

MEADOW BRANCH SOUTH HOMEOWNERS ASSOCIATION (MSBHOA)

## **Meadow Branch South Homeowner Association Board of Directors' Complaint & Request Process**

### **1. Effectiveness and Scope.**

This process is effective immediately. It is internal to actions of the Board of Directors and is not in respect to the use of the common areas, or rules of conduct in respect of any Member. This process is not intended to infringe upon or inhibit the rights of any Association member. Nor does it supersede Association enforcement right, restriction, provision, covenant, or condition which granted by the Declarations, rules, or other applicable documents.

### **2. Process.**

a. A request from an Association member for the Board of Directors to enforce any right, restriction, provision, covenant, or condition which may be granted by the Declarations, rules, or other applicable documents will be deemed an "Enforcement / Complaint Request" for purposes of this process.

b. The Board of Directors will only consider Enforcement Requests that are in writing, delivered to the Association's address at P.O. Box 2304, Winchester, VA 22604; or email to: president@meadowbranchsouth. and, at minimum, contain the following information: name, address, and telephone number of the Association member originating the Enforcement Request / Complaint (such Member being the "Requestor"); a statement of the request; if applicable, the address of the Lot in respect of which the request is made; and those portions of the Declarations, rules, or other applicable documents upon which the Enforcement Request is based. Other information (e.g., email addresses, additional information) can be optionally included.

c. The President of the Board of Directors (BOD) will review each Enforcement Request and may either: (i) discard the Enforcement Request if presented anonymously; (ii) return the Enforcement Request to the Requestor for additional information and a request for it to be resubmitted; or (iii) inform the Requestor and (where applicable) other Members named (or whose Lots are named) in the Enforcement Request, in writing, that the Enforcement Request will be addressed by the Board of Directors.

d. Properly presented Enforcement Requests will be brought up at the next Board of Directors/Homeowners meeting open to all members. Each such Enforcement Request will be publicly discussed and any of the following actions taken, based upon majority vote of the Members therein attending: (i) take no action on the Enforcement Request; (ii) send a written notice from the Board of Directors, signed by the President, to any Members in order to attempt to enforce some or all of the rights, restrictions, provisions, covenants, or conditions as applicable to the Enforcement Request; or (iii) take such other agreed upon action in respect of the Enforcement Request; provided, however, that actions to commence litigation, the imposition of charges to a Member, or suspension of any Member's rights in and to the Association will not be taken except as part of an Enforcement Meeting (described below). To the extent that no

action is taken on the Enforcement Request, nothing in this process will restrict a Member from resubmitting a similar or related Enforcement Request or Complaint to the Ombudsman.

e. To the extent that action is taken on the Enforcement Request as described in the prior paragraph, the Requestor may, at any subsequent Board of Directors meeting open to all members, state that the actions have not remedied the situation(s) giving rise to the Enforcement Request. If so, the meeting minutes will so reflect such statement and a “special meeting” of the Board of Directors that is open to all members will be convened as soon as practicable solely to address any such Enforcement Requests. Such special meeting will be the “Enforcement Meeting” for purposes of this process. More than one Enforcement Request may be on the agenda for an Enforcement Meeting.

f. Each applicable Enforcement Request will be publicly discussed at such Enforcement Meeting, and any of the following actions taken, based upon majority vote of the BOD therein attending:

1. Take no additional action on the Enforcement Request; or
2. Take such other agreed upon action in respect of the Enforcement Request. Notwithstanding the foregoing, and due to the expenses that may result by so doing, no such actions in respect of the commencement of litigation, the imposition of charges to a Member, or suspension of any Member’s rights in and to the Association will be undertaken by the Board of Directors unless majority of the Members agree that such action should be taken. Such vote will also authorize the maximum amount of money the Board of Directors may spend in affirmatively enforcing the Enforcement Request without further authorization from the Members. Voluntary expenditures in excess of such approved amount will not be made by unless a majority of Members agree that such additional expenditures should be made.

g. Should majority of the BOD not approve actions in respect of the commencement of litigation, the imposition of charges to a Member, or suspension of any Member’s rights in and to the Association as discussed in the Enforcement Meeting, such actions will not be taken.

h. Actions in respect of litigation, the imposition of charges to a Member, or suspension of any Member’s rights in and to the Association will be conducted strictly in accordance with the Declarations, the Virginia Property Owners’ Association Act, and other applicable rules and regulations.

i. In addition to closed, executive sessions permitted under Virginia law in respect of litigation, the Board of Directors may, at any time upon reasonable notice to the Members, convene one or more open meetings for the purpose of discussing actions in respect of any Enforcement Request. To the extent such meetings are open to Members, any Member, including a member of the Board of Directors may at such time request a vote to cease enforcement actions then planned or then ongoing. Such a vote will carry upon a majority of Members in attendance. If carried, the Board of Directors will vote and upon a majority of the Directors present, they will take reasonable actions to either cease or continue such enforcement actions, including but not limited to dismissal with prejudice of any pending actions then ongoing. The meeting minutes will so reflect such statement.

