

NEWPORT HILLS COMMUNITY ASSOCIATION

ENFORCEMENT/COMPLIANCE POLICY

(Adopted January 1, 2007)

1. Basic Policy on Fines and Enforcement.

An objective of this Enforcement Policy is to promote and seek *voluntary* compliance by Owners, tenants, and residents with the Newport Hills Community Association's Amended and Restated Declaration of Covenants, Conditions and Restrictions and Reservation of Easements ("CC&Rs"), Bylaws, Architectural Guidelines and Standards, and Rules and Regulations, all as amended and supplemented (collectively, "Governing Documents"), and, if necessary, compel an Owner's compliance where the Owner refuses to comply voluntarily. The Association may, in its discretion, pursue enforcement by administrative action (e.g., warning letter, hearing, fine, or other disciplinary action) or by proceedings at law or in equity. The Association may, in the Board's discretion, enforce correction of a violation of the Governing Documents by pursuing any one or combination of the remedies described below, including proceeding immediately with fine proceedings, suspension of privileges, implementing correction of the violation, Alternative Dispute Resolution, or legal action, if the Board determines such action is appropriate.

2. Reporting a Violation

A report of an alleged violation of the Association's Governing Documents may be made to the Association's managing agent by any Owner, including any Owner serving on the Board or an Association Committee, or by the managing agent. Such a report shall constitute a "complaint" and should, preferably, be in writing. The complaint should clearly state the facts and circumstances regarding the alleged violation. Action may also be taken based upon an oral report (presented by telephone or in person), and under such circumstances appropriate file documentation concerning the complaint shall be generated and maintained for future reference; provided, however, the Association, in its discretion may refuse to take action based upon only an oral (nonwritten) report.

3. Initial Courtesy Letter.

A courtesy letter may be sent by management, requesting the Owner's voluntary cooperation. Such notice shall describe the noncomplying condition, and request that the Owner correct the condition within a reasonable time specified in the notice. If the courtesy notice does not bring about voluntary compliance the Association may, as described herein, compel the Owner's compliance through the use of such remedies the Board deems appropriate and available in law or in equity, including but not limited, the imposition of fines, monetary penalties, suspension of privileges, subject to the notice and hearing conditions set forth in this Policy, and/or the pursuit of alternative dispute resolution proceedings or legal action.

4. Violation Letter/Hearing Procedures.

If a courtesy letter is sent and it is unsuccessful in remedying the noted violation, or if the Board determines, in its discretion, to proceed with a violation letter as the first notice, the Board of Directors may impose a fine and/or suspend membership privileges, after the Owner is offered an opportunity to be heard on the matter. The violation letter shall contain the following information:

(a) A brief description of the alleged violation and, in the event the correction of the alleged violation requires action such as the installation, removal, repair, replacement, reconstruction, or maintenance of improvements, the date by which such violation is to be corrected by the Owner;

(b) The disciplinary, corrective action, and/or penalties which may be imposed, such as the levying of a fine in accordance with the Fine Schedule, and/or suspension of Membership privileges; and

(c) If the Board determines to schedule a mandatory hearing, the violation letter shall provide notice of the date on which the Member shall have an opportunity to be heard by the Board to explain why a fine, corrective action, penalties, and/or suspension of Membership privileges should not be imposed. The hearing shall be held not less than thirty (30) days, nor more than sixty (60) days after the Member has received a written statement of the charges.

If the Board determines not to schedule a mandatory hearing unless specifically requested by the Member, the violation letter shall state that, unless a written request for a hearing signed by the Member is delivered to the Association's managing agent within fifteen (15) days after the date of the delivery of the violation letter, the Member shall be deemed (a) to have accepted the findings of the Board; (b) to have accepted the date established by the Board for the completion of any corrective action required to cure the violation; and (c) to have waived his/her right to a hearing and his/her right to object to the findings of the Board and the disciplinary and/or corrective actions and/or penalties imposed by the Board. Upon timely delivery of a request for hearing from the Member named in the complaint, the Board shall set a date for a hearing before the Board and shall deliver notice of such hearing to the Member.

