



82 East Coach Drive, Antonito, Colorado, 81120

THE BEAR CREEK RESERVE FUND AND CONTINGENCY FUND POLICY No2021-01ⁱ

WHEREAS, DORA, the Colorado state agency that oversees HOAs, has a website that explains a Reserve Fund as follows:

A reserve study is a planning tool designed to assist the association to anticipate, and prepare for the property's major repair and replacement projects and expenditures. Some examples can include: roof replacement of the buildings, replacement of building siding ... It is a budgetary planning tool that consists of two parts, the physical analysis and the financial analysis, and it identifies the current status of the reserve fund and a funding plan to offset the anticipated future major common area expenditures. The study can determine the remaining useful life of the physical components of the association that are required to be maintained, as well as the time frame and expenses associated with the repairs and replacement of those components. The study can be completed by a hired professional, or it can be done internally.

WHEREAS, once a reserve fund is created, Colorado law requires the HOA to have a published policy explaining how it is invested.

WHEREAS, CCIOA Section 38-33.3-209.5(1)(a)(IX) provides: "When the association has a reserve study prepared for maintenance, repair, replacement and improvement, it must provide a funding plan for any work commenced and the projected sources of funding."

WHEREAS, the Colorado Common Interest Ownership Act (CCIOA) defines "common expenses" to include contributions made toward a reserve fund.

WHEREAS, section 38-33.3-313.9(a)(IV)(b) of the CCIOA, in clarifying a "common expense" states "the cost of repair or replacement in excess of insurance proceeds and reserves is a common expense.

WHEREAS, the Bear Creek Land Owners' Association ("Association") Governance documents only briefly mention a reserve within the context of describing three types of assessments: the Annual Assessment set by the Board each year, a reserve account assessment paid at the time a lot is sold, and a special assessment. See Declaration, Article VI, Section 1(C). The stated purpose of these three assessments is set forth in Article VI, Section 2 of the Declaration:

The assessments levied by the Association shall be used exclusively to promote the recreation, health, safety, and welfare of the residents in the Properties, and for the improvement and maintenance of the common area; to operate and maintain the sewage, water and road systems of the Subdivision; to establish a **reserve account for the maintenance of the Common Property and utilities. (Emphasis added).**



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WHEREAS, the only method of funding the reserve fund is listed in Article VI, Section 7: "Additionally, upon the sale of any Lot, the purchaser of such Lot shall pay to the Association a sum equal to one year's annual assessment to be held by the Association in a reserve account."

WHEREAS, when the BCLOA was formed and the developer began selling lots, the sale of new lots was the sole basis used to fund the reserve account, and initially the annual assessment was small, but as Bear Creek was sold out, this source of income decreased, and it is now used only occasionally when a lot is resold.

In 2020, The Association engaged the services of Association Reserves, a firm specializing in reserve studies, to perform a reserve study for the board of directors. This study recommended a fully funded Reserve Fund balance of \$244,034.00. As of the effective date of this policy revision, the \$200,000.00 cap on the Reserve Fund balance is eliminated.

USE AND FUNDING OF THE RESERVE FUND AND CONTINGENCY FUND

Purpose of the Reserve Fund is to have money available for:

1. Maintenance, replacement and repairs to the Bear Creek Commons Components, as listed in the "Full" Reserve Study, prepared by Association Reserves. E.g., asphalt roads, bridges, wells, water system, community structures, and community equipment.
2. Payment of insurance deductibles in the case of a major, unexpected claim payment.
3. Major unexpected emergency repairs.
4. Temporary funds to cover budget shortfalls, to be repaid by the next year's assessment.

Projected Reserve Expenses

1. Projected Reserve Expenses for Reserve Fund Components are listed in the Reserve Study, along with a projected schedule of those expenses.
2. These Projected Reserve Expenses are to be identified in our books as Category 9000 items.
3. Each year, a Projected Expense Budget will be prepared, taking into account the Reserve Study maintenance schedule. Each year the board will review the Reserve Study Maintenance Schedule, making a decision about whether it is appropriate that each item be included in the budget. The Board may depart from strict adherence to the maintenance schedule if in the board's judgement the maintenance, etc. can be postponed or is needed earlier. This will allow for some budgeting and time frame flexibility.
4. The Projected Expense Budget will be separate from the Annual Operating Budget.
5. As the Reserve components are maintained/repaired/replaced, the incurred Reserve Expenses will be paid for by check out of the Reserve Fund Money Market Account during that year's budget cycle (Identified in our books as a Category 8000 item). Reserve fund expense items will be categorized as 9000 items.



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Sources of Reserve Funds

1. Transfer fees (as required by our Declaration of Covenants, Article VI, Sec.1, part C.)
2. Interest on Reserve Fund accounts
3. End of year Operating Budget excesses, if the board chooses.
4. An Annual Reserve Fund Assessment (Declaration of Covenants, Article VI, Section 2), as needed, to maintain the Recommended Funding Plan (of the Reserve Study).
5. The amount of the Annual Reserve Fund Assessment shall be calculated by taking the Reserve Study Recommended Annual Funding amount, and subtracting from it the:
 - a. previous year's budget excess contributions (if any) and
 - b. The average annual Transfer Fees, as averaged over the previous 5 years (a moving average)
 - c. It shall be the policy of the Association that the Reserve Fund balance be maintained between 70% and 130% of Full Funding , with a goal of 100%

Reserve Fund Accounts

1. These Accounts are identified in our books as Category 8000 accounts. They include...
2. A Money Market fund (with checking) sufficient to cover the Reserve Fund Budget. This is a liquid component of the Reserve Fund (to keep CD's intact and to provide a place for additions). All funding sources (transfer fees, interest, Reserve Fund assessments, and rolled over budget excesses) are deposited into this money market account. All Reserve Expenses are to be paid for from this account.
3. Certificates of Deposit, which may be laddered.
4. Upon maturity of a CD, Money Market funds in excess of those required to cover the current and next year's Reserve Budget will be used to purchase a new CD (or several CD's), subject to board approval. Care should be taken that the CD's mature prior to any large upcoming projected expenses.

