

**ENFORCEMENT POLICY AND FINE SCHEDULE
FOR VIOLATIONS OF THE GOVERNING DOCUMENTS**

Effective January 1, 2020

This policy and fine schedule applies to alleged violations of the Association's governing documents. This policy and fine schedule replaces, in its entirety, the current Policy for Violation Determination, Violation Policy and Fine Policy in the 2002 Membership Information Guide (on pages 3-6.)

ENFORCEMENT POLICY

1. **Complaints:** Residents are requested to report violations of the governing documents to Association management or the Board. Such reports must be in writing and contain a description of the alleged violation (e.g., time, date, action(s), and responsible person, if possible.) Verbal complaints cannot be acted upon. Additionally, the Board, management, and/or committee members may directly report governing document violations. Upon receipt or knowledge of an alleged violation, the Board or management will determine whether to pursue the reported violation. Written reports will be held in confidence, except as required by law.
2. **Warning Notice:** If the Board or management determines to pursue the alleged violation, the Association will send a Warning Notice to the Owner describing the alleged violation and instructing the Owner on the actions and timeframe required to remedy the violation. If compliance occurs in accordance with the Warning Notice to the reasonable satisfaction of the Board, the matter will be considered closed.
3. **Waiver of Warning Notice:** In situations where the Board or management, in their sole discretion, determines the alleged violation is sufficiently hazardous or serious, including, but not limited to, threats against persons or property, actual or threatened physical violence, dog bites, in-progress unapproved architectural modifications, rentals or leases not in compliance with the governing documents or law, or unsafe, hazardous or outrageous conduct, the Board or management may determine to forego the Warning Notice and proceed directly to a noticed hearing or other enforcement action(s) authorized by the governing documents and California law.
4. **Notice of Hearing:** If the alleged violation described in the Warning Notice is not corrected as described in the Warning Notice, if no Warning Notice was provided as specified above, or if the same or similar violation is repeated or continued, the Association will send a Notice of Hearing to the Owner.

The Notice of Hearing will provide a general summary of the alleged violation(s); the date, time, and location of the hearing to be held in executive session; and a statement that the Owner may attend the hearing and address the Board. The Notice of Hearing may, but is not required to, also describe the disciplinary actions which may be taken in accordance with the governing documents.

The Association shall deliver the Notice of Hearing to the Owner at least fifteen (15) calendar days prior to the hearing date, or as otherwise provided in the CC&Rs or law if the CC&Rs or law provide for a different timeframe.

5. **Hearing Procedure.** At the hearing, the Board will consider the Owner's oral and/or written testimony, if any, as well as any other information and/or evidence before it which the Board reasonably determines to be material and relevant in determining whether to impose discipline.

Should the Owner fail to appear at the hearing and/or fail to submit a written statement in defense of the allegations, the hearing may proceed and the Board may consider such failures to be an admission of the allegations.

The Owner and any relevant witnesses are entitled to attend the hearing, but they shall be excused after the evidence is presented. At the conclusion of the hearing, after the Owner and his/her witnesses, if any, leave, the Board will consider the information and evidence available to it and make findings as to whether the alleged violation(s) occurred or not.

6. **Post-Hearing Notice of Discipline.** If the Board imposes disciplinary action against the Owner, the Association shall notify that Owner, in writing, within fifteen (15) days following the hearing. If the Board decides to take disciplinary action against the Owner, such action shall become effective no sooner than five (5) days ~~after the hearing~~. All decisions of the Board shall be final unless the Board, in its sole discretion, agrees to rehear the matter due to the availability of new evidence or information of an overriding nature.

7. **Repeated Violations.** If the violation(s) continues or is repeated or if the Owner's response is otherwise unsatisfactory, the Board may impose additional or continuing monetary penalties and continue suspension of membership rights until such time as the matter is satisfactorily resolved. For non-continuing violations, the Association shall call the Owner to additional hearings whereat the Board may impose additional monetary penalties and discipline. Please note that an Owner will not be called to additional hearings for certain persistent, continuing, and uninterrupted violations.³ Instead, the Owner may be fined on a daily basis, in accordance with the Association's Fine Schedule, until the violation is cured.

8. **Other Remedies.** In addition to the discipline referenced in the governing documents, the Board may refer such matters to the Association's legal counsel at any time. If this occurs and action is required to obtain the Owner's compliance with the governing documents, the Owner shall be liable for the Association's attorneys' fees and all costs related to the lawsuit if the Association is the prevailing party. (Civil Code § 5975(c).) The Association may also determine to use alternative dispute resolution to address the issues, or correct the violation itself, with the Owner responsible for costs to effect the correction.

³ For the purpose of this document, a "persistent, continuing and uninterrupted violation" is an ongoing, rather than repetitive, violation. It is a violation that remains substantially unchanged until corrected by the Owner. (e.g., unauthorized architectural alterations)

9. **Legal Action.** In appropriate circumstances, such as in the need for immediate action against an Owner or resident in violation of the governing documents, or in dangerous, hazardous or threatening situations, the Board of Directors, in its sole discretion, may bypass the above enforcement policy and refer the matter directly to legal counsel for such legal actions for injunctive or declaratory relief or monetary damages as may be necessary and lawful under the governing documents and California law. In addition to any enforcement action under this policy, the Internal Dispute Resolution procedure under Civil Code sections 5900 - 5920, and/or Alternative Dispute Resolution procedure under Civil Code sections 5925 - 5965 may be instituted.

FINE SCHEDULE

The following fine schedule shall apply where the Board finds a violation has occurred and, in its sole discretion, determines to assess a fine.

