CHAPTER 4
REGULATION FOR INTERNAL DISPUTE RESOLUTION
UPDATED 12/1/16

4.01 Purpose and Intent. The purpose of this regulation is to provide the fair, reasonable and expeditious procedure for the internal resolution of disputes between a member and the Association without need for recourse to alternative dispute resolution, set forth in Civil Code section 1363.840. The procedures prescribed in this chapter are hereafter referred to as “IDR.” Nothing contained in this chapter shall be construed so as to require the commission of any act contrary to law, and if there is any conflict between any provision contained in this Chapter and any provision contained in the remainder of the Code or other of the Governing Documents or any present or future statute, law, ordinance or regulation the latter shall prevail, but the provision of this chapter which is affected shall be curtailed and limited only to the extent necessary to bring it within the requirements of the law. It is the intent of this chapter to provide specific procedural measures to facilitate orderly compliance with Civil Code section 1363.840.

4.02 Scope of Regulation.

4.0201 General Application. Except as provided in §4.0202, this chapter applies to any dispute between a member and the Association involving their respective rights, duties or liabilities under the Governing Documents, the Davis-Stirling Common Interest Development Act [Civil Code sections 1350, et seq.], and the Nonprofit Mutual Benefit Corporation Law [Corporations Code §7110, et seq.].

4.0202 Chapter Inapplicable to Art Jury Decisions. This chapter shall not apply to any dispute between a member and the Association based upon or arising from any act, decision and/or ruling of the Rancho Santa Fe Association Art Jury if such member would be entitled to file a written petition appealing such act, decision and/or ruling to the Board of Directors (“the Board”) under Article III, Section 9(a) of the Protective Covenant, Declaration No. 1 [Paragraph 64]. The Association finds and declares that the provisions of Article III, Section 9 of the Protective Covenant, Declaration No. 1 [Paragraphs 64 through 68, inclusive] constitutes the provision of a fair, reasonable and expeditious dispute resolution procedure for disputes to which they are applicable.

4.03 Annual Notice of IDR Procedures. The Association will annually provide the members a description of the provisions of this chapter with the annual summary of statutory alternative dispute resolution procedures required to be delivered pursuant to Civil Code section 1369.590 or successor statute.
4.04 **Request for IDR.** The Association and any member of the Association may make a request for resolution of a dispute ("Request for IDR") between that member and the Association. The Request for IDR shall be in writing and shall contain the following information: (a) a brief description of the dispute; (b) a brief statement of the relief or resolution sought by the initiating party; and (c) a list of the dates within the 30 days following the date of the Request for IDR on which the initiating party will not be available to participate in a meeting to attempt to resolve the dispute (the "IDR Meeting"). In the event the initiating party believes the nature of the dispute will necessitate an IDR Meeting longer than 90 minutes, the initiating party shall so state in the Request for IDR, shall request an IDR Meeting of greater length, shall specify the amount of time the initiating party believes will be required for the IDR Meeting, and shall provide a brief statement of reasons why resolution of the dispute will require an IDR Meeting longer than 90 minutes. The Request for IDR shall be delivered by the initiating party to the responding party personally, via facsimile, or via first-class mail; if the responding party is the Association, delivery shall be made to the Association Office. No fee shall be charged to a member of the Association for the submission of a Request for IDR or for participation in an IDR Meeting.

4.05 **Notice and Acknowledgement.** Within ten (10) working days of receipt of the Request for IDR, the responding party shall send to the initiating party, via first class mail, an acknowledgement of receipt of the Request for IDR (the "Acknowledgement"). If the responding party is the Association, the Acknowledgement shall also state the date and time of the IDR Meeting; if the responding party is the member, the Acknowledgement shall not state the date and time of the IDR Meeting, but the Association and member shall confer promptly and in good faith to fix a date and time for the IDR Meeting. To the extent practicable, the IDR Meeting shall be scheduled for a date within 30 days of the responding party’s receipt of the Request for IDR. In the event the initiating party has indicated a belief the nature of the dispute will necessitate an IDR Meeting longer than 90 minutes, the Acknowledgement shall state whether the responding party agrees to the request for a longer IDR Meeting and shall state the maximum length of the IDR Meeting.

4.06 **Participation in IDR Meeting.**

4.0601 **Persons Entitled to Participate.** The IDR Meeting shall be attended by the following persons: (a) the initiating party who made the Request for IDR; (b) one member of the Board, who shall be designated by the Board (the “Board Designee”) and one member of the Board, who shall be designated by the Board as the alternate to the Board Designee; and (c) such members of the Association staff as the Board may designate. The member may be represented by an attorney at the IDR Meeting, provided that not less than five (5) working days before the IDR Meeting, the member has notified the Association, in writing, of his, her or its intention to be represented by counsel, in which event the Association may also have counsel present. The member may also be accompanied by one member of the member’s immediate family (i.e., spouse, registered domestic partner, child, or parent).

