

North of Nell

BOARD OF DIRECTORS CONFLICT OF INTEREST STATEMENT

The fiduciary duty of a community association board member is, in essence, two separate levels of performance. They are:

1. The duty to perform the responsibilities of a board member, in a manner each director and officer believes to be in the best interest of the association and with such care, including reasonable inquiry, as a prudent person in a like position would ordinarily use under similar circumstances. This standard of care has also been adopted in most jurisdictions and is often cited as the "prudent person standard" or the "business judgment rule." Stated succinctly directors owe a duty of care to the association and its members and will not be liable for mere mistakes in judgment so long as they were acting in good faith and had a rational basis for their decision.
2. The duty of undivided loyalty to the association and its membership. This higher standard of performance is breached when a director acts in his/her own interest or with a conflicting interest.

Thus, a director not only has to perform director duties in good faith and in a manner each director believes to be in the best interest of the association, but also the director owes a duty of undivided loyalty and honesty and must, at all times, avoid any conflict of interest or self-dealing.

Colorado law provides that a person who serves as a board member for a non-profit corporation such as a homeowner association, has a duty to act prudently in good faith and in the association's best interest. There are times, however, when a board member may act to benefit both the association and him/herself. To prevent board members from abusing their position, but still allowing non-profits to take advantage of good business deals that their board members may be able to offer, Colorado statutes allow a board member to do business with the association but require conditions to be met to insure that the association is treated fairly.

In order to act within the statute, the board must first determine whether there is a conflict of interest. Colorado's non-profit statutes define a "conflicting interest transaction" as a contract, transaction or other financial relationship between the nonprofit corporation and (a) a board member, (b) a party related to a board member, or (c) an entity or company in which the board member has a financial interest. A board member need not own a company for there to be a conflicting interest transaction. The board member may own only a small share of the company or may merely work for the company but stand to receive a commission if the company is hired.

Board members are expected to announce any conflict, or appearance of a conflict of interest to fellow members. If the board then determines that a board member has a conflict of interest, the association may still enter into the contract if:

1. The details of the financial relationship between the association and the conflicted board member are disclosed to the board and a majority of the disinterested board members vote in good faith to accept the contract. The conflicted board member may vote, but there

must be a majority without his vote.

OR

2. The details of the financial relationship between the association and the conflicted board member are disclosed to the owners and the owners vote to approve the contract.

OR

3. The contract is fair to the association. This condition is only ultimately known after-the-fact by the decision of a court. Therefore, while the board can make a decision that a conflict of interest contract is "fair," that decision may be overturned by a court.

The board may accept a director's offer by satisfying any one of the above criteria. Before choosing which of the three criteria to use, the board should give consideration to the appearance of its decision and the political consequences.

In light of these facts, the Board of Directors agrees that conflicts of interest may be allowed if all of the following criteria are met:

1. The conflict of interest results in better pricing for the association when weighted against competitive bidding submitted by like contractors for the same work,

2. The Board shall disclose all the details and carefully document the conflict disclosure in the minutes. If the transaction is later questioned, the board can refer owners back to the minutes and demonstrate that the conflict was fully disclosed, and that the board acted properly by a vote of a majority of the disinterested board members at a board meeting.

3. Once the conflict has been disclosed and while the board is discussing whether the contract should be adopted, the conflicted board member shall be available to answer questions about the conflict and the contract.

4. The conflicted board member shall recuse him/herself from voting, and the conflicted board member shall leave the meeting during the member discussion and the vote.

All director complaints of covenant violations (which includes ACC rule violations) shall be made to the HOA office to be handled in the same manner as any complaint of covenant violation from any resident. No director who was the complaining witness, will participate in the deliberations or decisions by the Board of Directors regarding that complaint, unless otherwise authorized by the Board of Directors. No violation of this statement shall invalidate, affect or impair the Association's enforcement of its covenants, architectural control provisions, rules, or any decision by the Board of Directors.

I have read and agree to abide by the terms of this statement.

Print name
Signature

Date



**NORTH OF NELL CONDOMINIUM ASSOCIATION
POLICIES AND PROCEDURES REGARDING CONDUCT OF
MEETING**

The Association conducts meeting of the Members and the Board of Directors in accordance with the Condominium Declaration for The North of Nell Association and any amendments thereto, the Bylaws of The North of Nell Association, the Colorado Revised Nonprofit Corporation Act and applicable principles of common Law. Roberts Rules of Order may be followed at such meeting.

The Association expects that the owners will conduct themselves in a courteous and non-adversarial manner in all meetings and provide succinct constructive comments at all meetings.

North of Nell Condominium Association
By: _____
President

North of Nell Condominium Association Contractor/Construction Rules and Regulations

The North of Nell is a wood structure building constructed between 1968 and 1969. The North of Nell was constructed in accordance with building codes, practices, and structural guidelines of that time period. Due to changes in building materials and design standards, some new products or applications may not be appropriate to the North of Nell or may require structural reinforcement or other modifications. All remodels require code upgrades and building permits if plumbing or electrical changes are made. Permits for even minor changes in residential or commercial units can take up to eight weeks from the time they are applied for so proper timing should be allocated for. NO work will be permitted without the issuance of a proper building permit.

The following Rules and Regulations concerning unit interior construction and remodeling are intended to briefly explain various policies and procedures of the North of Nell adopted by the Board of Managers and dictated by the Association's Declarations and Bylaws. These Rules and Regulations are intended to give contractors, decorators, subcontractors and homeowners guidance as to the scope of a homeowner's ownership of property and authority, and as to how remodel reconstruction work should be conducted. The Board's intent is to assist decorators, contractors and homeowners in completing desired improvements and to provide guidelines to maintain, preserve, enhance and protect the property values and to promote harmonious community living. The Board encourages owners to upgrade in a first rate quality condition appropriate to the rental rates charged and the expectations of our rental customers. The Board reserves the right to impose penalties or fines if infractions to these Rules and Regulations occur. The North of Nell's General Manager is hereby authorized to act as Managing Agent for the purpose of enforcement of these Rules and Regulations.

