

## Alternative Dispute Resolution (ADR) Policy

Pursuant to Colorado State Law (38-33.3-124) and the Covenants of High Country Estates (Article XIII Section 7), it is the general policy of the Association to encourage the use of Alternative Dispute Resolution to resolve disputes involving the Association and an Owner. Alternative Dispute Resolution ("ADR") is defined as a procedure for settling a dispute by means other than litigation, such as mediation, non-binding arbitration or binding arbitration.

Alternative Dispute Resolution may, at the discretion of the board, be pursued by the association before any lawsuit is filed, except in the case of the collections of assessments, the enforcement of covenants, bylaws, or rules and regulations of the association, and subject to the following:

1. ADR shall not be required if time is of the essence.
2. ADR will not be pursued by the association if an owner refuses to participate in the ADR process.
3. At the time that the parties agree to use ADR, the parties must also agree to the form of ADR. If the parties cannot agree on the form of ADR to be used, then the form shall default to mediation.
4. Any ADR pursued must be done using a trained mediator, arbitrator, or facilitator having knowledge, and familiarity with the governance of community associations and HOA's.
5. Any form of ADR must be conducted in compliance "Uniform Arbitration Act" or the "Alternative Dispute Resolution Act", as applicable.

If ADR is to be pursued, then the owner shall execute an agreement with the association prior to the commencement of the ADR process which tolls any applicable statute of limitations while the parties are attempting to resolve the dispute through ADR.

1. Selection of Mediator/Arbitrator: Should ADR be used, and if the parties cannot agree within (30) days of the request for an ADR facilitator, Arbitrator, or Mediator, or other qualified person to conduct the ADR process, then, within (10) days;
  - a. Each party shall choose a qualified person as defined in this policy. Those so selected shall then appoint a third qualified person to be determined at the sole discretion of those already selected.
  - b. In the event that a party fails to select a qualified person as specified in subsection (a) above, the person selected by the other party shall be deemed acceptable to both parties, and shall act as the facilitator, arbitrator, or mediator.
2. Costs: The costs of the ADR process shall be divided equally among the parties involved. In the event that an owner fails to pay the owner's share, such amount shall be considered an assessment against the owner and may be collected by the association as an assessment pursuant to the declaration and Colorado law.

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3. Supplement to Law: The provisions of this resolution will be in addition to, and supplemental to the terms and provisions of the ADR declaration and the law of the State of Colorado.
4. Deviations: The board may deviate from the procedures set forth in this resolution if the said deviation(s) are reasonable under the circumstances.

In the event a court of competent jurisdiction finds a provision of this policy void or otherwise unenforceable, the other provisions shall remain in full force and effect.

The Board of Directors reserves the right to change policy as needed.

Adopted by the board of directors of High Country Estates HOA at a duly called meeting on the

**22<sup>nd</sup> day of March, 2017**

The Adoption and Amendment of Policies, Procedures and Rules is APPROVED.



3/31/2017

Signature/Date

President

Title