection or delivery of copies shall be made at the next regularly scheduled Association meeting, if such meeting occurs within thirty days after the request, and shall give no less than five days advance notice to the requestor;
  - (d) The Association shall be reimbursed for all copies at the greater of \$0.25 per page or the actual costs of preparing copies, including travel costs, if applicable, at the standard rate allowed by the Internal



Revenue Service. The advance deposit of estimated charges may be requested;

- (e) The Secretary or other custodian of records may deny any request deemed inadequate, or made in bad faith or for an improper purpose, or he/she may refer any such request to an Association Committee in accordance with the provisions of paragraph D.5 of this Section. All denials shall include the reason for denial and inform the requestor of his or her rights to appeal under the Association's Responsible Governance Policy; and
- (f) In all cases the requested records must be relevant to the Owner's stated purpose or reasons, and under no circumstances shall original documents be provided, except for inspection.

3. Association membership lists, shall not be used by any Owner for:

- (a) Any purpose unrelated to an Owner's interest as an Owner;
- (b) The purpose of soliciting 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;
- (c) Any commercial purpose;
- (d) For the purpose of giving, selling, or distributing such Association records to any person; or
- (e) Any improper purpose as determined in the sole discretion of the Board.

4. Any denial of copying or inspection of the Association's membership lists shall be handled in accordance with the provisions of paragraph D.2.e. of this Section.

5. The Board or President may appoint a committee consisting of three (3) persons (at least two (2) of whom shall be Board members) which shall act in lieu of the Board in resolving all disputes regarding Association records.

#### **E. Investment of Reserve Funds:**

If collections from Owners, together with other monies on hand, exceed the funds budgeted for the Association's current annual operations, the Board of Directors may allocate such portion of the anticipated excess funds, as it shall determine, to a Reserve Fund, which shall be invested solely in federally insured accounts, such as certificates of deposit, money market accounts and United States obligations, including Treasury bills and notes. All funds, other than Reserve Funds, shall be

invested in insured money market accounts maintained at institutions that permit check writing on such accounts.

The Board will arrange for preparation of a reserve study, either by one or more Board members, or members of a committee of a Board, or by a third party, at the discretion of the Board, only if necessary based on significant obligations, if any, to maintain, repair, replace and improve portions of the community, based on a physical analysis of the relevant property for which such obligations exist, and which study shall include a proposal for the funding such activities, and sourcing thereof, for approval by the Board or Directors, based on a financial analysis.

The officers and members of the Board of Directors shall make investment decisions in good faith, with the care an ordinarily prudent person in a like position would exercise under similar circumstances, and in a manner the Director or officer reasonably believes to be in the best interest of the Association in accordance with statute.

**F. Procedures for Addressing Disputes Arising Between Owners and the Association:**

Any Owner aggrieved by an Association act or policy, including but not limited to covenant enforcement, must so notify the Association's President within fifteen days of date of the act complained of or the date upon which notification of the policy was given to the Owner. Upon receipt of an Owner's written notice, the Board shall include the matter on the agenda for the next Board meeting, so long as such meeting is no less than fifteen and no more than sixty days from the date of receipt of the Owner's notice. If no Board meeting is scheduled to be held within sixty days, the Board shall set a special meeting for such purpose within such sixty day period. The Secretary shall inform the Owner of the meeting time and place, and also shall inform the Owner of the right to request an opportunity to be heard on the matter. The Owner may designate a representative to speak on the Owner's behalf at the meeting on the matter.

Except for cases involving emergencies or threats to public safety, the Owner may postpone the Owner's opportunity to be heard once at the Owner's convenience, or twice with good cause. If the Owner fails twice to use the hearing opportunity, the Board may proceed with the appropriate self-help or legal action as authorized by the Colorado Common Interest Ownership Act and these Rules. In any case in which a fine may be imposed on an Owner for violation of the Covenants, the Bylaws, or these Rules, the matter shall be heard by an "impartial decision maker" who, for purposes of this provision, shall mean a person or group of persons who have the authority to make a decision regarding enforcement and do not have any direct personal or financial interest in the outcome of the matter. A decision maker shall be deemed to have a personal or financial interest in the outcome if the decision maker will, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association.

All final decisions of the Board or the impartial decision maker, as the case may be, shall be issued in writing within ten (10) business days of the date the matter is heard and shall be enforced in accordance with statute.