Requirements for Building Permits

1. The Board of Managers must approve any contemplated construction or remodeling or any unit which in any way affects the general or limited common elements (i.e. bearing walls, windows, structural changes, combination of units, patios, decks, balconies). Requests for approval must be in writing and submitted to the Managing Agent at least three weeks prior to any regularly scheduled Board of Directors meeting. A copy of submitted plans to the Building Department must be delivered to the General Manager. Any contemplated installation of mechanical, electrical units, Jacuzzi baths, and new fireplaces must also be approved by the Board of Managers.

2. There are many utility chases, pipes, and sprinkler and alarm system impediments from floor to floor and wall to wall. No owner shall assume that a non-bearing wall can be removed, changed or altered without discussion with the Managing Agent. In most

cases, a test hole(s) may be required. The Board of Managers must approve any changes to the alteration of utility service and any expense for those changes will be charged to the unit being remodeled.

3. Physically altering walls, ceilings or floors between units involve questions of Colorado condominium, subdivision, and platting laws because ceilings, walls and floors are common elements, owned by all condominium owners, and they provide the bounds of individual units as described on approved plats. Not all walls are common elements; one must examine the plat to determine which are. Generally, all walls between units and all bearing walls are common elements. Physically combining units also involve building code and safety issues. Utilities and plumbing run through the walls, floors and ceilings. The structural integrity of a building depends on the soundness of those physical elements. Any structural modifications desired must be engineered by a licensed structural engineer with seal, and will also have to be approved by the Association's structural engineer, at the expense of the submitting owner. The approval of the Association engineer will not constitute the required approval of the other owners and the Board.

4. All decorators, contractors, subcontractors, and other trades people or work persons shall provide proof of insurance and must be properly licensed in the City of Aspen and the State of Colorado. The homeowner is solely responsible for damage or loss to the general common elements or other unit interiors or personal property caused by the owner's decorators, plumbers, contractors, electricians, etc. It is the responsibility of the homeowner to insure that adequate and proper insurance including contractor's liability and workers' compensation insurance be confirmed with each particular contractor.

5. With any installation of a hard flooring surface, (tile, wood, slate, etc.), the installation requires a ½ inch or better high density cork underlayment or an acoustamat type product to serve as a sound barrier. Any such installation or replacement of carpet requires the screwing down of the plywood and joist system to help eliminate any squeaky sounds.

Guidelines After Permit Has Been Obtained

1. All Construction work, other than emergencies, shall be performed between normal business hours unless prior written approval from the Managing Agent has been obtained. Performance of construction work between December 15 and April 15, and June 15 and September 15 may be strictly limited, or not allowed at all. In the event of an accidental emergency, i.e. (fire, water damage, etc.) special arrangements may be granted by the Board to mitigate any possible further damage to a unit or possible loss of rents.

2. Parking in the garage is not guaranteed. The Managing Agent will make arrangements to accommodate space for various sub-contractors but there is no guarantee of any space.

3. Contractors shall take reasonable care to insure that noise, including radios and music, construction, painting and fumes, and other such activities do not disturb homeowners, tenants or occupants of other units. Contractors are responsible for damage and cleaning of common areas. Owners will be charged for any staff time needed for common area cleaning.

4. Sinks, toilets and drains may not be used to dispose of paint, drywall paste, tile grout mix and other liquid or solid construction materials. Waste openings must be sealed prior to demolition. None of these materials is emptied on to the lawns, flower beds or general premises. Contractors are responsible for removing these items from the premises for proper disposal in accordance with environmental guidelines. Homeowners will be responsible for all costs relating to clearing drains and sewer systems, cleaning fixtures, or any other expense related to the failure to observe this rule.

5. PETS ARE ABSOLUTELY NOT PERMITTED IN THE BUILDING INCLUDING THE GARAGE.

6. The North of Nell dumpster is not adequate for construction debris including trash, carpet and the like. Contractors are responsible for removing all construction debris and trash from the property. Homeowners will be responsible for all costs related to construction debris removal not completed by the contractor to the satisfaction of the Managing Agent. Should the contractor require additional trash dumpsters, the Managing Agent shall determine the installation and removal dates, frequency of trash removal, and the location of the Dumpster.

7. All walkways and hallways must be kept clear of trash, tools, furniture and building supplies at all times. Balconies and patios need to present a neat and well-maintained appearance. Construction materials or unit contents shall not be stored on balconies between November 20 and April 15, and June 1 and September 20.

8. Any water or electrical shutoffs must be requested 48 hours in advance, except in the case of an emergency. If there is any loss of glycol in the heating system or any introduction of air, the contractor will be responsible for the time and materials required to purge the lines of air and the introduction of glycol.

9. The Managing Agent through the action of Board has the authority to have any construction project shut down if in non-compliance with the aforementioned Rules and Regulations. The Board shall have the authority to impose fines and to assess any legal costs incurred by the Association against the offending homeowner, as a result of any such non-compliance.



**North of Nell Condominium Association
Policy for Addressing Disputes**

Disputes between the Association and an Owner will attempt to be amicably and expeditiously resolved by the board and the Association manager. In the event that a dispute cannot be resolved, the association and the Owner will seek resolution to the dispute through mediation.



**NORTH OF NELL CONDOMINIUM ASSOCIATION
POLICIES AND PROCEDURES REGARDING INSPECTION AND COPYING
OF ASSOCIATION RECORDS BY UNIT OWNERS**

It is policy of The North of Nell Condominium Association that the Members of the Association are entitled to inspect and copy Association records in accordance with procedures and requirements set forth in the Colorado Revised Non-Profit Corporation Act and the Colorado Common Interest Ownership Act. Such rights include the following:

1. Sale of a Unit. Copies of all information and documentation pertaining to the sale of a unit, as required by C.R.S. § 38-33.3-223, will be made available to a unit owner at no additional expense.

