

NOTICE OF PROPOSED CHANGES TO ASSOCIATION'S RULES

MONARCH HILLS CONDOMINIUM HOMEOWNERS ASSOCIATION

Civ. Code § 4360

All Owners and occupants of properties within the Monarch Hills Condominium Homeowners Association (“**Association**”) are bound to comply with the restrictions and requirements contained in the Association’s governing documents. The governing documents include, among others, the Association’s recorded Declaration of Covenants, Conditions and Restrictions (“**Declaration**”), Bylaws, and any operating rules adopted by the Association’s Board of Directors (“**Rules**”) pursuant to its authority under the Declaration, Bylaws and applicable Civil Code.

The Board of Directors has proposed changes to the Rules as described below (“**Proposed Changes**”). This notice is being provided to all Owners in satisfaction of Civil Code § 4360.

BRIEF DESCRIPTION OF PURPOSES & EFFECTS OF PROPOSED CHANGES

The Proposed Changes are described below, together with their underlying purposes and effects.

1. PROPOSED FINE POLICY CHANGES

- a. **Purpose:** The purpose of the revisions to the Fine Policy are intended to clarify and update the policy.
- b. **Effect:** The effect of the revisions to the Fine Policy will allow the board clear rules to implement when homeowners are not following the rules.
- c. **Proposed Fine Policy Changes.**
PLEASE SEE ATTACHED.

UPCOMING MEETING WHEN BOARD MAY ADOPT THE PROPOSED CHANGES

Pursuant to *Civil Code* § 4360(b), a decision whether to adopt any or all of the Proposed Changes will be made at the Board’s upcoming meeting scheduled for **March 26, 2024 at 5:00PM** at 58 Corniche Drive, Dana Point. That decision will be made after consideration of any comments made by Owners.

Please note that the decision whether to adopt any of the Proposed Changes is made within the sole discretion of the Board of Directors. However, if you have any comments regarding the Proposed Changes that you would like the Board to consider, please bring them to the Board’s attention at the meeting, or in advance via email to the Association’s managing agent at:

Wendy Miller, Associate Director of Community Management
Powerstone Property Management
wmiller@powerstonepm.com

If a decision is made to adopt any or all of the Proposed Changes, general notice of the same will be posted/provided within fifteen (15) days following the above-referenced meeting.

MONARCH HILLS CONDOMINIUM ASSOCIATION

FINE POLICY

ADOPTED ON _____

~~Proposed MHHA, fine policy and procedure~~

~~To replace the verbiage in the "schedule of the final assessments" page _____ of the annual policy statement November 2023, civil code 5510(a)~~

PURPOSE: One of the main reasons why homeowners choose to purchase property in an HOA, is because they wish to live in a community that is safe and has clear rules and regulations that all homeowners must abide by. To manage the care of the HOA and to enforce compliance with these rules and regulations, the homeowners elect a board of directors, whose fiduciary duty it is to ensure that the governing documents, CC&R, Bylaws, Rules and Regulations, and Architectural Guidelines of the HOA ("Governing Documents") are adhered to by all homeowners, their guests, invitees, and tenants. Should a homeowner or their guests, invitees, and tenants violate an HOA rule, the board will do everything within its power, to persuade the homeowner to correct the violation in a timely manner to ensure compliance with the applicable regulation. However, should the homeowner, after ~~correspondence with management and after an opportunity to be heard and defend their actions or those of their guests, invitees, and tenants~~ attendance at a hearing or presentation of a written defense in the time given, still not correct the violation, or the violation complained of continues, the board will have no option, but to assess a fine to the homeowner for the violations, or their continuing violation once or multiple times until the issue is corrected until it is corrected. The following outlines the fine procedure that the board has adopted:

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Written complaints from homeowners submitted to, and received by management will be acted upon by the board. Urgent, verbal complaints, such as those dealing with immediate safety issues, as well as emergencies to life and property, should be phoned in to management at any time of day or night.

