

**ARTICLE XIII**  
**Variance Requests and Approvals**

**Section 1.0 Initiating a Variance**

The Cedar Pass Ranch Homeowners' Association Board of Trustees shall call for a special hearing and a notice to go out to all members to determine whether a Variance with limited scope and effect and carefully detailed, may be allowed due to special or unusual circumstances. A Variance originating with the Board of Trustee will require a vote of at least 50% of the membership and no less than 67% of those votes in favor for the Variance to pass. A Lot Owner desiring a Variance shall follow the process outlined below.

**Section 2.0 Variance Request Form**

- A. An Applicant requesting a Variance shall fill out and submit a completed “**Variance Request Form**” to a member of the Architectural Committee either in person, by mail, or electronically. The “Variance Request Form” shall contain the following:
- 1) Name(s) of Lot Owner(s), Street Address, Lot Number, and Applicant contact information (phone number and email);
  - 2) An acknowledgment that the Variance is requested based upon extraordinary circumstances such as those involving topography, natural obstructions (such as washes or steep slopes), hardship, or other environmental considerations AND all supporting information to document the extraordinary basis of the request. This can include a written description, photos, maps, cost analyses (if hardship is claimed), affidavits, or similar statements;
  - 3) A description and all supporting documentation (see above) of what work the Applicant proposes to accomplish, including plans, the mapped location of the proposed Variance, etc., sufficient for the Architectural Committee to make a fully informed determination;
  - 4) The date upon which the Notice of Variance Request was sent to neighboring Lot Owners (See Section 2.0 below for further details.); A copy of the said notice shall accompany the application.
  - 5) The Applicant must acknowledge and agree that the Applicant may be held responsible for paying the reasonable costs incurred by the HOA for the review and processing of the Variance Request;
  - 6) An Applicant must acknowledge responsibility for recording the Variance for their Lot (if approved), including all fees for such recording, with the Utah County

Recorder's office (as applicable).

- B. An Applicant may withdraw an application at any time, without prejudice. If the Applicant withdraws the application, the Applicant will be required to reimburse the Association for any actual costs incurred for processing the application.

### **Section 3.0 Notice of Variance to Lot Owners**

Steps for the Applicant. The Applicant shall prepare and send a “**Notice of Variance Request**” form to all the Lot Owners that border on or are across the street from the Lot of the Applicant requesting such Variance. If the Variance could impact other Lot Owners, the Architectural Committee and/or the Board of Trustees have the right to request notification of the Variance Request be sent to additional Lot Owners.

Upon the request of the Applicant, the Architectural Committee or the Board of Trustees, as appropriate, shall inform the Applicant as to which specific Lot Owners are to receive the Notice of Variance Request.

### **Section 3.1 Lot Owner Submission of Variance Consent or Dissent**

- A. Lot Owners shall send their consent or dissent to the Variance Request in writing directly to the Architectural Committee via hand delivery to an Architectural Committee member, through electronic mail, or by US Mail within fifteen (15) calendar days of receipt (“Notice of Variance Request Response Deadline”).
- B. The Architectural Committee shall make a good faith attempt to contact those notified Lot Owners who have not responded to the consent/dissent request. The Architectural Committee shall verify the Notices of Variance Request were received and attempt to obtain such Lot Owners consent or dissent responses before making any recommendation. After a good faith attempt at contact has been made by the Architectural Committee, if a notified Lot Owner does not respond, such Lot Owner shall be considered as having consented to the Variance Request.
- C. The Architectural Committee or the Board of Trustees, as appropriate, shall then review all Lot Owner statements of consent or dissent and shall consider these statements in making their recommendation.

### **Section 4.0 Review & Approval Process**

- A. If the Architectural Committee receives a Request for Variance that, in their judgment, lies outside of its responsibilities, the Architectural Committee shall forward such request

to the Board for their action. Should the Variance request have been referred directly to the Board for its decision, the Board shall perform all the Architectural Committee's responsibilities as stated herein. Additionally, the Architectural Committee shall notify the Board in a timely manner of all Variance requests as they are received.

B. As the case may be, the Architectural Committee or the Board shall review the Applicant's Variance Request and give full consideration to 1) all the facts presented by the Applicant, 2) the relevant sections of the CC&Rs, 3) any consent or dissent statements received from the notified Lot Owners, and 4) other relevant information as applicable.

1) The Architectural Committee shall review the Applicant's Variance Request within ten (10) calendar days from the Notice of Variance Request Response Deadline (See Section 3.1(A) above.), except to the extent the Architectural Committee may require or request additional documentation or information to vote on the Variance Request.

2) The Architectural Committee may forward the Variance Request directly to the Board of Trustees for their review and action. Should that not be the case, the Architectural Committee shall vote to recommend approval or denial by the Community members of the Applicant's Variance Request no more than thirty (30) calendar days from the Notice of Variance Request Response Deadline.

Should the Architectural Committee require additional documentation or information, including notices to additional Lot Owners, if needed, to make its recommendation, or should the Applicant request an extension, such requests shall be made in writing. If the Applicant does not respond to a request from the Architectural Committee within fifteen (15) days, and the Applicant does not request an additional extension, the Variance request shall be considered denied.

3) The Architectural Committee shall inform the Board of its recommendation in writing within five (5) calendar days of the vote required in Subsection 2 of this section. The Committee shall provide the Board all documentation submitted with the application, including the basis of their reasoning and recommendation.

4) The Board may request additional information from the Applicant, including notices to additional Lot Owners, if needed. The Applicant shall respond to any Board request for additional information within fifteen (15) calendar days.

C. In order to be approved, the Variance Request requires approval by a vote of the HOA members. Such a vote shall take place at a special meeting called by the Board specifically for this purpose. All votes shall be cast either in person, by proxy, or within five (5) days of the meeting. For a Variance Request to be approved, votes must be cast by no less than fifty percent (50%) of the votes of all eligible Lot Owners, with

sixty-seven percent (67%) voting in favor of the Variance. Should circumstances warrant it, this meeting may be held electronically. Notice of such a special meeting and a ballot shall be sent to all Lot Owners via the Lot Owner's preferred communication method on file with the Board or property management company. The Board shall allow additional comments from the Applicant and any Lot Owner who attends this meeting or submits written comments prior to such special meeting before voting takes place on such a Variance Request.

The date of such a meeting shall be determined and notice given (as defined in this Declaration) to all Lot Owners no more than ten (10) calendar days after the Board receives the Architectural Committee's recommendation. A Board member shall notify the Architectural Committee members and the Applicant in writing of this decision no more than ten (10) calendar days from the meeting date.

- D. The facts of the Variance application, the recommendations of the Architectural Committee, and the decision of the HOA community shall be presented at the next monthly Association Board of Trustees meeting and included in the minutes of that meeting.

If the Board of Trustees has determined recording of an approved Variance to be necessary, the Applicant must submit proof of such recording to the Board of Trustees, the Architectural Committee, and the management company under contract by the Cedar Pass Ranch Board of Trustees within ten (10) calendar days from the date of recording. The Board will keep a written record of all approved and recorded Variances. Such a record of Variances shall be available to all residents in any printed or digital copy of this Declaration maintained or shared by the Board. No Variance which requires recording with the Utah County Recorder will be formally approved until such proof of recording is completed and the evidence of recording has been submitted to the Architectural Committee and the Board of Trustees.

- E. A building permit issued by Eagle Mountain City does not approve a Variance within Cedar Pass Ranch. The Architectural Committee must approve all construction and new work associated with the Variance Request. Likewise, approval by the Architectural Committee or the HOA does not guarantee compliance with the City codes and ordinances.