2. Copies of Records. Records required to be kept pursuant to C.R.S. § 38-33.3-317, including all financial and other records, shall be made reasonably available for examination and copying by any Member and such Member's authorized guests.

3. Inspection of Records. Records of the Association are available for inspection by Owners during normal weekly business hours, 9:00 a.m. to 4:00 p.m., at the North of Nell's main office upon written request. The written request must identify the records to be inspected with specificity and state the purpose of the inspection. Inspection of the records will be allowed only for a legitimate purpose as reasonably determined by the Board. At the discretion of the Board, certain records may only be inspected in the presence of an employee or a Board member. Any records properly requested shall be made available to the member during normal business hours within five business days. No Association records may be removed. Due to their sensitive nature, privacy considerations or attorney-client confidentiality certain documents will not be available for inspection without the prior written approval of the Board, which approval may be withheld in the Board's reasonable discretion. Documents requiring the prior approval of the Board include:

(a) Personal Records; and

(b) Litigation Files; and

(c) Memoranda, working papers, drafts, investigations and reports that have not been formally approved by the Board; and

(d) Individual Owner's accounts with the Association

4. Fees. A fee, not to exceed the Association's actual cost, may be charged for copies of Association records, depending upon the nature and extent of the request. Such fee may include the cost of photocopies, as well as any cost associated with time spent assembling documents and making copies

To assure the privacy of Members of the Association, the Association generally requires that requests be in writing, and clearly specify the documents requested. Any designation of an authorized agent shall also be in writing and signed by the Member for whom such person is authorized to act.

North of Nell Condominium Association

By: _____

President

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MEMORANDUM

To: North of Nell Staff
From: The Board of Directors
Prepared by: Maria Morrow, Oates, Knezevich, Gardenswartz, Kelly & Morrow, P.C.
Re: Document Requests from Members
Date: October 21, 2011

We understand that staff has been receiving requests for Association documents, some of which may not be proper requests. We appreciate your efforts to respond to members quickly and thoroughly. However, we also understand that requests can disrupt the day-to-day business of the Association. The purpose of this Memorandum is to provide you with guidance and direction as to how to handle requests.

The right of members to request association records is outlined in Colorado Revised Statutes § 38-33.3-317. A copy of the statute is enclosed, for your convenience. Although North of Nell is not generally subject to the Colorado Common Interest Ownership Act, this provision on requests for association documents does apply.

Members must submit requests in writing, explaining with particularity the documents requested and stating the purpose for which documents are requested. You should not accept verbal requests, but should ask the member to put the request in writing. Members are not allowed to direct that their requests be acted upon immediately. The association is allowed five business days to make properly requested documents available. The purpose of the five days is to allow staff to get direction from the Board, if necessary. For example, if staff has concerns about whether the request is proper, or needs direction on how to put together the materials, etc., staff should seek direction from the Board Secretary. A request may be improper if, for example, it asks staff to create documents for a member -- rather than simply make documents available. Members may not direct staff to draft spreadsheets, prepare mailings, etc.

Members of the Board of Managers may, from time to time, request documents unrelated to the business of the Board. When such requests are made, they should be treated the same as any other member request.

Enclosure: C.R.S. § 38-33.3-317

West's Colorado Revised Statutes Annotated

Title 38. Property--Real and Personal (Refs & Annos)

Real Property

Interests in Land

Article 33.3. Colorado Common Interest Ownership Act (Refs & Annos)

Part 3. Management of the Common Interest Community (Refs & Annos)

C.R.S.A. § 38-33.3-317

§ 38-33.3-317. Association records

Currentness

(1)(a) The association shall keep financial records sufficiently detailed to enable the association to comply with section 38-33.3-316(8) concerning statements of unpaid assessments.

(b) The association shall keep as permanent records minutes of all meetings of unit owners and the executive board, a record of all actions taken by the unit owners or executive board by written ballot or written consent in lieu of a meeting, a record of all actions taken by a committee of the executive board in place of the executive board on behalf of the association, and a record of all waivers of notices of meetings of unit owners and of the executive board or any committee of the executive board.

(c)(I) The association or its agent shall maintain a record of unit owners in a form that permits preparation of a list of the names and addresses of all unit owners, showing the number of votes each unit owner is entitled to vote.

(II) Notwithstanding section 38-33.3-117(1)(I), this paragraph (c) shall not apply to a unit, or the owner thereof, if the unit is a time-share unit, as defined in section 38-33-110(7).

(d) The association shall maintain its records in written form or in another form capable of conversion into written form within a reasonable time.

(2)(a) Except as otherwise provided in paragraph (b) of this subsection (2), all financial and other records shall be made reasonably available for examination and copying by any unit owner and such owner's authorized agents.

(b)(I) Notwithstanding paragraph (a) of this subsection (2), a membership list or any part thereof may not be obtained or used by any person for any purpose unrelated to a unit owner's interest as a unit owner without consent of the executive board.

(II) Without limiting the generality of subparagraph (I) of this paragraph (b), without the consent of the executive board, a membership list or any part thereof may not be:

(A) 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;

(B) Used for any commercial purpose; or

(C) Sold to or purchased by any person.

(3) The association may charge a fee, which may be collected in advance but which shall not exceed the association's actual cost per page, for copies of association records.

(4) As used in this section, "reasonably available" means available during normal business hours, upon notice of five business days, or at the next regularly scheduled meeting if such meeting occurs within thirty days after the request, to the extent that:

- (a) The request is made in good faith and for a proper purpose;
- (b) The request describes with reasonable particularity the records sought and the purpose of the request; and
- (c) The records are relevant to the purpose of the request.