4.0602 **Other Participants Discretionary.** To the extent a party wishes to have persons other than those specified in §4.0601 present at the IDR Meeting, that party shall identify those persons in the Request for IDR or Acknowledgement, as applicable, and shall provide in the Request for IDR or Acknowledgement a brief statement of the reasons why the presence of those persons will be of assistance in resolving the dispute. If a request for the presence of
persons other than those specified in §4.0601 is made in the Request for IDR, the Acknowledgement shall state whether such request is granted; if a request for the presence of persons other than those specified in §4.0601 is made in the Acknowledgement, the parties shall confer promptly and in good faith regarding the presence of additional persons at the IDR Meeting. Notwithstanding the foregoing, the Association shall have the sole discretion to determine whether the presence of such other person(s) is necessary or appropriate to further the purpose of the IDR Meeting.

4.0603 Association Board Member(s). Prior to the IDR Meeting, the Board shall confer with the Board Designee and the alternate and shall convey to the Board Designee and alternate such authority to resolve the dispute as the Board deems appropriate (the “Authority”). The scope of the Authority so delegated by the Board may be as general or specific as the subject matter of a particular dispute requires, provided that in no event shall the Authority include any proposed resolution of a dispute which is in conflict with law or the Governing Documents.

4.07 Conduct of IDR Meeting.

4.0701 Presentation of Positions. The Board Designee shall preside over the IDR Meeting provided, however such Board Designee may, in his or her discretion, select the alternate or a member of the Association staff to preside over the IDR Meeting. The IDR Meeting shall begin with the initiating party stating the nature of the dispute, the resolution requested by the initiating party, and the basis for the initiating party’s requested resolution. Following such statement, the responding party (which, if the responding party is the Association, shall be through either the Board Designee, the alternate or any participating Association staff), shall state the responding party’s position and basis for his, her or its position with respect to the dispute and the requested resolution, and any counter-proposal for resolution of the dispute which the responding party may wish to propose.

4.0702 Good Faith Attempt to Resolve. Following the exchange of statements described in §4.0701, the Board Designee, the alternate, any participating member of the Association staff, and the member shall engage in good faith discussions in an effort to resolve the dispute. While the discussions may include dialogue and appropriate questions and answers, there shall be no direct or cross-examination of either the member or the Association representatives, and any questions and answers shall be directed to ascertaining additional information as to the nature of the dispute, the respective positions of the member and the Association, and the nature of the resolution proposed by either the member or the Association.

4.0703 Confidentiality. Unless a resolution of the dispute is reached, all communications and discussions which occur in the IDR Meeting shall remain confidential.

4.08 Resolution.

4.0801 Written Resolution. In the event the member and the Board Designee or, in the absence of the Board Designee, the alternate, agree on a resolution of the dispute, the basic terms of that resolution shall be reduced to writing during the IDR Meeting, and shall be
signed by the member and the Board Designee or alternate in their representative capacities (the “Resolution”). In those circumstances where a further, more formal, memorial of the resolution of the dispute is desired by the Association or the member, the Resolution shall provide that the basic terms embodied therein will be incorporated into a formal written agreement subsequent to the close of the IDR Meeting. The Resolution shall not be binding unless and until the Board pursuant to §4.0802 either acts to confirm that the Resolution is within the scope of the Authority or ratifies the Resolution if it is beyond the scope of the Authority.

4.0802 Presentation to Association Board. The Resolution shall be presented to the Board at the next available regular meeting. If appropriate, the Resolution may be considered in executive session. The Board shall first determine whether the Resolution is within the scope of the Authority. In the event the Board determines the Resolution is within the scope of the Authority, no further action of the Board shall be required, and the Resolution shall be binding under Civil Code section 1363.840, subject to the last sentence of this §4.0801. In the event the Board determines the Resolution is not within the scope of the Authority, the Board shall proceed to consider whether to ratify the Resolution. In the event the Resolution is ratified, the Resolution shall be binding under Civil Code section 1363.840. In the event a Resolution which is not within the scope of the Authority is not ratified, the Board may, but shall not be required to, propose to the member that a further IDR Meeting be conducted pursuant to §4.0901. Notwithstanding any other provision of this §4.0802, and even if the Resolution is within the scope of the Authority, the member and a requisite majority of the Board may mutually agree to resolve the dispute on terms different from the Resolution, which terms shall be memorialized at the meeting of the Board in accordance with the procedures set forth in §4.0801, and which terms shall become binding under Civil Code section 1363.840 upon the written concurrence of the member and the requisite majority of the Board.

