

## OWNERS ASSOCIATION OF ELK MEADOWS ESTATES, INC

### POLICY REGARDING VARIANCE FROM THE DECLARATIONS

The purpose of this policy to provide a procedure for requesting a variance from the Declarations or policies. This policy is in compliance with Colorado Revised Statute §38-33.3-209.5, and the Articles of Incorporation and Bylaws of the Association.

### VARIANCE FROM THE DECLARATIONS POLICY

1. The Board of Directors is responsible for ensuring that the governing documents of the Owners Association of Elk Meadows Estates, Inc. are adhered to. There are circumstances in which an owner (or “member”) may need a variance from the declarations or current policies.
2. Should an owner require a variance of the declarations or policies, the owner is required to:
  - a. Send a written letter to the Board of Directors requesting a variance hearing.
  - b. The letter can be sent via USPS or email and constitutes written notice.
  - c. The letter should include:
    - i. Name of the owner and lot number
    - ii. Reason for the variance and the declaration or policy the variance affects
3. Upon receipt of a variance request, the Board of Directors will review the request and send a written letter to all parties directly affected by the variance within 10 days of the receipt of the request.
  - a. The letter can be sent via USPS or email and constitutes a written notice.
  - b. The letter will include a hearing date and time, and all directly affected parties have the opportunity to provide input in person or in writing for consideration. A response via email will constitute input provided in writing.
    - i. A hearing may be conducted in person, by telephone, or videoconference where all parties may hear each.
    - ii. The board will determine a date, time, and location for said hearing and inform all directly affected parties of such hearing.
    - iii. All directly affected parties may provide input via email, letter, telephone or in person.
    - iv. All input and evidence must be entered into the records.
  - c. The board will hold a hearing and make a determination independent of whether any directly affected parties provide input or not.
    - i. Sketches, drawings, maps, plat maps, and surveys may be requested and/or provided as evidence in argument for or against the variance.
  - d. If directly affected parties do not contest the Variance, then that fact may also be considered in the hearing.
4. The board will deliberate the evidence and input of the owner requesting the variance and any directly affected parties, whether all directly affected parties agree or not.
5. In considering whether a variance should be granted, the board shall take into consideration:
  - a. The spirit and purpose of the covenants and conditions.

- b. Whether such variance is necessary for the effective use of any site, parcel, or lot within the subdivision.
  - c. Whether a variance would unduly affect enjoyment and use of any adjoining site, parcel, or lot.
  - d. Whether such variance would unduly affect the enjoyment and use of the entire community or any portion thereof.
6. The decision of the board will be recorded in the minutes to be filed in the Association records. Upon denial of any request for a variance, the member may appeal for a decision by presenting the proposition to the membership at the next annual meeting, but in such event, for approval, a favorable vote of members representing at least 75% of the total Association votes shall be required to overrule the board's decision.
    - a. The decision will be determined within 7 working days from the conclusion of the hearing.
  7. A letter noting the board's decision will be mailed via USPS or emailed to all affected parties.
  8. A record of the decision taken by the board with signatures of the board will be recorded at the Ouray County courthouse.
    - a. Signatures of the affected parties may be required and included.
  9. In the case of non-response from an affected party, it will be assumed such non-response implies acceptance of the board's decision.
    - a. A non-responsive affected party may petition for or against the variance at the next scheduled annual meeting. After the next scheduled annual meeting it will be assumed the non-responsive affected party implies acceptance of the variance.
  10. The board shall review this policy annually. The board may amend this policy when such a modification is deemed to be in the best interests of the Association.

The undersigned, being President of the Owners Association of Elk Meadows Estates, Inc., certifies that the foregoing Conduct of Meetings Policy was adopted by the Board of Directors of the Association at a duly called meeting of the board on March 2, 2019, and in witness thereof the undersigned has subscribed his/her name.

Owners Association of Elk Meadows Estates, Inc.

By: Belinda KM Chisholm, President Signature on file\_\_\_\_\_

As per #10 above, this policy has been reviewed on March 31, 2024, by the Board of Directors.

Board signatures on file

No amendments were necessary, but formatting and minor grammatical errors were corrected and performed by Pam East.

In an effort to simplify version control, from this date forward, all policy reviews will be tracked via a tracking document and kept on file rather than changing the review date on each policy every year, with the exception being any policy that requires amending.

Amendment tracking information:

Date	Amendment Details
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04/06/2024	#5 – Changed run-on sentence to a list.