(5) In addition to the records specified in subsection (1) of this section, the association shall keep a copy of each of the following records at its principal office:

- (a) Its articles of incorporation, if it is a corporation, or the corresponding organizational documents if it is another form of entity;
- (b) The declaration;
- (c) The covenants;
- (d) Its bylaws;
- (e) Resolutions adopted by its executive board relating to the characteristics, qualifications, rights, limitations, and obligations of unit owners or any class or category of unit owners;
- (f) The minutes of all unit owners' meetings, and records of all action taken by unit owners without a meeting, for the past three years;
- (g) All written communications within the past three years to unit owners generally as unit owners;
- (h) A list of the names and business or home addresses of its current directors and officers;
- (i) Its most recent annual report, if any; and
- (j) All financial audits or reviews conducted pursuant to section 38-33.3-303(4)(b) during the immediately preceding three years.

(6) This section shall not be construed to affect:

- (a) The right of a unit owner to inspect records:
 - (I) Under corporation statutes governing the inspection of lists of shareholders or members prior to an annual meeting; or
 - (II) If the unit owner is in litigation with the association, to the same extent as any other litigant; or
- (b) The power of a court, independently of this article, to compel the production of association records for examination on proof by a unit owner of proper purpose.

(7) This section shall not be construed to invalidate any provision of the declaration, bylaws, the corporate law under which the association is organized, or other documents that more broadly defines records of the association that are subject to inspection and copying by unit owners, or that grants unit owners freer access to such records; except that the privacy protections contained in paragraph (b) of subsection (2) of this section shall supersede any such provision.

Credits

Added by Laws 1991, H.B.91-1292, § 1, eff. July 1, 1992. Amended by Laws 2005, Ch. 308, § 18, eff. Jan. 1, 2006; Laws 2006, Ch. 266, § 13, eff. May 26, 2006.



**RESOLUTION
OF THE
NORTH OF NELL CONDOMINIUM ASSOCIATION
REGARDING THE INVESTMENT OF RESERVE POLICY**

- SUBJECT:** Adoption of an Investment Policy for the reserves of the Association.
- PURPOSE:** To Adopt a policy for the investment of reserve funds.
- AUTHORITY:** The Declarations, Articles of Incorporation and Bylaws of the Association and Colorado law.
- EFFECTIVE DATE:** _____
- RESOLUTION:** The Association hereby adopts a Policy as follows:
1. Scope. In order to properly maintain areas in the Community that are the Responsibility of the Association, to comply with state statutes, to manage reserve funds, and to protect the market value of Owners' homes and livability in the Community, the Board of Managers determines that it is necessary to have policies and procedures for the investment of reserve funds.
 2. Purpose of the Reserve Fund. The purpose of the reserve fund shall be to responsibly fund and finance the projected repair and replacement of those portions of the community that the Association is responsible for and for such other funding as the Board of Managers may determine. The portions of the community that the Association is responsible for typically have limited but reasonably predictable useful lives.
 3. Investment of Reserves. The Board of Managers of the Association shall invest funds held in the reserve fund accounts to generate revenue that will accrue to the reserve fund accounts balance pursuant to the following goals, criteria and policies:
 - (a) Safety of Principal. Promote and ensure the preservation of the reserve fund's principal.

(b) Liquidity and Accessibility. Structure maturities to ensure availability of assets for projected or unexpected expenditures.

(c) Minimal Costs. Investments costs (redemption fees, commissions, and other transactional costs) should be minimized.

4. Limitation on Investments. Unless otherwise approved by the Board, all investments will be FDIC (Federal Deposit Insurance Corporation) insured and/or guaranteed by the United States Government.

5. Independent Professional Investment Assistance. The Board of Managers of the association may hire a qualified investment counselor to assist in formulating a specific investment strategy.

6. Review and Control. The Board shall review reserve fund investments Periodically to ensure that the funds are receiving competitive yields and shall make prudent adjustments as needed.

7. Standard of Care. The officers and members of the Board of Managers 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 interests of the Association in accordance with the Colorado Revised Nonprofit Corporation act.

8. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declarations shall have the same meaning herein.

9. Supplements to Law. The provisions of this Resolution shall be in addition to and supplement of the terms and provisions of the Declarations and the law of the State of Colorado governing the community.

10. Deviations. The Board may deviate from the procedures set forth in this Resolution if in its sole discretion such deviation is reasonable under the circumstances.

11. Amendment. This Procedure may be amended from time to time by the Board of Manager

**PRESIDENT'S
CERTIFICATION:**

The undersigned, being the President of the Association certifies that the foregoing resolution was adopted by the Board of Managers of the Association At a duly called and held meeting of the Board of Managers held on _____ and in witness thereof, the undersigned has subscribed his/her name.

**NORTH OF NELL CONDOMINIUM
ASSOCIATION**

By: _____
President



North of Nell Condominium Association Policy Statement

Parking of Vehicles in the Parking Garage of the Building

As provided by and to implement the provisions of the Declaration and By-Laws of the North of Nell Condominium Association. The Board of Managers of the Association hereby adopts this Policy governing the use of parking spaces in the Parking Garage and prescribes and promulgates the following Rules and Regulations for use of the Parking Garage.

Available parking spaces

The inventory of the garage parking consists of 55 regular size access spaces, 10 small vehicle or limited access spaces and 4 thirty minute check in, delivery, servicemen or large vehicle spaces for a total of 69 spaces as required by the Declaration.

Compliance with Laws and Regulations

Vehicles parked in the Parking Garage must comply with all applicable laws and regulations for the health and safety of the Association's employees, owners, and occupants of the building, the protection of personal property, the control of noise, and the control or elimination of noxious and dangerous gases emitted by vehicles.

