

Mesa Estates Homeowners Association

Dispute & Alternative Resolution Policy and Procedure Pursuant to C.R.S. §38-33.3-209.5(1)(b)(viii)

BE IT RESOLVED, the Association hereby adopts the following procedures to be followed for resolving disputes between Owners and the Association.

1. **Scope:**

To adopt a procedure and policy outlining procedures to be followed for resolving disputes between Owners and the Association.

2. **Specifics:**

In accordance with the Associations' Declaration, Article Nine, (a - c), if a violation has occurred and the procedures of the Associations' Covenant Enforcement Policy have been followed, an owner may request a hearing with the Board of Directors if the Owner wishes to dispute a fine or fee or a decision the Board has made against the Owner. The request for a hearing must be in writing via email, fax, or US Postal Service. If the request is in response to a letter from the Board, the Owner must respond within 10 days of the date of the letter from the Board.

The Board may also request a hearing if the violation continues, without resolution, any time within 12 months of the first notice of the violation.

A hearing date will be scheduled at the earliest convenience for the Board, but not later than 30 days from the date of the request.

At the hearing, the Owner will be provided time to present evidence to dispute the violation. After the evidence has been presented, the Board will hold an executive session to make their decision. The Owner will be notified of the decision in writing within seven (7) days of the hearing.

If the owner disagrees with the outcome of the hearing, the Owner may elect mediation. The Mediation process must be initiated within 30 business days.

Mediation is a process in which the parties meet with an impartial person who helps to resolve the dispute informally and confidentially. The parties to the dispute must agree to any decision made in mediation before any settlement is binding. The following process will be followed:

- The parties will jointly decide upon an acceptable mediator and the Owner will be responsible for and bear the cost of such mediation.
- If the parties cannot agree upon a Mediator, each party will choose a their own respective Mediator and those Mediators will then choose an independent third Mediator to hear the dispute. In

this case, the Owner and the Association will each pay for the Mediator they choose. The Owner will be responsible for the cost of the third Mediator.

- The mediation, unless otherwise agreed, shall terminate in the event the entire dispute is not resolved within 30 calendar days of the date written notice requesting mediation is sent by one party to the other at the party's last known address.
- If the Owner fails to appear for Mediation, the Association shall prevail in the dispute. If the Association fails to appear for Mediation, the Owner shall prevail in the dispute.
- The Mediator will issue a certificate stating the final dispensation of the dispute.

In the event of any arbitration or litigation relating to the Owner's dispute, if the Association is successful the arbitrator or court shall award to the Association all reasonable costs and expenses, including attorney and legal fees.

- 3. Definitions:** Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning therein.
- 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 Mesa Estates Homeowners Association.
- 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:** The Board of Directors may amend this procedure from time to time.

President's Certification: The undersigned, being the President of the Association, certifies that the Board of Directors of the Association adopted the foregoing resolution and in witness thereof, the undersigned has subscribed his/her name.

Mesa Estates Homeowners Association



President

Effective Date: 03/30/2022