

# Mesa Estates Homeowners Association

## Architectural Control Request (ACC/DRC) Policy and Procedure Pursuant to C.R.S. §38-33.3-209.5(1)(b)(vi)

**BE IT RESOLVED**, the "Association hereby adopts the following procedures to the following for exterior alterations.

1. **Scope.**

To adopt a policy outlining procedures to be followed for Owner/s requesting exterior alterations in accordance with the Association's Declaration of Covenants, Conditions and Restrictions. The Board and/or Architectural Control Committee (it is inferred that "Board" also indicates an Architectural Control Committee if one has been appointed) shall respond to every completed ACC request within 30 days, which may result in an additional continuance if needed for further review. The Board shall reply with a continuance to the Owner if it is needed.

2. **Specifics.**

Each Architectural Approval and or Design Request must be approved in accordance with the following:

**Written Approval of Requests is Required.**

Any request/s, additions, and/or changes to a property must be submitted by the Owner including but not limited to structural, roofing, fencing, landscaping, painting, stucco, or siding, must be approved in advance, and in writing, accompanied by drawings, specifications, definitions, and/or samples, by the Board of Directors. Owners must submit a Home Improvement/Alteration Review Application (ACC Form provided by the Association and filled out by the Owner) to the Board or Managing Agent by regular mail or by email. The simple majority approval by the Board shall be required prior to the commencement of the construction of requests as defined in Paragraph 1.23 hereof on any portion of the Association.

The Board of Directors must approve all new or replacement landscaping.

**Criteria for Approval.**

The Board shall have the right to deny any request which is not in accordance with the Association's Design Guidelines, or is not suitable or desirable in the Board's opinion for reasons including but not limited to aesthetics, materials, colors, timeline etc. If an ACC request is rejected, the Board shall provide necessary, accompanying documentation to explain the rejection and offer potential alternatives if there are any to proceed with an altered request. If there are no alternative solutions, the Board can reject the request outright and explain its decision.

In assessing the request, the Board shall have the right to take into consideration the suitability of the proposed request and of the materials, process and timeline of which it is to be built, the color scheme, the site upon which it is proposed to erect the same, the harmony thereof with the surroundings, the topography of the land and the effect of the Improvement as planned on the

outlook from the adjacent or neighboring property, required time for completion, and if it is in accordance with all of the provisions of the CC&R's, Bylaws and Policies and Procedures, as well as in accordance with HB24-1091, which dictates some fire-hardened materials must be allowed and cannot be restricted by the Association (even if it violates the Association's governing documents) if the fire-hardened materials promote the reduction of the spreading of fires in the Association.

The Board may deny the proposed request if the plans and specifications submitted are incomplete, or in the event the Board deems the materials submitted to be contrary to the spirit or intent of the CCR's, Bylaws, Policies and Procedures. The Board may condition its approval of any proposed request upon the making of such changes thereon as the Board may deem appropriate.

The HOA Board may grant reasonable variances or adjustments from any conditions and restrictions imposed by the CC&Rs, Bylaws, Policies and Procedures in order to overcome practical difficulties and prevent unnecessary hardships arising by reason of the application of the conditions and restrictions of the CC&Rs.

**Decision of the Board.** The decision of the Board shall be made within thirty (30) days after receipt of all materials required by the Board unless such time period is extended by mutual agreement. The decision shall be in writing and, if the decision is not to approve a proposed request, the reasons therefore shall be stated. The decision of the Board shall be promptly transmitted to the Applicant at the physical or email address furnished by the resident on the application form to the Board.

A simple majority vote of the Board shall constitute the action of the Board.

The Board shall not be required to keep the materials submitted beyond one (1) year from date of approval. All Architectural Request forms and materials shall be valid for not more than 60 days from date of application, except whereby the Board at its discretion allows/provides for a longer window to meet Owner's vendors/contractors scheduling.

**Failure of the Board to Act on Plans.** Any request not in violation of the governing documents shall be deemed approved unless disapproval or a request for additional information or materials is transmitted to the Applicant by the Board within thirty (30) days after the date of receipt by the Board of all necessary materials as determined by the Board.

**Prosecution of Work After Approval.** After approval of any proposed request, the proposed request shall be accomplished as promptly and diligently as possible and in complete conformity with the description, and materials samples submitted, to the Board in connection with the proposed request and any conditions imposed by the committee.

**Notice of Completion.** Each Architectural Request must be accompanied by a reasonably defined start and completion date. Drawings and contractor specifications may accompany the written request as well. Upon completion of the request, the Applicant shall give written Notice of Completion to the Board. Until the date of receipt of a Notice of Completion, the Board shall not be deemed to have received notice of completion of any request.

**Inspection of Work.** The Board or its duly authorized representative shall have the right to inspect any completed request prior to, during, or after completion; provided that the right of inspection

shall terminate thirty (30) days after the Board receives a Notice of Completion from the Applicant. If the Owner does not provide access for inspection, the window to inspect shall remain open until such time the inspection is completed.

**Notice of Noncompliance.** If, as a result of inspections or otherwise, the Board finds that any request has been done without obtaining the approval of the Board, or was not done in substantial compliance with the description and materials furnished to, and any conditions imposed by, the Board shall notify the Applicant in writing of the noncompliance and potential remedies and/or fines available to impose; which notice shall be given, in any event within thirty (30) days after the Board has inspected the said change, addition, or landscaping, whether or not a request and accompanying documents were received for said request, but in no event no later than thirty (30) days after the Board's receipt of such Applicant's Notice of Completion. The Notice shall specify the particulars of the noncompliance and shall require the Applicant to take such action as may be necessary to remedy the noncompliance.

**Correction of Noncompliance.** If the Board of Directors determines that a noncompliance exists, the Applicant shall remedy or remove the same within a period of not more than thirty (30) days from the date of receipt by the Applicant of the ruling of the Board of Directors. If the Applicant does not comply with the Board's ruling within such period, the Board may, at its option, record a "Notice of Noncompliance" against the Lot on which the noncompliance exists, or may remove the noncomplying request or may otherwise remedy the noncompliance. The Board may levy an Individual Assessment in accordance with Paragraph 5.4 (b) hereof against the Owner of such Lot for such costs and expenses incurred. The right of the Board of Directors to remedy or remove any noncompliance shall be in addition to all other rights and remedies that the Board of Direct

**No Liability for Board Action.** There shall be no liability imposed on the Association, any member of the Board of Directors or management company, for any loss, damage or injury arising out of or in any way connected with the performance of the duties of the Board, if such party acted in good faith and without malice.

Any Owner submitting a request, plans or specifications agrees on behalf of themselves and their assigns that they will not bring any action or suit at law or in equity against the Association or HOA Board, the Management Company or any of the members of those entities to recover any such damages.

If a Director, Member of the Board, Officer or Committee Member for the Association is making an ACC request that benefits them in any way or is their own request, such person/s shall abstain from voting on the request or offering additional information outside the scope of this Policy so that they are treated fairly and in the same manner as all Owners.

3. **Definitions.**

Unless otherwise defined in this Resolution, capitalized terms or terms defined in the Declaration shall have the meaning given 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 HOAs

under the Colorado Common Interest Ownership Act (CCIOA).

**5. Deviations.**

The Board of Directors 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**



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**President**

**Effective Date:** 7/29/2024