4.09 Disputes Not Resolved.

4.0901 Discretionary Additional IDR Meeting. In the event the member and the Board Designee or, in the absence of the Board Designee, the alternate, are unable to resolve the dispute during the time allowed for the IDR Meeting, they may, if they mutually agree, hold a further IDR Meeting at a mutually agreed date and time. Nothing in this §4.0901 shall give either the member or the Association the right to compel a further IDR Meeting in the absence of a mutual agreement.

4.0902 Alternative Dispute Resolution. Participation in the IDR Meeting shall have no effect on the rights of the member or the Association under Civil Code sections 1369.510 through 1369.590, relating to alternative dispute resolution as a prerequisite to an enforcement action.

4.10 Effective Date. The effective date of this chapter is July 19, 2007.
Section 1 – Nature and Purpose

1.1 The Davis-Stirling Common Interest Development Act (“Davis-Stirling Act”) (Section 5900 et seq.) requires that the association of a common interest development provide a procedure for the resolution of disputes separate and independent of the requirements for alternative dispute resolution. The statute requires that the association adopt a fair, reasonable and expeditious procedure for resolving disputes between an association and a member of the association. The Rancho Santa Fe Association (“Association”) intends to follow the statutory procedure for Internal Dispute Resolution (“IDR”) set forth in the Davis-Stirling Act. These Procedures and Guidelines serve to clarify certain aspects of the IDR process.

Section 2 – Initiation and Scheduling

2.1 Request for IDR. Any Member of the Association may make a request for resolution of a dispute (“Request for Resolution”) between that Member and the Association. The Request for Resolution shall be in writing and shall contain the following information: (a) a brief description of the dispute; (b) a brief statement of the relief sought by the Member; and (c) a list of the dates within the 30 days following the date of the Request for Resolution on which the Member will not be available to participate in a meeting to attempt to resolve the dispute (“IDR Meeting”). In the event the Member believes the nature of the dispute will necessitate an IDR Meeting longer than 90 minutes, the Member shall so state in the Request for Resolution, shall request an IDR Meeting of greater length, shall specify the amount of time the Member believes will be required for the IDR Meeting, and shall provide a brief statement of reasons why resolution of the dispute will require an IDR Meeting of longer than 90 minutes. The Request for Resolution shall be delivered to the Manager of the Association personally, via facsimile, or via first-class mail. No fee shall be charged to the Member of the Association for the submission of a Request for Resolution or participation in the IDR process. For purposes of these Procedures and Guidelines, Member shall mean the individual(s) who own of record a Building Site, or if the Building Site is owned of record by an entity or trust, up to two individuals designated in writing by such entity or trust in the Request for Resolution.

2.2 Exception for Disputes Related to Covenant Design Review Committee (CDRC). Notwithstanding any definition or meaning of the term “dispute,” no Member of the Association shall be entitled to request an IDR Meeting based on any act, decision and/or ruling of the Rancho Santa Fe Association CDRC if such Member would be entitled to file a written petition appealing such act, decision and/or ruling to the Board of Directors of the Association under Paragraph 64 of the Rancho Santa Fe Protective Covenant until such time as the appeal has been filed and heard by the Board.

2.3 Notice and Acknowledgment. Within ten (10) working days of receipt of the Request for Resolution, the Manager shall send to the Member, via first-class mail, an acknowledgment of receipt of the Request for Resolution, together with notice of the date and time of the IDR Meeting (the “Acknowledgment and Notice”). To the extent practicable, the IDR Meeting shall be scheduled for a date within 30 days of the Association’s receipt of the Request for Resolution. In the event the
Member has indicated a belief the nature of the dispute will necessitate an IDR Meeting longer than 90 minutes, the Acknowledgment and Notice shall state whether the Association agrees to the request for a longer IDR Meeting and shall state the maximum length of the IDR Meeting.

Section 3 – Participation in IDR Meeting

3.1 Persons Entitled to Participate. The IDR Meeting shall be attended by the following persons: (a) the Member who made the Request for Resolution; (b) one or more Directors of the Association, who shall be designated by the Board of Directors (the “Board Designee(s)’); and (c) such employees of the Association staff as the Board of Directors may designate. The Member may be represented by counsel or other person at the IDR Meeting provided that not less than five (5) working days before the IDR Meeting the Member has notified the Association, in writing, of his, her or its intention to be represented by counsel or other person. In the event the Member’s counsel attends, the Association shall have the right to be represented by counsel as well. In the event the Member is one individual, in addition to the other persons identified in this paragraph, the Member may also be accompanied by one member of such individual’s immediate family.