No motor vehicle regardless of size, description or use thereof, shall be permitted in the basement level of the Building for any period of time unless: (i) the vehicle meets all the requirements to operate on public streets and highways, (ii) the vehicle has been inspected for exhaust emissions and complies with applicable laws, regulations, and emission standards for that vehicle, (iii) the owner of the vehicle shall have proof of the existence of insurance coverage for the vehicle covering liability for property damage and personal injury in the amounts required by law, and (iv) the vehicle is, and shall be operable and able to be moved under its own power.

The Manager is authorized to deny access to the parking garage by any vehicle which is not authorized to use the parking garage or which is not in compliance with these Rules and Regulations. Further, the Manager is authorized to cause the removal of any vehicle from the parking garage if the vehicle is not authorized to use the parking garage or is not in compliance with these Rules and regulations. Any such removal shall be at the vehicle owner's expense. Before any such removal, the Manager should make an attempt to notify the owner of the vehicle and request that the owner remove the vehicle. However, if the owner is unknown, unavailable, or if prior notification to the vehicle owner is not possible or practicable under the circumstances, such notification shall not be required prior to removal. The Manager is authorized to hire a towing service or other provider to have the vehicle towed or removed from the parking garage at the owner's expense. All towing, storage or other expenses incurred as a

result of any such removal must be fully paid or reimbursed by the vehicle owner prior to the release of the vehicle by the towing company or storage provider.

Access to Garage parking by Owners, Tenants and Invitees

As required by the Declaration, each condominium owner is entitled to park at least one vehicle in the parking garage. Accordingly, any owner shall be entitled to use at least one parking space for the purpose of parking a motor vehicle for an unlimited period. As further authorized by the Declaration, 42 parking spaces are set apart for the exclusive use of the owners of the residential apartment units and their guests, tenants and invitees. In addition, 18 spaces have been historically allocated for use by commercial unit owners, their tenants and business invitees. The remaining spaces have been used by or for building management, maintenance and delivery services or other such purposes. Under normal circumstances, an adequate number of parking spaces are available for the occasional and temporary use of the guests, tenants, and invitees of an owner without conflicting with the parking requirements of other owners. However, during some peak usage periods, which occasionally occur during the summer months and holiday periods, the number of parking spaces available in the garage may not be adequate to accommodate the simultaneous use of the parking spaces in the parking garage by owners, their tenants, guests and invitees. When the Manager shall determine that any such peak usage condition exists, or has the potential to exist, the Manager is authorized to restrict the usage of the parking spaces in the garage in such manner as the Manager may deem appropriate so as to assure that each owner shall have access to at least one parking space if so required. If the Manager deems such action necessary to accomplish this objective, the Manager is also authorized to remove from the parking garage any vehicles owned by an owner, or owned by the owner's guests, tenants or invitees, in excess of the one vehicle permitted each owner by the Declaration. If necessary, the Manager is authorized to hire a towing service or other provider to tow or remove a vehicle from the parking garage. Any expense incurred with respect to the removal of a vehicle owned by an owner or by a guest, tenant or invitee of an owner shall be borne by the owner and shall be assessed and charged to the owner's account. The Manager should make a reasonable effort to notify an owner before removing any such vehicle for which the owner is responsible in order to permit the voluntary removal of the vehicle by the owner or the guests, tenants or invitees of the owner, but if such prior notification is not possible or practicable under the circumstances, such prior notification shall not be required in order to accomplish the removal of the vehicle(s) from the parking garage. All towing, storage or other expenses incurred by the Association as a result of any such removal must be fully paid or reimbursed to the Association prior to the release of the vehicle by the towing company or storage provider.

Assessment of Charges for Expenses Incurred in the enforcement of this Parking Policy

All expenses incurred by the Association in the enforcement of this policy shall be the sole responsibility of the vehicle owner. However, if the owner involved is an owner of a North of Nell condominium unit, or is the guest, tenant or invitee of such owner, such expenses shall be the responsibility of the unit owner and the Association shall recover such expense through a special assessment to the unit owner.

Communication of the Parking Policy

The Board of Managers instructs the Manager of the Association to take reasonable steps to notify all of the owners of the association and their guests, tenants and invitees of this policy. A copy of this Policy shall be available in the Association's office and shall be posted in the Parking Garage. The Manager is

authorized and instructed to enforce this Policy as necessary to achieve compliance with the intent and purpose thereof. This Policy shall be effective immediately upon adoption.

Adopted by Resolution of the Board of Managers on ___ day of _____, 2011.

Quentin Durward, President



**RESOLUTION
OF THE
NORTH OF NELL CONDOMINIUM ASSOCIATION
REGARDING RESERVE STUDY POLICY**

SUBJECT: Adoption of a Policy related to when the Association will have a reserve study prepared, whether there is a funding plan for the work recommended by the reserve study, and whether the reserve study will be based on a physical analysis

PURPOSE: To provide for the creation and review of a reserve study and for the funding of the work recommended by the reserve study.

AUTHORITY: The Declarations, Articles of Incorporation and Bylaws of the Association and Colorado law.

**EFFECTIVE
DATE:** _____

RESOLUTION: The Association has conducted a baseline reserve study, which included both a physical analysis as follows:

The physical analysis includes a component inventory identifying those portions of the community the Association is obligated to maintain, including the useful life of each component.

A condition assessment of each component on the component inventory by on-site inspection.

Estimates of the remaining useful life and replacement costs of each component.

The financial analysis includes:

An analysis of the funds currently held in the Association's reserve fund in relation to the expected needs of the Association per the reserve study.

A future funding plan to meet the requirements of the reserve study.

The update of the reserve Study includes:

Every year, the Association shall cause the reserve study, including both the physical and financial analysis, to be evaluated by the Association's Manager to determine increases in replacement costs and decreases in remaining useful lives of the components of the reserve study to adequately address changes to be made to the reserve study. In addition, the Association shall periodically have the reserve study evaluated and updated by a reserve study specialist. The update may be done either with or without a site visit.

