

Summit Ridge at Saddle Mountain Homeowners Association Enforcement Action Rules

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Summit Ridge at Saddle Mountain Homeowners Association Enforcement Action Rules

Article 1

Introduction

Section 1.01 Purpose

The purpose of these Enforcement Action Rules is to establish procedures for the imposition of enforcement remedies, including penalties, upon the Owners and Occupants subject to the Project Documents. This Policy is intended to enforce compliance of the Members of the Association with the Association Management Documents, in addition, giving the Members knowledge of procedures that are applied uniformly. This Policy is subject to the Declaration of Restrictions (CC&R's), recorded on February 8, 2002, as Instrument No. 2002-024701, Official Record of San Mateo County. All capitalized terms used in these Rules are terms defined either in the CC&R's, Bylaws, or elsewhere in the Project Documents.

Section 1.02 Date of Adoption

The Board of Directors of the Summit Ridge at Saddle Mountain Homeowners Association adopted articles 1 - 8, inclusive, of these Rules on May 3, 2002.

Article 2

Definitions

Section 2.01 Application of Definitions

Unless the context otherwise requires, the terms defined in this Article shall have the meanings as defined. Any term or phrase not defined in this Article, but shown in quotations, within parentheses, in another provision of these Rules, shall have the meaning set forth as if it were defined in this Article. The capitalization of the first letter of any term, other than proper names used in this document, indicates that such term is defined in these Rules and Restrictions.

Section 2.02 Association

"Association" shall mean Summit Ridge at Saddle Mountain Homeowners Association, a nonprofit mutual benefit corporation incorporated under the laws of the State of California, its successors and assigns, for the purpose of managing the Common Interest Development.

Section 2.03 Association Management Documents

"Association Management Documents" shall mean the Articles, Bylaws, Architectural Guidelines, Declaration, Supplementary Declaration and the Association Rules and any amendments to any of the foregoing.

Section 2.04 Board

"Board" shall mean the Board of Directors of the Association.

Section 2.05 Common Area

"Common Area" shall mean the portions of the Association Property, if any, that are not Exclusive Use Areas. Common Area shall also include mutual or reciprocal easement rights appurtenant to the Separate Interests the Owners of which possess appurtenant rights to the beneficial use and enjoyment thereof, if any, if so provided in this Declaration or a Supplementary Declaration.

Section 2.06 Declaration

"Declaration" shall mean this Declaration of Covenants, Conditions and Restrictions as it may be amended from time to time.

Section 2.07 Lot

"Lot" shall mean a lot or parcel shown on the most recently filed Subdivision Map as such lot or parcel may be adjusted from time to time by any recorded lot line adjustment.

Section 2.08 Management Agent

"Management Agent" shall mean Premier Community Management, Inc., the professional managing company responsible for the day-to-day operations of the Association.

Section 2.09 Owner

"Owner" shall mean one or more persons or entities who are alone or collectively the record owner of a fee simple title to a Separate Interest, including Declarant, excluding those having any such interest merely as security for the performance of an obligation. If a Separate Interest has been sold under a land sale contract in which the State of California is the vendor, then the vendee and not the record owner of the fee simple title shall be deemed to be the Owner of such Separate Interest.

Section 2.10 Rules

The term "Rules" shall mean the rules adopted by the Association, including but not limited to these rules and regulations, architectural guidelines, assessment collection policy and enforcement action policy.

Article 3

Power to Adopt Rules

Section 3.01 Adoption of Association Rules

1. The Board possesses the power to adopt, amend, and repeal Association Rules that govern such matters in furtherance of the purposes of the Association.

Section 3.02 Publication of Adopted Rules

1. A copy of the Association Rules as they may from time to time be adopted, amended or repealed or a notice setting forth the adoption, amendment or repeal of specific portions of the Association Rules shall be delivered to each Owner in the same manner established in the Declaration for the delivery of notices.

Section 3.03 Force and Effect of Adopted Rules

1. Upon completion of the notice requirements, said Association Rules shall have the same force and effect as if they were set forth in and were part of the Declaration and shall be binding on the Owners and their successors in interest whether or not actually received thereby.

Section 3.04 No Waiver

1. Failure by the Association or by any Owner to enforce any covenant, condition, restriction or reservation contained in any of the Association Management Documents in any certain instance or on any particular occasion shall not be deemed a waiver of such right on any such future breach of the same or any other covenant, condition, restriction and reservation.