Once a written complaint is passed from management to the board, management will confirm receipt of the written complaint to the homeowner in a timely manner.

ALLEGED VIOLATION: In the event of a reported violation, the identity of the person ~~homeowner~~ making the complaint will be kept confidential, unless the person making the complaint has agreed to make or has made his or her identity known to the homeowner who is alleged to have committed the violation. All written ~~Homeowner-~~ reported violations will be presented to the Board at the regularly scheduled board meeting, if deemed necessary, the board will direct management on how to proceed in the investigation of the alleged violation. Any violations observed by management, a board member, or parking patrol, ~~management~~ will immediately be sent notice of the violation and a cease and desist letter, written in ordinary and concise language, with accompanying photographs, where available and if-necessary, to the offending homeowner. The notice of violation to the homeowner, -which will include:

1. Statement of alleged violation ~~and a copy of the~~ written ~~complaint~~ statement, setting forth the alleged violation in ordinary and concise language.
2. Basis for violations ~~which will include~~ -references to the specific provision of the ~~G~~ governing ~~D~~ documents, which the homeowner is alleged to have violated.
3. Time allowed to correct ~~the alleged~~ violation – typically this will be no more than ~~thirty (30)~~ days from the receipt of the HOA letter, depending on type of violation and safety concerns, ~~where the~~ time allowed to correct ~~the alleged violation~~ may be less.
4. Invitation to attend a hearing and executive session ~~with the Board of Directors~~ if ~~the~~ violation has not been corrected within the time allowed, or to submit a written statement of defense before the hearing. The date, time and place of the scheduled hearing will be provided. The homeowner is entitled to attend the hearing and present a statement of defense, and any supporting materials, witnesses, or submit a written statement of defense to the board. ~~Any written statements must be received by the HOA's property manager,~~ at least two (2) days before the hearing. If the violation is corrected within the time requested no hearing will be held, and no fine will be imposed.
5. Sanctions. The sanctions(s) which may be imposed at the hearing.

IMPOSITION OF A FINE: Failure to appear at the first hearing or submit ~~at written statement, a convincing statement~~ of defense prior to the hearing shall be deemed an acknowledgment of the existence of the ~~alleged~~ violation and a waiver of the right to be heard. ~~In such instances, the Board of Directors, and will result will institute in~~ a fine of ~~upto~~ \$1000, except in the case of an architectural violation, or an emergency situation, resulting in public safety risk, in which case the fine may be up to \$10,000.

NOTICE OF HEARING. ~~After the hearing,~~ Management will ~~provide then inform the~~ a written notice to the homeowner of the results of the hearing within fifteen (15) days after the hearing, ~~which will included the amount of any fines assessed by the Board of Directors, or other actions to be taken by the Board of Directors.~~ However, the Board of Directors reserves the right to invite the offending homeowner ~~homeowner of this fine, asking him/her~~ to attend the a hearing scheduled for the next executive board meeting, ~~to further discuss the violation.~~ ~~If the homeowner convinces the board either at the first hearing or any written defense is received by the board before the first hearing that the owner is not responsible for the violation, no fine will be imposed, and the matter will be closed.~~ If a fine is imposed, the next subsequent member assessment statement will show the fine as an additional charge. The Board's decision for or against the imposition of a fine, penalty, or other action by the Board, after notice of the violation, and ~~an~~ opportunity for a hearing, shall be by official board action, and shall be made in writing, to the member, setting for the reason(s) for such decision. ~~Notice shall be sent to the member within fifteen (15) days following the action, according to the provisions of the California civil code, section 5855(c) et seq.~~

SUBSEQUENT OR CONTINUING FINES: If a fine is imposed at the first hearing, and within the next 30 days after the hearing, the violation is corrected then the issue

