



Little Elk Creek Village
Home Owners' Association
Post Office Box 420
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LITTLE ELK CREEK VILLAGE HOME OWNERS ASSOCIATION RECORDS RETENTION AND INSPECTION POLICY

The following Records Retention and Inspection Policy was adopted by the Board of Trustees of Little Elk Creek Village Home Owners Association ("Association"), pursuant to C.R.S. § 38-33.3-209.4 and .5, and 38-33.3-317, at a regular meeting of the Board of Trustees.

Effective Date: July 10, 2025.

NOW, THEREFORE, IT IS RESOLVED that the Association does hereby adopt the following Records Inspection Policy:

The Association must maintain the following:

1. **Permanent Retention.** The Association shall permanently maintain the following documents:¹
 - a. The Declaration and Covenants of the Association, and the reception number or book and page of such Declaration and Covenants, together with all amendments thereto;
 - b. The Association's Articles of Incorporation and Bylaws together with all Amendments and Restatements thereto;
 - c. Minutes of all meetings of its owners and board of trustees, a record of all actions taken by the board of trustees without a meeting, and a record of all actions taken by any committee of the board of trustees with decision-making authority;
 - d. Written communications among, and the votes cast by, board of trustee members that are:
 1. Directly related to an action taken by the board without a meeting pursuant to C.R.S. § 7-128-202; or
 2. Directly related to an action taken by the board without a meeting pursuant to the Association's bylaws;
 - e. Records of executive board or committee actions to approve or deny any requests for design or architectural approval from unit owners;

¹ Pursuant to COLO. REV. STAT. § 38-33.3-317, subsections 1.a-e are identified as records of the Association that are required to be provided to owner members of the Association. Of the records required by Sec. 317, the Association's position is that 1.a-e should be maintained permanently. Subsections 1.f-j are additional records that the Association has determined should be retained permanently but are not required to be provided to owner members by COLO. REV. STAT. § 38-33.3-317.

- f. Resolutions adopted by its board of trustees relating to the characteristics, qualifications, rights, limitations, and obligations of members or any class or category of members;
- g. All deeds, easements and other documents reflecting land ownership or rights held by the Association;
- h. Plat Maps applicable to the Association;
- i. All decrees and court orders concerning the Association's water rights; and
- j. The Association's Architectural Guidelines, and amendments thereto.

2. **Retention for Seven Years or as Required.** The following Records shall be retained for seven years or such longer period as may be required to address a longer applicable statute of limitations,² litigation hold, or other legal requirement as identified by legal counsel to the Association:³

- a. The Association's rules and regulations as adopted by the Board of Trustees;
- b. All documents included in the association's annual disclosures made pursuant to section 38-33.3-209.4, including the responsible governance policies adopted pursuant to section 38-33.3-209.5;
- c. Detailed bookkeeping records of purchase orders, receipts and expenditures affecting the operation and administration of the Association;
- d. Records of claims for construction defects and amounts received pursuant to settlement of those claims;
- e. Financial statements as described in C.R.S. § 7-136-106⁴ and tax returns of the Association;
- f. Financial records sufficiently detailed to enable the Association to comply with C.R.S. § 38-33.3-316 (8) concerning statements of unpaid assessments;
- g. The Association's most recent reserve study, if any;
- h. Current written contracts to which the Association is a party and contracts for work performed for the Association within the immediately preceding two (2) years;⁵
- i. The results of its most recent available financial audit or review;
- j. All written communications to all Association owners generally as owners;⁶

² The longest generally applicable statute of limitations is six years, and so a seven year retention may be longer than required by statute but may be wise for risk management.

³ Pursuant to COLO. REV. STAT. § 38-33.3-317, subsections 2.a-j are identified as the sole records of the Association that are required to be provided to owner members of the Association. Subsections 2.k – m are additional records that are required to be held by the Association pursuant COLO. REV. STAT. § 38-33.3-209.4. Subsections 2. n-p are records that the Association has determined should be retained for the statute of limitations for risk management purposes but are not required to be retained by law.

⁴ Financial statements are required for only 3 years.

⁵ The statute only requires retention for two years and the statute of limitations is only three years for most contract claims, but it is probably wise to retain these records for the seven year period as they may be relevant to another matter.

⁶ The statute only requires retention for three years but the statute of limitations would suggest a longer retention period of seven years.

- k. Its annual financial statements, including any amounts held in reserve for the fiscal year immediately preceding the current annual disclosure;
- l. A list of all Association insurance policies, including, but not limited to, property, general liability, Association director and officer professional liability, and fidelity policies (such list shall include the company names, policy limits, policy deductibles, additional named insured, and expiration dates of the policies listed);
- m. A list of current amounts of all unique and extraordinary fees, assessments, and expenses that are chargeable by the Association in connection with the purchase or sale of a property that are not paid through or included as part of the Owner's annual assessment. For the purposes of this Policy, unique and extraordinary fees include transfer fees, record change fees, and charges for status letters or statements of assessments due.
- n. Records of Insurance claims and accident reports;
- o. Records of closed litigation; and
- p. Periodic snapshots of website content.

3. Retention for Current Use and Public Disclosure.

- a. Its current declaration, covenants, bylaws, articles of incorporation, if it is a corporation, or the corresponding organizational documents if it is another form of entity, rules and regulations, design guidelines, responsible governance policies adopted pursuant to C.R.S. § 38-33.3-209.5, and other policies adopted by the executive board;
- b. A list of the names, electronic mail addresses, and physical mailing addresses of its current trustees and officers;
- c. Its most recent annual report delivered to the secretary of state, if any; and
- d. The date on which its fiscal year commences.