Article 4

Power to Remedy and Correct A Violation

Section 4.01 General Provisions

1. In the event that an Owner fails to accomplish any installation, maintenance, repair, replacement, restoration and reconstruction of Improvements required by Article VIII of the Declarations, the Board shall have all the rights and powers set forth as follows:
 - a. A decision can be made and other disciplinary action can be imposed by the Association, through its Board of Directors, providing that the Owner is given fair and reasonable notice and the opportunity to have a hearing in accordance with the procedures for notice and hearing set forth in Section 7341 of the California Corporations Code.
 - b. The aforementioned provision does not apply to the following:
 - i. The collection of Penalty Assessments and Allowable Charges levied in connection with such Penalty Assessments, the recordation of a lien against a Separate Interest and the foreclosure of said lien in the case of delinquent Assessments other than Penalty Assessments as provided in the Declaration; and
 - ii. The taking of immediate action that may be necessary to alleviate an emergency situation.
 - c. Any imposition of a disciplinary action or Penalty under these Rules does not impair the right of the Association to remedy or correct any violation of the Management Documents, under any provision of the Declaration.
 - d. The result of every act or omission where any provision, condition, restriction, covenant, easement, or reservation contained in the Declaration is violated in whole or in part, constitutes a nuisance, and every remedy allowed by law or equity against a private nuisance, shall be applicable against every such result, and may be exercised by the Association or any Owner. Such remedy shall be deemed cumulative and not exclusive.

Section 4.02 Imposition of Remedial Actions to Collect Delinquent Regular or Special Assessments

1. In the case of any failure to pay Regular or Special Assessments when due, the Association shall impose interest thirty- (30) days from the due date upon the unpaid amount at a rate of twelve percent (12%) per annum.
2. The Association shall impose a late charge of ten dollars (\$10.00) for any assessment that becomes delinquent. The Association may collect the assessment, interest, late charge, and collection costs through judicial or non-judicial foreclosure of the Association's assessment lien upon the violator's property, or by a lawsuit in a court of competent jurisdiction.

Section 4.03 Collection of Expenditures through Remedial Assessments

1. In the case of any infraction that makes necessary any expenditure of money by the Association, as set forth in the Management Documents, the Association may levy a Remedial Assessment that may be collected in the same manner as a Regular or Special Assessment. Non-judicial foreclosure of the assessment lien is not a Remedy available to the Association.

Section 4.04 Imposition of Monetary Penalties and Temporary Suspension of an Owner's Rights as a Member to Remedy an Infraction

1. In the case of any infraction except failure to pay an assessment, the Association may impose monetary Penalties. In the case of any infraction, the Association may also impose temporary suspension of an Owner's rights as a Member, including voting rights.
2. Such suspension of rights and the levy of monetary Penalties are subject to the Notice and Hearing requirements of these Rules and is a Penalty for purposes of these rules.
3. The Association may also commence legal action, including injunctive relief, to compel the correction of any infraction.

Section 4.05 Pursuit of Legal Remedy to Correct Any Infraction

1. In the case of any infraction, the Association may pursue any Remedy that is legally available to it, whether or not such a Remedy is set forth in the Management Documents. Such procedures may include the towing and storage of illegally parked or unauthorized motor vehicles from any restricted Common Area.

Section 4.06 Association's Right to Enforce Applicable Remedy

1. The levy of any Penalty for an infraction does not excuse or permit the continuation of such infraction. Therefore, the Association reserves the right to enforce the applicable Remedy at any time, without regard to the imposition of any Penalty.

Article 5

Designation to Serve Notice of Infraction

Section 5.01 Designation to Serve Notice of Infraction

1. All officers and directors, management agents, and employees of such management agents are hereby designated to cite Members believed to be in violation of any of the Project Documents. Citations, notices, and hearings on alleged violations shall comply with the following procedures.

Article 6

Notice of Infraction and Hearing Notice Requirements

Section 6.01 Complaint

1. Upon finding by the Board of a violation of a provision of the Association Management Documents, the Board shall deliver a complaint to the Owner (hereinafter the "Respondent") who

is alleged to have violated, or whose family, tenants, guests, invitees or agents are alleged to have violated, any such provision.