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will be close, and no new fine will be imposed. However, if after the first hearing and notice, the violation has ~~still~~ not been corrected, resolved, remedied, prevented, or rectified as requested by the Board of Directors to the satisfaction of the board, the board will invite the owner to a second hearing at the next executive session. If the homeowner does not attend the second hearing to present a defense, or if the homeowner fails to send in a convincing written defense before the second board meeting, then a ~~second fine of up to \$1000 fine may will~~ be levied after the second hearing, and the homeowner will be given another 30 days to resolve the violation. If the violation is resolved within the second 30 days, then the Board of Directors may waive up to one-half \$500 of the second \$1000 fine will be waived. Any fine assessed by the Board of Directors as a result of the violation~~The rest of the fine, \$1000 for the first "no defense or an unacceptable defense" and \$500 for failure to resolve the violation within the second 30 days, shall will be due within thirty (30) days of being assessed to the homeowner's statement, if not paid within the next 30 days then the \$500 fine portion of the second \$1000 will revert back to \$1000 and the homeowner will owe \$2000 in total. The \$2000 fine becomes permanent and the board may choose to levy a third \$1000 after a third hearing, which will also be permanent no waivers from the third and subsequent fines will apply.~~

The board may~~has a discretion to~~ continue inviting the homeowner to hearings every thirty (30) days and levying finest of up to \$1000~~finest~~ until the situation is corrected ~~or until the board agrees that the total sum of the fines is proportionate to the offense~~. The total amount of fines will stay permanent and will become an encumbrance against the property and will be settled in escrow when the home is sold. Any unsettled dispute between the homeowner and the HOA ~~Board~~ that causes the Board to pay attorneys to assist in the enforcement of the Governing Documents~~help it resolve a dispute~~ with the homeowner (such as in, but not limited to ADR or litigation) or unsettled disputes that are not resolved within three (3) months from the date of the first hearing, do not qualify for a waiver of fines assessed by the Board of Directors, at any time.

TOWING: Violation of the Associations parking rules may include implementation of enforcement measures and may, in addition to any fines, ~~also~~ include towing of the subject vehicle, in accordance with the Monarch Hills Condominium Association-Homeowners rules and regulations, towing and enforcement procedures for parking.

LEGAL ACTION: ~~The Board may decide, in certain instances that legal action should be initiated prior to, in addition to, or in lieu of enforcement measures and/or fines, at any time during the enforcement procedure. The board has the authority to take whatever legal action, in the board's discretion, which may be necessary to correct violations.~~

TENANTS, VENDORS, CONTRACTORS, SERVICE STAFF, AND GUEST NONCOMPLIANCE. Homeowners are responsible for all actions of their guests, invitees, agents, tenants, vendors, contractors, and service staff while they are visiting or working in the community. Homeowners are also responsible for their

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guests, invitees, agents, tenants, vendors, contractors, and service staff's ~~tenant's~~ violations of the Governing Documents. Violations will be issued to a homeowner for infractions of the Governing Documents by the homeowner's guests, invitees, agents, tenants, vendors, contractors, and service staff ~~guests, vendors, contractors, tenants or service staff for rule infractions~~. It is the responsibility of the homeowner to advise their guests, invitees, agents, tenants, vendors, contractors, and service staff ~~tenants, guests or workers~~ of the rules that may apply for violations, such as, but not limited to damage to the association, association property, leaky vehicle stains, pets off leash, illegal parking, fire lane violations, parking restrictions, noise violations, E-Bike violations, etc.

NONCOMPLIANCE WITH ARCHITECTURAL PROCESS ~~—noncompliance—~~ ~~penalty—\$10,000~~. Over the last several years, the HOA has had a significant increase in the number of homeowners who have commenced interior and exterior modifications without first obtaining approval from the Architectural Committee or the Board of Directors. As such, the Board of Directors has found it necessary to spend considerable time, effort, and Association resources to correct these illegal actions by homeowners. Therefore, ~~s~~Should a homeowner commence any interior or exterior modifications without the submission of an Architectural Application, and the receipt of formal written approval from the Architectural Committee or the Board of Directors ~~associations architectural committee, the homeowner~~ ~~said member~~ will be sent a cease and desist letter, called to a hearing with the Board of Directors, and assessed a fine penalty of up to \$10,000.00 ~~and a potential cease and desist of all work taking place~~. Additionally, all contractors will be denied community access until Architectural Application has been submitted and approval by the Architectural Committee or Board of Directors has been granted. The homeowner will be required to prepare and submit plans, fees, and deposits for the modification, and will be subject to removal of said modifications if they are not approved by the Architectural Committee or the Board of Directors ~~association~~. **PLEASE TAKE NOTE OF THIS VERY IMPORTANT POLICY AND PROCESS.**