4. Retention for Current Use and Disclosure to Owners

- a. The names of Association owners in a form that permits preparation of a list of the names of all owners and the physical mailing addresses at which the Association communicates with them, showing the number of votes each unit owner is entitled to vote;
- b. Ballots, proxies, and other records related to voting by Association owners for one (1) year after the election, action, or vote to which they relate;
- c. Its fiscal year operating budgets; and
- d. A description of the Association's current assessments, including both regular and special assessments.

5. Availability of Records

- a. Subject to the subsequent paragraphs of this policy, all records maintained by the Association must be available for examination and copying by an Association owner or the owner's authorized agent.

- b. The Association may require unit owners to submit a written request, describing with reasonable particularity the records sought, at least ten (10) calendar days prior to inspection or production of the documents, and may limit examination and copying times to normal business hours or the next regularly scheduled trustees meeting if the meeting occurs within thirty (30) calendar days after the request.
- c. In accordance with C.R.S. § 38-33.3-317(4.5), the Association shall provide access to inspect or copy records within thirty (30) calendar days of receiving a written request submitted via certified mail, return receipt requested, along with any fees required under the Association's adopted records inspection procedures. Notwithstanding the requirement for certified mail, the Association will endeavor to provide records requested within 30 days of receipt of a request, whether sent via certified mail or not.
- d. Notwithstanding any provision of the declaration, bylaws, articles, or rules and regulations of the Association to the contrary, the Association may not condition the *production* of records upon the statement of a proper purpose, although the Association may require that the records be *used* only for a proper purpose as defined below.

6. Consent of Board / Restrictions on Use of Membership List

- a. A membership list or any part thereof may not be used by any person for any purpose unrelated to an owner's interest as an owner without consent of the executive board.
- b. Without the consent of the board of trustees, a membership list or any part thereof may not be:
 - i. Used to solicit money or property unless such money or property will be used solely to solicit the votes of the unit owners in an election to be held by the Association;
 - ii. Used for any commercial purpose; or
 - iii. Sold to or purchased by any person.

7. Records that may be withheld. Records maintained by the Association may be withheld from inspection and copying to the extent that they are or concern:

- a. Architectural drawings, plans, and designs, unless released upon the written consent of the legal owner of the drawings, plans, or designs;
- b. Contracts, leases, bids, or records related to transactions to purchase or provide goods or services that are currently in or under negotiation;
- c. Communications with legal counsel that are otherwise protected by the attorney-client privilege or the attorney work product doctrine;
- d. Disclosure of information in violation of law;
- e. Records of an executive session of the board of trustees; or
- f. Properties other than those of the requesting owner.

8. **Records that Must be Withheld.** Records maintained by the Association are not subject to inspection and copying, and must be withheld, to the extent that they are or concern:
- a. Personnel, salary, or medical records relating to specific individuals; or
 - b. Personal identification and account information of owners and residents, including bank account information, telephone numbers, electronic mail addresses, driver's license numbers, and social security numbers; except that, a member or resident may provide the Association with prior written consent to the disclosure of, and the Association may publish to other members and residents, the person's telephone number, electronic mail address, or both. The written consent must be kept as a record of the Association and remains valid until the person withdraws it by providing the Association with a written notice of withdrawal of the consent. If a person withdraws his or her consent, the Association is under no obligation to change, retrieve, or destroy any document or record published prior to the notice of withdrawal. Written consent and notice of withdrawal of the consent may be, but is not required to be, given by electronic mail.

9. **General Provisions.**

- a. The Association may impose a reasonable charge for the preparation and delivery of documents, which may be collected in advance. Reasonable charges may cover the costs of labor and material, for copies of Association records. The charge may not exceed the estimated cost of production and reproduction of the records, including the costs of copying, mailing, and any necessary special processing.
- b. A right to copy records under this policy includes the right to receive copies by photocopying or other means, including the receipt of copies through an electronic transmission if available, upon request by the unit owner.
- c. The Association is not obligated to compile or synthesize information.
- d. Association records and the information contained within those records shall not be used for commercial purposes.
- e. This Policy shall replace and supersede all previous policies, rules, and regulations regarding the subject matter of this Policy.
- f. 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.

10. **Records Custodian and Format.**

- a. In general, the Association keeps records solely in an electronic format, with the exception of architectural drawings submitted for ACA approval. All records maintained in electronic format shall be delivered upon an owners request also in electronic format.
- b. Earlier records that were maintained in paper format and that are subject to continued retention pursuant to this policy shall be maintained in fire resistant

boxes within the pump house structure of the Association, or such other location as the Board of Trustees may designate by an amendment to this policy.

- c. Pursuant to Article VIII, Section 7 of the Bylaws of the Association as adopted in 1994 and amended in 2021, the Secretary of the Association is the custodian of records. The Board of Trustees hereby appoints the Manager of the Association as the assistant custodian of the records. The Secretary and the Manager shall prepare a procedure for maintenance of the Association's records in one or both of their control under the terms of this policy. All electronic records shall be maintained on the Secretary and Managers' regular business computers with adequate security and backup systems as may be customary in the Association management industry.

The undersigned hereby certifies that the foregoing resolution was adopted and made a part of the minutes of the meeting of the Board of Trustees of the Association conducted on July 9, 2025.

Little Elk Creek Village Home Owners Association



Secretary