

**RESOLUTION
OF THE
RIVER PINES CONDOMINIUM ASSOCIATION
REGARDING CLARIFICATION OF BALCONY DEFINITION
AND MAINTENANCE OBLIGATIONS**

SUBJECT: Adoption of a resolution regarding clarification of the definition of balcony and associated maintenance obligations

PURPOSE: To adopt a policy clarifying the definition of balcony and maintenance responsibilities

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

EFFECTIVE DATE: SEPTEMBER 6, 2018

RESOLUTION:

WHEREAS, due to the construction in the Community, balconies are an integral and connected part of the exterior and structural portion of the buildings; and

WHEREAS, the Community is composed of two types of buildings, the condominium buildings (Buildings A, B, and C) and the townhome building (Building D); and

WHEREAS, Buildings A, B, and C have structurally supported second and third level balconies appurtenant to individual Units and some on-grade balconies which are structurally supported at the first floor; and

WHEREAS, Building D has structurally supported balconies at the first floor level; and

WHEREAS, Section 9.2 of the Condominium Declaration for River Pines, recorded in the Eagle County, Colorado real property records on February 22, 1999 at Reception No. 687662 (the "Declaration") provides that "the Owner at the Owner's expense shall maintain and keep in repair the interior of the Condominium Unit [and] ... An Owner shall not allow any action or work that will impair the structural soundness of the improvements ... [and] shall also have the obligation to maintain and keep in repair all appurtenant Limited Common Elements at such Owner's expense;" and

WHEREAS, Condominium Unit is defined in Section 2.10 of the Declaration, in part, as "the fee simple interest in and to an Individual Air Space Unit;" and

WHEREAS, the definition of Individual Air Space Unit in Section 2.20.3 of the Declaration provides, in part, "Individual Air Space Unit shall not include any of the structural components of the Buildings;" and

WHEREAS, Limited Common Elements are defined in Section 2.21 of the Declaration as including “those parts of the Common Elements which are limited to and reserved for the use of the Owners of one or more, but fewer than all, of the Condominium Units. Without limiting the foregoing, the Limited Common Elements shall include any balcony, deck, patio, entryway, or porch adjacent to an Individual Air Space Unit;” and

WHEREAS, Section 7.1.1 of the Declaration provides the Association is responsible for “the exclusive management, control, maintenance, repair, replacement, and improvement of the General Common Elements ... and shall keep the same in good, clean, attractive, and sanitary condition, order, and repair;” and

WHEREAS, Section 2.19 of the Declaration defines General Common Elements to mean “the Common Elements, except for Limited Common Elements;” and

WHEREAS, Common Elements are defined, in part, as “all of the Project, except the Individual Air Space Units;” and

WHEREAS, Section 1.2 of the Declaration describes a requirement that the Association “(a) protect the value and desirability of the Project as a whole while respecting the separate and distinct interests of the owners of each of the Units ... and (d) promote and safeguard the health, comfort, safety, convenience, and welfare of the owners of condominium units of the Project”; and

WHEREAS, the word balcony is not defined in the Declaration and the Declaration is unclear as to what portion of the “balcony” is considered a Limited Common Element versus a General Common Element; and

WHEREAS, as outlined above, the balconies, including guardrail systems, are an integral and structural part of the building exteriors; and

WHEREAS, structural maintenance obligations should not, and do not, fall to an Owner due to safety and soundness concerns for the entire Community and per the Declaration; and

WHEREAS, inconsistent maintenance of the balconies by individual Owners could lead to structural issue and damages to the buildings within the Community; and

WHEREAS, the Association, through its Board of Directors, has determined it to be in the best interest of the Community to clarify and define the word balcony so both the Association and the Owners are aware of their maintenance obligations as related to balconies.

NOW THEREFORE, the Board adopts the following Resolution:

1. **Balconies**. The Association hereby determines that all portions of the balconies, including surface planks (wood, composite, or other) and other floor surface materials (surface toppings on concrete) prevent moisture from infiltrating the structure of the building. Therefore, due to the way the buildings in the Community are constructed and the integration of the balconies into the building structure, all portions of the balconies are considered structural.

2. **Balcony Maintenance.**

- a. Pursuant to Section 9.2 of the Declaration an Owner shall maintain and repair all appurtenant Limited Common Elements, such as balconies. Therefore, each Owner in the Community is responsible for maintaining, under Section 9.2 of the Declaration, their individual balconies. For purposes of this Section 2(a) “maintain and repair” shall be deemed to mean keeping balconies in a good, clean, attractive, and sanitary condition.
- b. Due to the structural considerations related to the balconies in the Community and in an effort to comply with the intent of the Declaration in preserving the Community, the Association, pursuant to its obligations under Section 7.1.1 of the Declaration shall maintain, repair, and replace all portions of all balconies, including balcony railings and surface planks and other floor surface materials and coatings.

3. **Definitions.** Unless otherwise defined in this Resolution, initially capitalized terms defined in the Declaration shall have the same meaning herein.

4. **Supplement to Law.** The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.

5. **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.

6. **Amendment.** This Procedure may be amended from time to time by the Board of Directors.

**PRESIDENT’S
CERTIFICATION:**

The undersigned, being the President of the Association certifies that the foregoing resolution was adopted by the Board of Directors of the Association at a duly called and held meeting of the Board of Directors held on SEPTEMBER 6, 2018 and in witness thereof, the undersigned has subscribed his/her name.

RIVER PINES CONDOMINIUM ASSOCIATION,
a Colorado Nonprofit Corporation

By: Bill Burns

Printed Name: BILL BURNS

Its: President