2. A notice of infraction shall be in writing and shall be deemed to have been properly delivered when directed to such addressee at the address furnished by such addressee for the purpose of notice and:
 - a. At the time a written notice by mail is deposited in the United States mails, postage prepaid; or
 - b. The time any other written notice, including facsimile, telegram, or other electronic mail message, is personally delivered to the recipient or is delivered to a common carrier for transmission, or actually transmitted by the person giving the notice by electronic means, to the recipient.
3. A notice of infraction shall contain the following information:
 - a. A brief description of the alleged violation and, in the event the correction of the alleged violation requires actions such as the installation, removal, repair, replacement, reconstruction or maintenance of Improvements, the date by which such violation is to be corrected by the Respondent;
 - c. The disciplinary and/or corrective action and/or penalties, such as the levying of a Penalty Assessment or Reimbursement Assessment or the suspension of voting and other membership rights, which have been imposed by the Board and become effective in the event the hearing is waived. A suspension of voting or other privileges may be imposed for a period of not more than thirty (30) days unless the infraction (including the nonpayment of Assessments) continues beyond such period of time in which event such suspension may be imposed for as long as the violation continues; and
 - d. Notification that, unless a written request for a hearing signed by the Respondent is delivered to the Board within fifteen (15) days after the date of the delivery of such complaint, such Respondent shall be deemed to have accepted the findings of the Board, including without limitation, the date established by the Board for the completion of any corrective work that is required to cure the violation, and has waived his right to a hearing and his right to object to the findings of the Board and the disciplinary and/or corrective actions and/or penalties imposed by the Board.

Section 6.02 Request for Hearing

1. Upon timely delivery of a request for hearing from the Respondent 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 Respondent and to any witnesses designated by the Board or the Respondent who are to be present for the purpose of presenting any relevant evidence.
2. Such hearing shall be held not less than thirty (30) days nor more than sixty (60) days from the date of said written notice to the Respondent.
3. Such hearing shall be conducted according to such reasonable rules and procedures as the Board shall adopt which shall provide the Respondent with the right to present oral and written evidence and to confront and cross-examine any person offering at such hearing evidence adverse to the Respondent.

Section 6.03 Decision of Board

1. The Board shall deliver its decision and the reasons therefore to the Respondent within seven (7) days after the hearing.

Section 6.04 Corrective Work

1. If a violation requiring corrective work continues to exist after the expiration of the time limitation established by the Board for the completion of such corrective work, the Board shall have the right, but not the obligation, to enter upon such Owner's Separate Interest as necessary to accomplish such corrective work.
2. Entry for such purpose may be made after notice to the Owner of not less than fifteen (15) days unless such Owner has agreed to permit earlier entry for such purposes. Unless Respondent and the Board otherwise agree, such entry upon such Separate Interest to perform such corrective work shall take place only during daylight hours on any day, Monday through Friday, excluding holidays.

Section 6.05 Reimbursement

1. If the Association pays for all or any portion of any corrective work required in correction of a violation, such amount shall be reimbursed by Respondent. Notwithstanding the foregoing, as provided in the Declaration, judicial proceedings must be initiated before any item of construction can be altered or demolished.

Article 7

Power to Impose Penalty Assessment

Section 7.01 Penalty Assessment

1. The Board shall have the right to impose a monetary penalty, including any fee, as a Penalty Assessment on any Member for a violation of the Association Management Documents, including any monetary penalty relating to the activities of a guest or invitee of a Member.
2. The Board shall meet in executive session if requested by the Member being disciplined and the Member shall be entitled to attend the executive session as set forth in the Management Documents.

Section 7.02 Types of Penalties

1. The Board may apply any or all of the following measures or "Penalties" to remedy an infraction or violation that it finds to have occurred:
 - a. Monetary Penalty. Monetary Penalty for any uncorrected violation of the Management Documents;
 - i. Such Penalty may be selected as a range of possible fines, which shall be fixed within such range for a particular violation based on the severity and frequency of its occurrence.
 - ii. The maximum amount of any fine may not exceed five hundred dollars (\$500.00) per separate occurrence. Fines may be levied on a twenty-four (24) hour basis, as a separate occurrence for each day the same violation continues.
 - iii. The Association may fix the date for commencement of any monetary Penalty as the date of the notice or any later date.
 - iv. A violation occurring on an intermittent basis, the Association may "step" or increase the monetary Penalty in increments, if the same violation is found to continue to occur.

- v. Such schedule of monetary Penalties, as adopted by the Association, shall be incorporated into these Rules as an amendment or addendum, and shall be effective upon notice to the Members of such amendment or addendum.
- b. Late Charge and Interest. The levy of late charges and interest on assessments is not a Penalty for purposes of these Rules; and
- c. Suspension of Voting Rights. Any suspension of voting rights may be imposed during the time the infraction continues to exist, and for a period not to exceed thirty- (30) days following the correction of the infraction. Upon termination of such period of time, all such rights shall be deemed restored. Termination is subject to the right of the Association to re-impose such a Penalty at any later time and to impose any other Penalty at any time.

Article 8

Alternative Dispute Resolution

Section 8.01 Alternative Dispute Resolution

1. The procedure set forth in this Section applies to Alternative Dispute Resolution (“ADR”). These procedures are subject to the provisions of applicable law governing ADR, including without limitation, California Civil Code §1354 (“ADR Statute”), as it may be renumbered or revised in the future.