In determining whether a site visit is required in any given year in order to update the reserve study, the Association shall take into consideration the following:

Any special or extraordinary issues facing the community such as an increase in roof leaks or maintenance issues

Increased deterioration in any components beyond normal wear and tear

Economic changes that affect the replacement cost of any component

Whether routine maintenance of the components has been kept up with

In determining whether a reserve specialist shall evaluate and update to the reserve study in any give year, the association shall consider the following:

Whether the Association added or replaced any significant common elements.

Whether the common elements sustained extreme wear and tear from harsh weather or lack of maintenance.

Whether local inflation for materials and labor has substantially increased.

Whether the association has deferred any replacements or moved up replacements from the scheduled dates of replacement.

Whether reserve income and expenses have occurred as planned.

Whether there have been any new technological changes or improved product development that might result in a component change.

The Reserve study will be funded through regular and special assessments levied by the Association.

The reserve fund shall be funded at a level that shall be determined from time-to-time by the Board of Managers.

The undersigned, being the President of the Association, certifies that the foregoing Resolution was adopted by the Board of Managers of the association, at a duly called and held meeting of the Board of Managers of the association, at a duly called and held meeting of the board of Managers on _____

And in witness thereof, the undersigned has subscribed his/her name.

NORTH OF NELL CONDOMINIUM ASSOCIATION

By _____, President

Pet Policy

Owners are only allowed to have pets. Owners must notify management and acknowledge the Association's Pet Policy at registration. The only exception to a rental guest having a dog is with an authorized, conforming and licensed Disability Act certificate. Commercial tenants are at the discretion of the Landlords.

Owners must clean up excrement of their pets

Pets must be on leash at all times

Barking, noise and unruly behavior are forbidden at all times

Pets cannot be left unattended in common areas

24-34-803. Rights of persons with assistance dogs. (1) A person with a disability, including but not limited to a blind, visually impaired, deaf, hard of hearing, or otherwise physically disabled person, has the right to be accompanied by an assistance dog specially trained for that person without being required to pay an extra charge for the assistance dog in or on the following places and subject to the conditions and limitations established by law and applicable alike to all persons:

(a) Public streets, highways, walkways, public buildings, public facilities and services, and other public places;

(b) Any place of public accommodation or on public transportation services; and

(c) Any housing accommodation offered for rent, lease, or other compensation in the state.

(2) A trainer of an assistance dog has the right to be accompanied by an assistance dog that the trainer is in the process of training without being required to pay an extra charge for the assistance dog in or on the following places:

(a) Public streets, highways, walkways, public buildings, public facilities and services, and other public places; and

(b) Any place of public accommodation or on public transportation services.

(3) (a) An employer shall not refuse to permit an employee with a disability who is accompanied by an assistance dog to keep the employee's assistance dog with the employee at all times in the place of employment. An employer shall not fail or refuse to hire or discharge any person with a disability, or otherwise discriminate against any person with a disability, with respect to compensation, terms, conditions, or privileges of employment because that person with a disability is accompanied by an assistance dog specially trained for that person.

(b) An employer shall make reasonable accommodation to make the workplace accessible for an otherwise qualified person with a disability who is an applicant or employee and who is accompanied by an assistance dog specially trained for that person unless the employer can show that the accommodation would impose an undue hardship on the employer's business. For purposes of this paragraph (b), "undue hardship" means an action requiring significant difficulty or expense.

(4) The owner or the person having control or custody of an assistance dog or an assistance dog in training is liable for any damage to persons, premises, or facilities, including places of housing accommodation and places of employment, caused by that person's assistance dog or assistance dog in training. The person having control or custody of an assistance dog or an assistance dog in training shall be subject to the provisions of section 18-9-204.5, C.R.S.

(5) A person with a disability is exempt from any state or local licensing fees or charges that might otherwise apply in connection with owning an assistance dog.

(6) The mere presence of an assistance dog in a place of public accommodation shall not be grounds for any violation of a sanitary standard, rule, or regulation promulgated pursuant to section 25-4-1604, C.R.S.

(7) As used in this section, unless the context otherwise requires:

(a) "Assistance dog" means a dog that has been or is being trained as a guide dog, hearing dog, or service dog. Such terms are further defined as follows:

(i) "Guide dog" means a dog that has been or is being specially trained to aid a particular blind or visually impaired person.

(II) "Hearing dog" means a dog that has been or is being specially trained to aid a particular deaf or hearing impaired person.

(III) "Service dog" means a dog that has been or is being specially trained to aid a particular physically disabled person with a physical disability other than sight or hearing impairment.

(b) "Disability" has the same meaning as set forth in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12102 (2), as amended.

(c) "Employer" has the same meaning as set forth in the federal "Americans with Disabilities Act of 1990", 42 U.S.C. sec. 12111 (5), as amended.

(d) "Housing accommodations" means any real property or portion thereof that is used or occupied, or intended, arranged, or designed to be used or occupied, as the home, residence, or sleeping place of one or more persons but does not include any single family residence, the occupants of which rent, lease, or furnish for compensation not more than one room in that residence.

(e) "Places of public accommodation" means the following categories of private entities:

(I) Inns, hotels, motels, or other places of lodging, except establishments located within buildings actually occupied by the proprietor as the proprietor's residence containing five or fewer rooms for rent or hire;

(II) Restaurants, bars, cafeterias, lunchrooms, lunch counters, soda fountains, casinos, or other establishments serving food or drink, including any such facility located on the premises of any retail establishment;

(III) Gasoline stations or garages;

(IV) Motion picture theaters, theaters, billiard or pool halls, concert halls, stadiums, sports arenas, amusement or recreation parks, or other places of exhibition or entertainment;

(V) Auditoriums, convention centers, lecture halls, or other places of public gathering;

(VI) Bakeries, grocery stores, clothing stores, hardware stores, shopping centers, or other sales or retail establishments;

(VII) Laundromats, dry cleaners, banks, barber shops, beauty shops, travel services, shoe repair services, funeral parlors, offices of accountants or attorneys-at-law, pharmacies, insurance offices, professional offices of health care providers, hospitals, or other service establishments;

(VIII) Terminals, depots, or other stations used for specified purposes;

(IX) Museums, libraries, galleries, or other places of public display or collection;

(X) Parks, zoos, or other places of recreation;

(XI) Nursery, elementary, secondary, undergraduate, or graduate schools or other places of education;

(XII) Day care centers, senior citizen centers, homeless shelters, food banks, adoption agencies, or other social service center establishments;

(XIII) Gymnasiums, health spas, bowling alleys, golf courses, or other places of exercise or recreation;

(XIV) Any other establishment or place to which the public is invited; or

(XV) Any establishment physically containing or contained within any of the establishments described in this paragraph (e) that holds itself out as serving patrons of the described establishment.

