

**ALTERNATIVE DISPUTE RESOLUTION (“ADR”) PROCEDURES
FOR
SPRING MEADOW CONDOMINIUM ASSOCIATION, INC. (“ASSOCIATION”)**

**ARTICLE I
ADR SELECTION**

- A. ADR shall be provided by a panel of three (3) owners (the “ADR Panel”) who have volunteered to serve and who are not current Board members, are not related to or living with Board members, are not in arrears in payment and not under a current violation charge. None of the members can be an employee of the Board or anyone who contracts with or provides services to the Board. The Board shall select people who agree to read and comply with the letter and spirit of the governing documents.
- B. People who qualify to serve may be designated as alternates to serve if a regular member cannot. The panel shall select from its members a person (“ADR Provider”) to serve as the chairperson who will be responsible for calling meetings, insuring that necessary notices are sent out and that the panel adheres to time frames.
- C. The panel shall be guided by the fact that any conflicting State statute takes precedence over any Association governing document; that the Master Deed takes precedence over the By-Laws and that the By-Laws take precedence over Association rules or Board actions. If no statute or formal document is determinative of an issue, the panel may rely on Board precedent if it favors the complainant’s position. Board actions in conflict with a law or governing document shall not be considered binding precedent. If the panel requests legal guidance on the matter before it, the Association attorney may provide it unless either party objects. The Association has the option of providing an outside attorney or requesting that the panel proceed without legal guidance.
- D. If any participant in an ADR process has a basis to contend that any panel member cannot be unbiased in hearing this matter, that panel member shall recuse himself or shall be recused by the panel chairperson. Grounds for recusal shall include, but not be limited to, having an interest in the matter at hand or the outcome, a relation or close friendship with any parties, or, a history of animosity with any of the parties.

**ARTICLE II
IMPLEMENTATION, JURISDICTION AND PROCEDURE**

- A. Any owner desiring to invoke their right to ADR shall do so by sending a writing addressed to the Board at the address provided for official Association correspondence.

The writing shall contain the following:

- B. The complainant's identity and address where they can be reached.
 - 1. A brief, clear statement of the facts relating to the concern.
 - 2. Citations to the laws, Association governing documents, or rules allegedly not being complied with.
 - 3. A statement that the complainant is requesting ADR as well as the action or relief desired.

- C. The ADR Panel shall liberally construe matters to be subject to ADR in order to attempt to have the parties resolve the matters without resort to litigation. Thus, if there is a doubt whether ADR applies, it should be resolved in favor of providing ADR. An owner is not required to request or complete ADR before proceeding in court.
 - 1. ADR is not for matters that are personal between the parties and have no material connection to the development. ADR is also not applicable to disagreements with legitimate board discretionary determinations.
 - 2. Board determinations to ignore governing documents or law are not discretionary and are subject to ADR.
 - 3. Matters relating to payment of Association fees or special assessments are subject to ADR if the allegation is that they are in violation of the governing documents, in which case the person alleging same must cite specific provisions supporting such claim. If it relates to the monthly assessment, the person must pay the previously agreed upon amount before being eligible for ADR. If to a special assessment, the person must pay the assessment to the Association to be held in escrow pending outcome of the ADR proceeding.

- D. Within five (5) days of receipt of the ADR notification from a complainant, unless the provisions of Article IV, Paragraph B apply, the Board shall forward the complaint to the ADR provider without comment as to its validity. The ADR provider will initially determine if the matter is subject to ADR. Such determination shall be made within five (5) days of receipt of the matter, unless more information is required in which case the ADR provider shall request such information from the complainant within five (5) days of receipt and make a determination within three (3) days of receiving the information. If the matter is subject to ADR, the ADR provider will contact the complainant within three (3) days and schedule a mutually convenient day for a hearing or meeting to be held within thirty (30) days.

- E. The ADR mediation procedure shall consist of the presentation by the parties to the ADR

panel of their positions and requested outcomes. The ADR Panel may consider all information of whatever nature giving more weight to in-person testimony regarding facts. Presentation of a case through submission of written material shall be permitted but shall not preclude the other party from meeting with the ADR panel. If the ADR panel determines that it is advantageous to a resolution to bring the parties together, it shall make the request and if it so chooses it can conduct a hearing on the matter.