j. If, at any time, the Board of Directors reaches the maximum approved amounts authorized by Members for enforcement actions in respect of the Enforcement Request, and additional expenditures are not timely approved by a majority of the Members, the Board of Directors will take reasonable actions to cease such enforcement actions, including but not limited to dismissal with prejudice of any pending actions then ongoing.

k. The Requestor of an Enforcement Request may, at any time, provide the Board of Directors with a written request that actions in respect of the Enforcement Request cease. Such request will be brought up at the next Board of Directors meeting open to all members. Each such request to cease enforcement actions on Enforcement Requests will be publicly discussed and any of the following actions taken, based upon majority vote of the Members therein attending:

1. Continue the enforcement action;
2. Discontinue the enforcement action; or
3. Take other agreed upon action. To the extent the majority of the Members vote to discontinue the enforcement action, the Board of Directors will take reasonable actions to cease such enforcement actions, including but not limited to dismissal with prejudice of any pending actions then ongoing. Notwithstanding anything in this process to the contrary, the Board of Directors retains discretion by majority vote of its members to disregard and/or cease enforcement actions for any Enforcement Requests:
  - a) That the Board of Directors views to be unreasonable, to have been brought in other than good faith by the Requestor, or to have been created for the primary purpose of harassment of one or more Members;
  - b) In respect of which the Requestor does not timely provide reasonable cooperation in related enforcement actions; or
  - c) In respect of which the Requestor has instituted or joined a private action, including without limitation administrative actions with the City of Winchester private lawsuits.

m. All votes and decisions in respect of Enforcement Requests at meetings of the Board of Directors will be reflected in the minutes thereof.

n. For the avoidance of doubt, decisions by the Members and/or the Board of Directors to discard, disregard, refuse to commence, or cease enforcement actions for any Enforcement Request will not in any way supersede any rights an individual Member or the Association otherwise has in respect of enforcement of any right, restriction, provision, covenant, or condition which may be granted by the Declarations, rules, or other applicable documents.

### **3. Appeal.**

a. Association's members have the right to appeal the Board of Director's final decisions to the Virginia Office of the Common Interest Community Ombudsman.

b. The Virginia Ombudsman receive complaints – Notices of Adverse Decision – from Association members who allege an Association governing body violated legal requirements (statutes, regulations, or Association governing documents).

c. Notices must be filed within 30 days of the Board of Director's final adverse decision, must be submitted in writing on the Association' form, must include supporting documentation, and must include a \$25 filing fee (**Common Interest Community (CIC) Board** may waive for demonstrated hardship).

# COMPLAINT FORM

Mail to: P.O. Box 2304, Winchester, VA 22604

Email to: president@meadowbranchsouth.com

Pursuant to House Bill (HR) 516, effective July 1, 2008, all reports or complaints to the Association must be in writing by Association members. The Association's complaint process is located herein and at: [www.meadowbranchsouth.com](http://www.meadowbranchsouth.com). Members have the right to a hearing before the Board of Director (BOD) and/or to present information on their behalf. Association members also have the right to appeal BOD final decisions to the Virginia Office of the Common Interest Community Ombudsman.

The Virginia Ombudsman receives complaints – Notices of Adverse Decision – from Association members who allege the Association governing body violated legal requirements (statutes, regulations, or Association governing documents). Notices must be filed within 30 days of the BOD's final adverse decision, must be submitted in writing on the Association's form, must include supporting documentation, and must include a \$25 filing fee (CIC Board may waive for demonstrated hardship).

The following process is for addressing requests from Members for enforcement of any right, restriction, provision, covenant, or condition which may be granted by the Declarations, rules, or other applicable documents is proposed for the Board of Directors to adopt. No action may be taken without the following information. For harmony and safety reasons, the Association will maintain the confidentiality and will not disclose the information below. *(Exception is court ordered or written consent by Association members.)*

**DATE OF COMPLAINT / REQUEST:** \_\_\_\_\_

**HOA MEMBER "COMPLAINANT / REQUESTOR":** \_\_\_\_\_

**ADDRESS (include LOT #):** \_\_\_\_\_

**PHONE NUMBER:** \_\_\_\_\_

**E-MAIL ADDRESS:** \_\_\_\_\_

**STATEMENT OF COMPLAINT / REQUEST:** \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

*(Specific portion of Declaration, Covenants, Rules, or other applicable documents upon which the complaint or enforcement request is based: Address of the Lot in respect to the request (if applicable).*

**ANY ADDITIONAL INFORMATION:** \_\_\_\_\_

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( \_\_\_\_\_ *Number of attachments including complaint MBSHOA Complaint Form*)