3.2 Other Participants. To the extent the Member wishes to have persons in addition to those specified in Section 3.1 present at the IDR Meeting, the Member shall identify those persons in the Request for Resolution, and shall provide in the Request for Resolution a brief statement of the reasons why the presence of those persons will be of assistance in resolving the dispute. If a request for the presence of persons other than those specified in section 3.1 is made, the Acknowledgment and Notice shall state whether such request is granted. The Association shall have the sole discretion to determine whether the presence of such other persons is necessary or appropriate to further the purpose of the IDR Meeting.

3.3 Association Board Member(s). Prior to the IDR Meeting, the Association Board of Directors shall confer with the Board Designee(s) and shall convey to the Board Designee(s) such authority to resolve the dispute as the Board of Directors deems appropriate (the “Authority”). The scope of the Authority so conveyed by the Board of Directors may be as general or specific as the subject matter of a particular dispute requires, provided that in no event shall the Authority include any proposed resolution of a dispute which is in conflict with the law or the governing documents of the Association.

Section 4 – Conduct of IDR Meeting

4.1 Presentation of Positions. The Board Designee(s) shall preside over the IDR Meeting. The Board Designee(s) may, in their discretion, select an employee of the Association to preside over the IDR Meeting. The IDR Meeting shall begin with the Member stating the nature of the dispute, the resolution requested by the Member, and the basis for the Member’s requested resolution. Following such statement, the Association, through either the Board Designee(s) or through any participating Association employee, shall state the Association’s position with respect to the dispute and the requested resolution, the bases for the Association’s position as to both the dispute and the Member’s requested resolution, and any counter-proposal for resolution of the dispute which the Association may wish to propose.

4.2 Attempt to Resolve. Following the exchange of statements described in Section 4.1, the Board Designee(s), or any participating employee of the Association, and the Member shall engage in discussions in an effort to resolve the dispute. While the discussion may include dialogue and appropriate questions and answers, there shall be no direct or cross-examination of either the
Member or the designees, and any questions and answers shall be directed to ascertaining additional information as to the nature of the dispute, the respective positions of the Member and the Association, and the nature of the resolution proposed by either the Member or the Association.

4.3 Confidentiality. Unless a resolution of the dispute is reached, all communications and discussions which occur in the IDR Meeting shall remain confidential.

Section 5 – Resolution

5.1 Written Resolution. In the event the Member and the designees of the Association are able to agree on a resolution of the dispute, the basic terms of that resolution shall be reduced to writing, during the IDR Meeting, and shall be signed by the Member and a Board Designee who participated in the IDR Meeting (the “Resolution”). In those circumstances where a further, more formal, memorialization of the resolution of the dispute is desired by the Association or the Member, the Resolution shall provide that the basic terms embodied therein will be incorporated into a formal agreement to be entered into subsequent to the close of the IDR Meeting. The Resolution shall be presented to the Board of Directors pursuant to Section 5.2 either for confirmation that it is within the scope of the Authority or ratification if the Resolution is outside of the scope of the Authority.

5.2 Presentation to the Board of Directors. The Resolution shall be presented to the Board of Directors at the next regular meeting. The Board of Directors shall first determine whether the Resolution is within the scope of the Authority. In the event the Board of Directors determines the Resolution is within the scope of the Authority, no further action of the Board of Directors shall be required, and the Resolution shall be binding under the Davis-Stirling Act. In the event the Board of Directors determines the Resolution is not within the scope of the Authority, the Board of Directors shall proceed to consider whether to ratify the Resolution. In the event the Resolution is ratified, the Resolution shall be binding under the Davis-Stirling Act. In the event a Resolution which is not within the scope of the Authority is not ratified, the Board of Directors may, but shall not be required to, propose to the Member that a further IDR Meeting be conducted pursuant to Section 6.1. If appropriate, the Resolution may be considered in executive session. Notwithstanding any other provision of this Section 5.2, and even if the Resolution is within the scope of the Authority, the Member and the Board of Directors may mutually agree to resolve the dispute on terms different from the Resolution, which terms shall be memorialized at the meeting of the Board of Directors and shall become binding under the Davis-Stirling Act upon the written concurrence of the Member and the Board of Directors.

Section 6 – Disputes Not Resolved

6.1 Discretionary Additional IDR Meeting. In the event the Member and the Association representatives are unable to resolve the dispute during the time allowed for the IDR Meeting, they may, if they mutually agree, hold a further IDR Meeting at a mutually agreed date and time. Nothing in this Section 6.1 shall give either the Member or the Association the right to compel a further IDR Meeting in the absence of a mutual agreement.

6.2 Alternative Dispute Resolution. Participation in the IDR Meeting shall have no effect on the rights of the Member or the Association under Section 5930(a) of the Davis-Stirling Act relating to alternative dispute resolution as a prerequisite to an enforcement action.
CHAPTERS 5 THROUGH 10 RESERVED