Fines for violations may be levied in accordance with the following schedule. Fines may be imposed promptly, or held in abeyance pending conditions or required action by the Owner. Vehicle and parking violations on Common Area are also subject to the vehicle being towed without further notice at the vehicle owner's expense.

I. Violation of Rental Rule(s): Violation(s) of the short-term rental rules are subject to any combination of the following:

- a. A \$1,000 fine for the first violation; \$1,500 fine for the second violation, a \$2,000 fine for the third and subsequent violations;
- b. Suspension of the member's membership rights for up to 30 days (or other time frame in the CC&Rs), including the right to vote and right to use the Common Area facilities. Any suspension of Common Area privileges extends to the residents, family members, guests, tenants, licensees, and/or invitees of a Lot or residence; and/or
- c. A lawsuit for injunctive relief.

Violations or potential violations of the short-term rental rules are subject to immediate notice of hearing without a Warning Notice, in the Board's or management's discretion. The above fines may be imposed per violation and not per month that such violations occur.

These penalties will be imposed after notice and hearing. The Board has determined the proposed fine schedule is reasonable and justified because other homeowners associations have similar fines for short-term rental violations, and this fine amount is sufficient to act as a deterrent to improper renting of the Lot or residence, which is the purpose of fines in a community association.

II. Violations, Generally:

1st Offense

Generally: Up to \$200 fine

Violations Involving a Hazardous Activity*: Up to \$300 fine

2nd Offense

Generally: Up to \$400 fine

Violations Involving a Hazardous Activity*: Up to \$500 fine

3rd Offense

Generally: Up to \$600 fine

Violations Involving a Hazardous Activity*: Up to \$700 fine

4th Offense
& Subsequent

Generally: Up to \$1,000 fine

Violations Involving a Hazardous Activity*: Up to

~~\$700~~ fine ^{\$1,100}

Daily Fines for Continuing Violations Up to \$50 per day until corrected

* A "hazardous activity" is any activity that could cause serious harm to persons or property, including, but not limited to, threats of physical violence, dog bites, and in-progress, unauthorized architectural modifications. Warning letters shall not be required for hazardous violations. Instead, the Owner may be immediately called to a hearing where he or she may be fined, or the Board may take any other enforcement actions authorized by the governing documents and/or California law.

That could be considered as hazardous

III. Disciplinary Rules Applicable to Violations:

- a. **Reimbursement of Damage Costs:** Fines for violations shall be in addition to any charges imposed against an Owner to reimburse the Association for costs incurred in repairing damage to the Common Area for which the Owner is responsible.
- b. **Suspension:** In addition to fines, the Board may also suspend or conditionally suspend, after noticed hearing, an Owner's membership rights as outlined in the governing documents of the Association.
- c. **Persistent, continuing, and uninterrupted violations**

(i) In addition to the initial fines listed above, the Board may levy a \$50 per day fine for each and every day that a persistent, continuing and uninterrupted violation continues. For example, a first time penalty of \$200 for an in-progress architectural violation is subject to an additional \$50 fine each day until the violation is corrected.

(ii) Before imposing such a fine, the Hearing Notice shall state that the Board may initiate daily fines if the violation is not cured.

(iii) At the hearing, the Board shall provide the Member with a timeframe within which the violation must be cured and notice that if the violation is not cured within the stated timeframe, daily fining will commence without further notice and hearings. The Board may also levy an initial fine in accordance with the Fine Schedule.

(iv) If the Member fails to attend the noticed hearing, the notice contained in the hearing notice and the post hearing notice confirming the disciplinary action being taken, including the Board's intent to commence daily fining, shall suffice.

Fines are the ultimate responsibility of the Owner of the Lot in which the violating person is associated. Any monetary penalties not paid voluntarily by the Owner may result in collection by legal action by the Association.

Please note that the fines listed above are in addition to any actual costs, damages, or expenses incurred by the Association in obtaining compliance with the governing documents and/or repairing or replacing property or improvements damaged by an Owner. The Board may also send any violation matter to the Association's legal counsel for legal action, at any time.

* A "prohibited activity" is any activity that could cause serious harm to persons or property, including but not limited to, threats of physical violence, dog bites, and improper, unlicensed, unpermitted, or unapproved work. Warning letters shall not be required for hazardous violations. Injuries, dog bites, or other prohibited activities may be immediately referred to a board member or the Board, or the Board may take any other enforcement action authorized by the governing documents and/or a restraining law.

Penalties Not Applicable to Violations

- a. Administrative of Finance Fees: Fines for violations shall be in addition to any other charges assessed by the Association for services rendered in reporting violations to the Community Association and/or the Board.
- b. Restoration: In addition to fines, the Board may also request or conditionally require the affected Owner to restore the Association's right as outlined in the governing documents of the Association.
- c. Prohibited Activities and Unpermitted Violations
 - (i) In addition to the fines listed above, the Board may also assess a fine of \$100 per day for each day that a prohibited activity and/or unpermitted violation continues. For example, a fine rate penalty of \$100 per day for an unpermitted violation is subject to an additional \$100 per day for each day the violation is continued.
 - (ii) Fines assessed with a fine, the Board may also assess the Board may assess a fine daily based on the violation is not cured.
 - (iii) At the Board's discretion, the Board may also assess a fine with a monetary warning which the violation may be cured and minor that if the violation is not cured within the time period, the Board may assess a fine with a monetary warning. The Board may also assess a fine with a monetary warning which the violation is not cured.
 - (iv) If the Board fails to assess the Board may assess a fine with a monetary warning which the violation may be cured and minor that if the violation is not cured within the time period, the Board may assess a fine with a monetary warning. The Board may also assess a fine with a monetary warning which the violation is not cured.