Emergency Reserve Fund Expenditures

1. The Reserve Fund may be used (including CD's) to cover unexpected expenses in an emergency, as determined by the Board. Examples would be repairs to a washed-out bridge, repairs to a damaged building, payment of an insurance deductible, etc. Upon such payments, the Reserve funding plan will be adjusted to account for these added expenses. A special assessment or a regular assessment in the annual budget may be made to replace the spent funds. In such an event, the board shall establish a plan for returning the Reserve Fund to the funding level prior to the emergency in an expeditious manner.
2. Reserve funds are not to be regularly used to balance the operating budget. If the Reserve Fund is used to cover an operating budget shortfall, that amount shall be repaid to the Money Market fund the following year using money from the next year's assessment. For clarification in this regard, the contingency item in the budget is a part of the operating budget. This does not have to apply if ~~it~~ the Reserve fund was used for an emergency use, as described above.



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3. Reserve Funds are not to be used for major community infrastructure improvements or capital item purchases (as defined by the Bylaws, Article XI, Section 3). These will need to be paid for by Special Assessment or out of the annual operating budget. Money Market funds may be used as interim funding for such projects but must be replaced during the next annual budget cycle.
4. The Reserve Fund Study did not address the Conejos River bridge because the consultant had no expertise in bridge repair/maintenance. Estimates to replace the bridge are approximately \$250,000.00. The board of directors has taken the position that increasing the Reserve Fund by this amount is unnecessary given the unlikely nature of a failure. However, the board of directors must plan for such an event. It shall be the policy of the association that in the event of a catastrophic bridge failure, the funds required to replace the bridge will come from the following: 50% taken from the Reserve Fund and 50% taken in the form of a loan. For this reason, the goal should be to operate as closely as we can to a 100% funding level.

Contingency Funds

1. The Operating Budget should include a contingency item, with a beginning balance each year of \$10,000.00 for unexpected operating expenses. Any unspent operating budget money at the end of a fiscal year can be rolled over into the next years contingency fund (reducing the amount of the contingency contribution), or added to the Reserve Fund (reducing the Reserve Fund Assessment) or spent at the end of the year on any item the board chooses. Regardless, it shall be the goal that the new fiscal year should start with a contingency budget item of \$10,000.00. The contingency funds are kept in the same bank as our Operating Budget checking account

BCLOA Policy Regarding the Investment of the Reserve Fund.

The objective of the BCLOA is to invest the Association's Reserve Funds to achieve a reasonable return without risking loss of principal *and with minimal investment costs (redemption fees, commissions, and other transactional costs)*. To accomplish this, the Board shall:

1. Keep the Reserve Fund separate from all other funds of the Association.
2. Invest the Reserve Fund in one or more of the following for the purpose of promoting and insuring the preservation of the Reserve Fund's principal:
 - a. FDIC-insured savings accounts.
 - b. FDIC-insured money market accounts.
 - c. FDIC-insured certificates of deposit.
 - d. Treasury bills, notes, or bonds.
3. Ensure that the total of Association funds, both operating funds and reserve funds, on deposit shall not exceed \$250,000 at any single FDIC insured institution.
4. *Mitigate the effects of interest rate volatility upon reserve assets, and structure maturities to ensure availability of assets for projected or unexpected expenditures, and when possible, diversify the maturing dates of fix-income assets using a laddered approach.*



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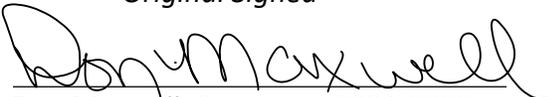
5. Purchased all investments in the in the name of the Association.
6. *When the Board deems it necessary, rely on the services of a qualified investment counselor to assist in formulating a specific investment strategy.*
7. Permit withdrawals and transfers of Reserve Funds only by a motion passed by a majority of the Board and set forth in the Minutes of the Association; and require the signatures of both the President and Treasurer for withdrawals and transfers of Reserve Funds from one institution or account to another.
8. *Review the Reserve Fund investments periodically to ensure the funds are receiving competitive yields and shall make prudent investments decisions in good faith in a manner each Director and Officer reasonably believes to be in the best interests of the Association in accordance with the Colorado Revised Nonprofit Corporation Act.*
9. *At not less than ten-year intervals cause the Reserve Study to be reviewed and updated if necessary; and at intervals of not less than two years review the status of the Reserve Fund to make adjustments in the Reserve Fund's investments.*
10. *Amend this Policy as required from time to time.*

The provisions of this policy shall be in addition to and supplement the terms and provisions of the Bylaws, Declaration and the law of the State of Colorado that govern the operation of the Association.

SECRETARY'S CERTIFICATION: To be completed upon approval of this policy.

Bear Creek Land Owners Association

Original Signed


Don Maxwell, Secretary, 2021-2022

ⁱ This policy replaces Policy No 2016-3 in its entirety.