The date of the hearing shall be no less than fifteen (15) days after the date of the notice of hearing is mailed (via first class mail) or delivered to the Member; provided, however, the hearing date must be scheduled not less than thirty (30) days, nor more than sixty (60) days, after the Member has received a written statement of the charges. Any proposed fine or other disciplinary action shall be held in abeyance and shall only become effective if affirmed at the hearing. The hearing shall be conducted according to such reasonable rules and procedures as prescribed by the Board of Directors. The Board shall appoint a panel of three (3) capable persons (each of whom may or may not be Board members, and one of whom shall be designated chairman) to hear the charges and evaluate the evidence of the alleged violation. The Member shall have the right to present oral and written evidence and to confront and cross-examine any adverse witnesses presented at the hearing. The hearing shall be conducted in Executive Session, unless the Member specifically requests in writing that the hearing be conducted during the Open Session.

Within seven (7) days after the hearing, the Board's written decision shall be mailed to the Member and shall specify the disciplinary and/or corrective actions and/or fines or penalties levied, and the reasons therefore. No disciplinary action against the Member may take effect prior to five (5) days after the hearing date. If the Member does not attend the hearing, the Member shall be deemed to have waived his/her right to a hearing and his/her right to object to the disciplinary and/or corrective actions and/or penalties the Board may impose. If the Member corrects an alleged violation prior to the hearing date, the Board shall discontinue the proceedings.

5. Preliminary Dispute Resolution ("PDR") and Alternative Dispute Resolution ("ADR").

The Association shall, as necessary, comply with the provisions of California Civil Code Sections 1363.810 et seq. and 1369.510 et seq., before bringing any civil action or suit to enforce the Association's Management Documents.

6. Court Action.

The Association may file an action in law or in equity to recover monetary damages, for injunctive relief, or any other legal or equitable remedy available to the Association.

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FINE SCHEDULE

Fines may be levied by action of the Board of Directors, after notice and hearing, in accordance with the Association's Enforcement/Compliance Policy and schedule below. For violation of any of the Governing Documents, the Board of Directors has the discretion to impose monetary penalties ("fines") in accordance with the following schedule, or the Board, in its discretion, may impose up to the maximum fine amount (i.e., \$1,000.00) and/or pursue other disciplinary action on a first or subsequent violation if the Board determines, in its discretion, the facts and circumstances of the violation merit such disciplinary action:

- a. 1st Offense Notice of Violation with a request to correct/ repair the deficiency; provided, however, the Board may determine to impose up to the maximum fine amount on a first offense; also, if the first offense concerns installation or construction of unapproved improvements in violation of the Association's Governing Documents, the Member may be subject to an initial fine of up to \$1,000.00, after notice and hearing; and the fine amount may continue to double for subsequent offenses (e.g., construction or continuing construction work after receipt of a cease and desist notice or other notice of violation or proceeding with other unapproved improvements, or discontinuing construction of approved improvements (i.e., failure to diligently prosecute completion of approved improvements).
- b. 2nd Offense Hearing before the Board; subject to an additional fine, which will be the greater of the fine for the first offense or \$250.00, plus request to correct/repair/commence.
- c. 3rd Offense Hearing before the Board; subject to an additional fine, which will be the greater of the fine for the second offense, or \$500.00, plus request to correct/repair/commence.
- d. 4th Offense Fines will double from the amount of fine charged on the third offense, and will continue to double thereafter for each month the violation occurs, plus request to correct/repair.

Note: Fines will continue to double with each repetition of the offense.

The Board of Directors will determine an appropriate period of time for curing of violations.

Note: If a violation occurs which causes damages to common area or otherwise imposes a financial obligation or liability upon the Association, the responsible Member for said violation shall reimburse the Association, by way of a special assessment, for the cost to repair the damages or for the financial obligation, in addition to any fines that may be levied. Example: damage to a common area fence, and/or any other Association Property; repair and replacement cost will be charged to the responsible Member.

LEGAL ACTION FINE SCHEDULE

- Legal Action – Violation of Governing Documents involving issuance of Cease and Desist Notice or other action by Association's legal counsel.
- Hearing before the Board; and owner shall be subject to an initial fine of up to \$1,000.00. Immediate legal action may be taken against any Member that fails to abide by a Cease and Desist Notice.