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## ROCKY CREEK MAINTENANCE CORPORATION

### Notice, Hearings, Appeals, and Mediation Policy

#### Affidavit

This policy has been adopted by the Board of Directors (hereinafter referred to as "the Board") of the Rocky Creek Maintenance Corporation (hereinafter referred to as "the Association").

#### A. Notice

In accordance with the Texas Property Code, before the Association may take any enforcement action against an owner or suspend an owner's right to use a common area for a violation or property damage, the Association must give written notice to the owner(s) by certified mail sent to the owner's last known address as shown in the Association records. "Owner" means an owner of property within the Rocky Creek Ranch subdivision.

The notice must:

1. describe the violation or property damage and the basis for the enforcement action,
2. inform the owner(s) that they have a reasonable period to cure the violation and avoid enforcement action if the violation is of a curable nature and does not pose a threat to public health or safety,\*
3. inform the owner(s) that they may request a hearing before the 30<sup>th</sup> day after the notice was mailed to the owner(s),\*
4. inform the owner(s) that they may have special rights or relief under federal law, including the Service members Civil Relief Act, if the owner(s) is serving on active military duty, and
5. specify the date that a violation must be cured, if it is curable and does not pose a threat to public health or safety.
  - a. The following are examples of acts considered curable for purposes of this section:
    - i. A parking violation
    - ii. A maintenance violation
    - iii. The failure to construct improvements or modifications in accordance with approved plans and specifications, and
    - iv. An ongoing noise violation such as a barking dog
    - v. Any violations of Park and Pool Rules

\* Subsections 2 & 3 above do not apply to a violation for which the owner(s) has been previously given notice under this section in the preceding six months, and has been given the opportunity to exercise any rights available under this section and the law.

#### B. Scheduling a Hearing

1. Any owner requesting a hearing before the Board or appeal of a decision by the Architectural Control Committee (ACC) or other committee, shall send the request in writing to the Association's office at 2005 Rocky Ridge Loop, Canyon

Lake, TX 78133 by US Mail or by email to [rcmc@rockycreektexas.org](mailto:rcmc@rockycreektexas.org), or may deliver it in person. The request must state the name and address of the owner and the violation or charge for which they are requesting the hearing.

2. The owner has 30 days from the date that the notice was mailed to the Owner to request a hearing before the Board.
3. A hearing must be held within 30 days of receiving the owner's request.
4. The Association must provide Owner at least 10 days' notice of this hearing with time, date, place, and format.
5. The Association must deliver to Owner, no later than 10 days prior to the hearing, a packet containing its evidence that it will introduce at the hearing (photos, documents, communications, etc.). If the evidence is not provided, owner is automatically entitled to a 15-day postponement.
6. Both the Board and owner are permitted to postpone for a period of not more than 10 days
7. During the hearing, the board must present its case first, and then the owner is entitled to present him/her case.
8. Audio recording is permitted by both parties.

#### C. Mediation

1. Mediation is a private process in which an impartial person, a mediator, encourages and facilitates communications between parties to a conflict and strives to promote reconciliation, settlement, or understanding. A mediator shall not render a decision on the issues in dispute. The primary responsibility for the resolution of a dispute rests with the parties.
2. Where possible, it is strongly urged that both parties avail themselves of this tool to settle disputes and avoid possible costly litigation.
3. The utilization of this process does not prevent either party from waiving the process and filing a lawsuit but rather offers another possible solution to a conflict.
4. Either the owner or the Board may request a mediation once the owner has had the opportunity to a hearing and/or appeal, if no resolution is reached or if the right to a hearing or appeal is waived.
5. If a mediation is requested, the Board will obtain the services of a mediator who is credentialed by the Texas Mediation Credentialing Association. Preference shall be given to a mediator with experience in community association practices, if practical. Both parties must agree to the selected mediator.
6. The cost of mediation shall be shared equally among the parties unless they agree otherwise.
7. In order to prevent any perception of bias, the mediator may not be a member of the Association.
8. If the parties reach a settlement, it shall be put into writing and signed by both parties. This Mediation Settlement Agreement, is enforceable in the same manner as a written contract.

Executed to be effective this 24th day of May, 2024. This policy supersedes all previous policies relating to notice, hearings, appeals, and mediation.

Rocky Creek Maintenance Corporation, Inc.  
A Texas Not-For Profit Property Owners Association

By: Lori Steed  
Lori Steed, Secretary

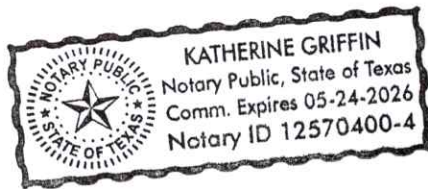
ACKNOWLEDGMENT

IN WITNESS WHEREOF, the undersigned has executed this certificate on the 9 day of June, 2024.

Lori Steed  
Lori Steed, Secretary

State of Texas  
County of Comal

This instrument was acknowledged before me on this 7<sup>th</sup> day of June, 2024 by Lori Steed, Secretary of the Rocky Creek Maintenance Corporation, Inc., a Texas Non-Profit Property Owners Association, on behalf of said Association.



Katherine Griffin  
Notary, State of Texas

Filed and Recorded  
Official Public Records  
Bobbie Koepf, County Clerk  
Comal County, Texas  
06/11/2024 01:44:52 PM  
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Bobbie Koepf