NONRESIDENTIAL, USE OF A HOME. No unit shall be used for any business, vending, or non-residential purpose, other than short term rentals (STR) ~~s~~. All units shall be used only for single-family residential use, maximum occupancy six (6) persons. The Governing Documents ~~Our CCR's~~ allow short term rentals (STR) ~~s~~, like Airbnb and VRBO, provided the homeowner has obtained the required City of Dana Point STR permit and complied with any additional business insurance requirements. An owner may maintain an office and conduct business activity within their own unit, provided that there is no external evidence of such activity, and such activities are in conformance with all applicable governmental ordinances. The existence of business violations of these rules can result in a fine, after hearing, of ~~penalty~~ up to \$10,000.

LOUD PARTIES, LOUD VEHICLES, AND OTHER NUANCES ACTIVITIES. Loud parties, loud cars, loud stereos, or any other general nuisance should be directed to the police and inform the HOA's property manager ~~management, in writing of the problem on the following business day~~. The homeowner, or their tenant, invitee, guest ~~having the party~~ has a responsibility for their guests to adhere to the HOA Governing

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Documents rules and regulations, and will be assessed after being called to a hearing. any cost required to repair the damage created by the party goers guests in the common area. Other transient public nuisances, including but not limited to homeowners, their workers or contractors, creating noise on a Sunday, public holiday, or before 7 AM or after 5 PM on a workday, endless dog barking, bright lights, affecting neighbors, homeowner noise complaints occurring between 10PM and 10am will be addressed with the homeowner at a hearing at the next board meeting. After the hearing, the Board of Directors may assess a fine of up to \$1000 ~~may be assessed by the board~~ plus the cost of damage repair, if applicable.

EMERGENCY SITUATIONS RESULTING IN THE PUBLIC SAFETY RISK-

EMERGENCY SITUATIONS: In certain cases, there may be a situation where the homeowner, their guest, tenants or his/her workers caused damage to common property, create a public safety, risk, or cause damage that may affect the HOA or the homeowner's neighbors. An example would be placing personal property in common area walkways. In such a case, management will send out a letter to the homeowner as soon as the problem is identified and confirmed by photos if available, to remove the obstructions. The homeowner should immediately resolve the issue ~~to the satisfaction of the board but not later than within~~ three (3) calendar days after being notified of the issue. If the issue is not corrected or resolved within three (3) calendar days, the homeowner will be called to a hearing ~~the next board hearing to explain the situation, and may be assessed~~. ~~If the explanation is not satisfactory, the board may issue~~ a fine up to \$10,000 plus the cost of any repairs or remedy. If the violation creates a safety issue in the common area which is not immediately repaired by the homeowner, the board will take all necessary action to repair the public safety issue, and will then, after being called to a hearing, bill the homeowner for said costs ~~and find the homeowner appropriately~~.

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DAMAGES TO HOA PROPERTY AND OTHER HOMEOWNER UNITS-PENALTY

\$10,000: Where a homeowner, their guest, invitee, vendor, contractor, or tenant has caused damage to the HOA property, common areas, or another homeowner's unit, Upon written notice of damages, sent by management, the homeowner must make financial restitution arrangements within thirty (30) days. Management will notify the homeowner in writing of the cause of damages and invite homeowner to attend a hearing in executive session if financial arrangements have not been addressed within the allowed time or to submit a written statement of defense before the hearing.

PLEASE TAKE NOTE OF THIS VERY IMPORTANT POLICY AND PROCESS.