(f) "Public transportation services" means common carriers of passengers or any other means of public conveyance or modes of transportation, including but not limited to

airplanes, motor vehicles, railroad trains, motor buses, streetcars, boats, or taxis.

(g) "Trainer of an assistance dog" means a person who is qualified to train dogs to serve as assistance dogs.

[Colorado Hotel and Lodging Association - Home](#)

U.S. Department of Justice
Civil Rights Division
Disability Rights Section



Service Animals

The Department of Justice published revised final regulations implementing the Americans with Disabilities Act (ADA) for title II (State and local government services) and title III (public accommodations and commercial facilities) on September 15, 2010, in the Federal Register. These requirements, or rules, clarify and refine issues that have arisen over the past 20 years and contain new, and updated, requirements, including the 2010 Standards for Accessible Design (2010 Standards).

Overview

This publication provides guidance on the term “service animal” and the service animal provisions in the Department’s new regulations.

- Beginning on March 15, 2011, only dogs are recognized as service animals under titles II and III of the ADA.
- A service animal is a dog that is individually trained to do work or perform tasks for a person with a disability.
- Generally, title II and title III entities must permit service animals to accompany people with disabilities in all areas where members of the public are allowed to go.

How “Service Animal” Is Defined

Service animals are defined as dogs that are individually trained to do work or perform tasks for people with disabilities. Examples of such work or tasks include guiding people who are blind, alerting people who are deaf, pulling a wheelchair, alerting and protecting a person who is having a seizure, reminding a person with mental illness to take prescribed medications, calming a person with Post Traumatic Stress Disorder (PTSD) during an anxiety attack, or performing other duties. Service animals are working animals, not pets. The work or task a dog has been trained to provide must be directly related to the person’s disability. Dogs whose sole function is to provide comfort or emotional support do not qualify as service animals under the ADA.

This definition does not affect or limit the broader definition of “assistance animal” under the Fair Housing Act or the broader definition of “service animal” under the Air Carrier Access Act.

Some State and local laws also define service animal more broadly than the ADA does. Information about such laws can be obtained from the State attorney general’s office.

Where Service Animals Are Allowed

Under the ADA, State and local governments, businesses, and nonprofit organizations that serve the public generally must allow service animals to accompany people with disabilities in all areas of the facility where the public is normally allowed to go. For example, in a hospital it would be inappropriate to exclude a service animal from areas such as patient rooms, clinics, cafeterias, or examination rooms. However, it may be appropriate to exclude a service animal from operating rooms or burn

units where the animal's presence may compromise a sterile environment.

Service Animals Must Be Under Control

Under the ADA, service animals must be harnessed, leashed, or tethered, unless these devices interfere with the service animal's work or the individual's disability prevents using these devices. In that case, the individual must maintain control of the animal through voice, signal, or other effective controls.

Inquiries, Exclusions, Charges, and Other Specific Rules Related to Service Animals

- When it is not obvious what service an animal provides, only limited inquiries are allowed. Staff may ask two questions: (1) is the dog a service animal required because of a disability, and (2) what work or task has the dog been trained to perform. Staff cannot ask about the person's disability, require medical documentation, require a special identification card or training documentation for the dog, or ask that the dog demonstrate its ability to perform the work or task.
- Allergies and fear of dogs are not valid reasons for denying access or refusing service to people using service animals. When a person who is allergic to dog dander and a person who uses a service animal must spend time in the same room or facility, for example, in a school classroom or at a homeless shelter, they both should be accommodated by assigning them, if possible, to different locations within the room or different rooms in the facility.
- A person with a disability cannot be asked to remove his service animal from the premises unless: (1) the dog is out of control and the handler does not take effective action to control it or (2) the dog is not housebroken. When there is a legitimate reason to ask that a service animal be removed, staff must offer the person with the disability the opportunity to obtain goods or services without the animal's presence.
- Establishments that sell or prepare food must allow service animals in public areas even if state or local health codes prohibit animals on the premises.
- People with disabilities who use service animals cannot be isolated from other patrons, treated less favorably than other patrons, or charged fees that are not charged to other patrons without animals. In addition, if a business requires a deposit or fee to be paid by patrons with pets, it must waive the charge for service animals.
- If a business such as a hotel normally charges guests for damage that they cause, a customer with a disability may also be charged for damage caused by himself or his service animal.
- Staff are not required to provide care or food for a service animal.

Miniature Horses

In addition to the provisions about service dogs, the Department's revised ADA regulations have a new, separate provision about miniature horses that have been individually trained to do work or perform tasks for people with disabilities. (Miniature horses generally range in height from 24 inches to 34 inches measured to the shoulders and generally weigh between 70 and 100 pounds.) Entities covered by the ADA must modify their policies to permit miniature horses where reasonable. The regulations set out four assessment factors to assist entities in determining whether miniature horses can be accommodated in their facility. The assessment factors are (1) whether the miniature horse is housebroken; (2) whether the miniature horse is under the owner's control; (3) whether the facility can accommodate the miniature horse's type, size, and weight; and (4) whether the miniature horse's presence will not compromise legitimate safety requirements necessary for safe operation of the facility.