- F. Either party can request that its position be considered on papers submitted and need not appear to have the matter considered and a recommendation or decision made. Use of attorneys is permitted but not necessary. An owner may have an uncompensated non attorney attend to assist in presenting his matter to the ADR Panel.
- G. The ADR Panel shall propose a resolution or render a decision within forty-five (45) days of receiving the matter unless both parties consent to additional time. Each party shall be entitled to one postponement of ten (10) days without the consent of the other. A postponement request shall be made to the ADR Provider and a copy sent to the other party at that party's address in the Association unless the party has provided another address.
- H. ADR concerning allegations against the Board shall be open if desired by the complainant. Proceedings against an individual may be open if so desired by the person alleged to have committed an offense. If a proceeding is open, any other owners can attend and observe. In the case of closed proceedings, the outcome shall be subject to publication within the development provided that the name of the culpable party is redacted in order to guide other owners in their conduct without embarrassing the culpable party.
- I. An owner charged with a violation shall be allowed the opportunity to contest any penalty whether monetary or otherwise.

ARTICLE III

COMPLAINTS FROM OWNERS ABOUT THE BOARD OR ASSOCIATION

- A. Any unit owner who believes that the Board is not complying with applicable law, the Association's governing documents or its own rules either by action or inaction is encouraged to first bring the matter to the Board's attention in writing. The submission should concisely state the nature of the perceived violation and cite a statute or law or the pertinent portion of the governing document or rule involved. If the Board, or any member, or its property manager receives such a writing, it shall respond within ten (10) days with its position. If the owner is not satisfied with the Board's response, the owner may request ADR. If the writing contains all the elements required in Article IIA above, the owner need not repeat them in his/her request for ADR but need merely reference the prior writing.

- B. If the Association takes (any) adverse action against an owner or tenant, such action shall be in writing and the written notice of such action shall inform the person of their right to request ADR. The notice shall inform the person that they have the right to contest the action by requesting ADR within seven (7) days of receiving the notice of adverse action. The ADR information shall be conveyed either by providing a copy of this procedure with the notice to the individual or by informing the individual specifically of where to write to request ADR and that they will be provided with a copy of the ADR procedure upon request.

ARTICLE IV
COMPLAINTS BETWEEN RESIDENTS

- A. If any person believes that another person residing in or visiting the development is acting in a manner that interferes with that person's rights or entitlements or is not in compliance with Association rules, regulations or By-Laws, such person may request ADR as referenced in Article II above. The ADR request shall not include disputes unrelated to the development.
- B. When the Association receives a request for ADR related to another resident or owner, it shall determine if the conduct alleged is a violation of any Association rule, regulation or by-law. If so, the Association shall inform the complainant that it is issuing a violation notice and the complainant will be the witness. If a violation notice is applicable, the Association shall issue it within ten (10) days of receiving the ADR request. In the case of violations allegedly committed by a guest or tenant of an owner, notice shall be provided to that owner and that owner shall be responsible for requesting the ADR.

ARTICLE V
POST ADR PROCEEDINGS AND APPEALS

- A. If a party, other than one represented by counsel, subsequently discovers a pertinent fact, they may bring it to the ADR Panel's attention within ten (10) days after receipt of the recommendation or decision. If a party believes that the ADR Panel made a mistake of fact in making a recommendation or rendering a decision, they shall petition the ADR Panel within five (5) days of receipt of the recommendation or decision to make a correction. Such petition shall be contemporaneously provided to the other party who may comment. Within seven (7) days of receipt of the additional facts, the ADR Panel shall determine if it will affect the outcome. If the fact presented causes the ADR Panel to consider changing the substance of the previous outcome, they shall promptly notify the other party and shall allow the other party a period of seven (7) days in which to respond. The ADR Panel shall issue the amended recommendation or decision within five (5) days of receiving the response.

- B. The Board cannot overrule or modify the outcome of an ADR proceeding. If an ADR Panel reduces a fine or penalty, it shall be binding on the Board and not appealable to a court. An owner dissatisfied with the outcome may proceed to court but shall pay any fine imposed and be subject to any penalty, unless relieved by a court from the obligation. If the outcome is otherwise adverse to the Board's position and the Board chooses not to follow the ADR outcome, it shall provide reasons at an open public meeting and reflect its position in the minutes of the meeting.