For more information about the ADA, please visit our website or call our toll-free number.

ADA Website

www.ADA.gov

To receive e-mail notifications when new ADA Information is available,



**RESOLUTION
OF THE
NORTH OF NELL CONDOMINIUM ASSOCIATION
REGARDING RESERVE STUDY POLICY**

SUBJECT: Adoption of a Policy related to when the Association will have a reserve study prepared, whether there is a funding plan for the work recommended by the reserve study, and whether the reserve study will be based on a physical analysis

PURPOSE: To provide for the creation and review of a reserve study and for the funding of the work recommended by the reserve study.

AUTHORITY: The Declarations, Articles of Incorporation and Bylaws of the Association and Colorado law.

EFFECTIVE

DATE: _____

RESOLUTION: The Association has conducted a baseline reserve study, which included both a physical analysis as follows:

The physical analysis includes a component inventory identifying those portions of the community the Association is obligated to maintain, including the useful life of each component.

A condition assessment of each component on the component inventory by on-site inspection.

Estimates of the remaining useful life and replacement costs of each component.

The financial analysis includes:

An analysis of the funds currently held in the Association's reserve fund in relation to the expected needs of the Association per the reserve study.

A future funding plan to meet the requirements of the reserve study.

The update of the reserve Study includes:

Every year, the Association shall cause the reserve study, including both the physical and financial analysis, to be evaluated by the Association's Manager to determine increases in replacement costs and decreases in remaining useful lives of the components of the reserve study to adequately address changes to be made to the reserve study. In addition, the Association shall periodically have the reserve study evaluated and updated by a reserve study specialist. The update may be done either with or without a site visit.

In determining whether a site visit is required in any given year in order to update the reserve study, the Association shall take into consideration the following:

Any special or extraordinary issues facing the community such as an increase in roof leaks or maintenance issues

Increased deterioration in any components beyond normal wear and tear

Economic changes that affect the replacement cost of any component

Whether routine maintenance of the components has been kept up with

In determining whether a reserve specialist shall evaluate and update to the reserve study in any give year, the association shall consider the following:

Whether the Association added or replaced any significant common elements.

Whether the common elements sustained extreme wear and tear from harsh weather or lack of maintenance.

Whether local inflation for materials and labor has substantially increased.

Whether the association has deferred any replacements or moved up replacements from the scheduled dates of replacement.

Whether reserve income and expenses have occurred as planned.

Whether there have been any new technological changes or improved product development that might result in a component change.

The Reserve study will be funded through regular and special assessments levied by the Association.

The reserve fund shall be funded at a level that shall be determined from time-to-time by the Board of Managers.

The undersigned, being the President of the Association, certifies that the foregoing Resolution was adopted by the Board of Managers of the association, at a duly called and held meeting of the Board of Managers of the association, at a duly called and held meeting of the board of Managers on _____

And in witness thereof, the undersigned has subscribed his/her name.

NORTH OF NELL CONDOMINIUM ASSOCIATION

By _____, President



**THE NORTH OF NELL CONDOMINIUM ASSOCIATION
2013 DIRECTOR ELECTION INSTRUCTIONS**

The Election of Directors at the Annual Meeting of the North of Nell Condominium Association will occur by secret ballot to comply with the provisions of the Colorado Common Interest Ownership Act. Please follow these instructions precisely as your failure to do so may result in the disqualification of the ballot. **VOTING IN PERSON AT THE ANNUAL MEETING FOR THE ELECTION OF DIRECTORS WILL NOT OCCUR.** Prior to the commencement of the Annual Meeting, North of Nell attorneys will determine the validity of all ballots. At the Annual Meeting, schedule to be determined later, the ballots will be counted and those candidate elected will be announced.

INSTRUCTIONS TO VOTE BY BALLOT:

1. All Candidates who timely notified the Association of their interest to serve as a Director are listed on the Official ballot. Follow the instructions contained on the ballot and vote for no more than three (3) candidates for the residential and 1 for the commercial, with no more than one (1) vote for each candidate. You may write in a name of a candidate who meets the qualifications to serve as a Director as stated in the Association Bylaws and Regulations. When your ballot is counted at the Annual Meeting, the candidates you have selected will receive the number of votes that are attributable to your ownership in the Association, as set forth in the Condominium Declaration.
2. After completing the ballot, place it in the envelope that is entitled "BALLOT" and seal the envelope.
3. Place the BALLOT envelope in the envelope addressed to the Association and complete the Qualification Statement on the reverse side of the envelope prior to mailing or delivering it. **IF YOU DO NOT COMPLETE THE QUALIFICATION STATEMENT, YOUR VOTE WILL NOT BE COUNTED.**
4. Your ballot must be either received at the Association's post office address or personally delivered to the North of Nell main office 24 hours prior to the scheduled meeting time. **PLEASE NOTE THAT YOUR BALLOT MUST BE RECEIVED OR DELIVERED THE DAY BEFORE THE ANNUAL MEETING. BALLOTS RECEIVED AFTER 4:00P.M. WILL NOT BE COUNTED.**

INSTRUCTIONS TO VOTE BY PROXY

1. Should you desire to give someone your proxy to vote for the election of Directors on your behalf, you **MUST** provide your Proxy with a written proxy that specifically authorizes voting for the election of Directors.

2. Your Proxy must follow the **BALLOT INSTRUCTIONS**, above.

3. Enclose the original proxy in the envelope addressed to the Association with Qualification statement on the reverse side that contains the completed ballot. The original Proxy is necessary to verify the qualification of the person voting on your behalf.

4. The Qualification **MUST** be completed by your Proxy, not by you.

TO INSURE THAT YOUR VOTE IS COUNTED, PLEASE RETURN YOUR BALLOT WITHOUT DELAY.