Section 8.02 When ADR Applies

1. The Association, or any Member, shall endeavor to submit any dispute it has with any Member or with the Association to ADR only if all of the following conditions are met:
 - a. The Association or the Member determines there is a need to file a civil action against such Member or the Association for either declaratory relief, injunctive relief, or for declaratory relief or injunctive relief in conjunction with a claim for monetary damages, other than delinquent assessments not exceeding five thousand dollars (\$5,000.00);
 - b. Such action is related to enforcement of the Project Documents; and
 - c. The dispute in question is not a dispute, where ADR does not apply.

Section 8.03 Form of ADR

1. The Association agrees that the form of ADR shall be mediation and is non-binding.
2. For any dispute arising between a Member and the Association over a discipline not yet imposed, the procedures for notice and hearing described herein shall constitute the sole method to resolve the dispute.
3. For any discipline that is actually imposed upon a Member, a dispute arising between the Member and the Association over such action is subject to the Section of the Declaration entitled “Arbitration” and, if such arbitration provisions do not apply, then such dispute is subject to ADR.

Section 8.04 Commencement of ADR

1. Any party to a dispute subject to ADR may initiate the ADR process by serving on another party the “Request for Resolution”.

2. The Request for Resolution shall include:
 - a. A brief description of the dispute;
 - b. A request for ADR;
 - c. A Notice that the party receiving the Request for Resolution is required to respond to it within thirty (30) days of receipt or it will be deemed rejected; and
 - d. A copy of the ADR statute, if such Request for Resolution is sent to a Member.
3. The ADR Statute governs Service of the Request for Resolution and procedures to accept and complete ADR by the parties.
4. Service may be accomplished without personal service, provided it is accomplished by delivering a copy to the party at such party's usual dwelling place or abode, usual place of business, or usual mailing address other than a United States Postal Service post office box, and subsequently mailing a copy to such address where it was left.

Section 8.05 Use of Mediation

1. To use mediation, the following provisions shall apply:
 - a. Time to Complete: If the party or parties receiving a Request for Resolution accept ADR, then all parties to the dispute shall complete ADR within ninety (90) days of receipt of the acceptance by the party or parties initiating the Request for Resolution, unless extended by written stipulation signed by all parties;
 - b. Selection of Mediator: Within ten (10) days after the receipt of the acceptance of ADR by the party or parties initiating the Request for Resolution, the parties shall mutually agree upon a mediator and submit the dispute to such mediator. If the parties cannot agree upon a single initial mutual mediator within a ten (10) day period, then the parties shall include any mediator chosen by the Board of Directors by Subdivision Rule. The Board of Directors selects American Arbitration, 417 Montgomery Street, San Francisco, California;
 - c. Failure of Party to Participate: In the event any party fails to participate in the appointment process, the mediator originally selected by the other party shall preside over the mediation proceedings, notwithstanding the non-participation of such party. Any failure of the party to participate in ADR, including a failure to participate in selection of the mediator, is grounds for the other party or parties to certify to the Court in any civil action that such party to the dispute has refused ADR, and that ADR has not been completed due to such failure; and
 - d. Cost of Mediation: The costs of mediation shall be born equally by the parties.

Section 8.06 When ADR Does Not Apply

1. The provisions of these Rules do not apply in these instances:
 - a. Where the statute of limitations applicable to a claim would run within one hundred twenty (120) days from the date a Complaint is filed;
 - b. Where one of the parties has refused to participate in ADR; (iii) where a preliminary injunction is necessary;
 - c. Where the Court finds that dismissal of the action for failure to comply with applicable law will result in substantial prejudice to one of the parties; and
 - d. Other disputes, as set forth in Section 6, to which this Section is expressly stated not to apply.

Section 8.07 Association Disclosure Requirements

1. In addition to these requirements, as they obligate the Association as a party to any dispute under ADR, the Association shall perform the following actions:
 - a. Summary of ADR Provisions: The Association shall annually provide to the Members a summary of the provisions of the ADR Statute, which specifically references such law. The summary shall also include any independent mediator or mediation service selected by the Association by Subdivision Rules from time to time.
 - b. The summary shall include the following Language and shall include any independent mediator or mediation service selected by the Association by Subdivision Rule from time to time:

“Failure by any Member of the Association to comply with the pre-filing requirements, Section 1354 of the Civil Code, may result in the loss of your rights to sue the Association or another Member of the Association regarding enforcement of the Project Documents”.
 - c. Distribution of Summary: The summary either shall be provided to the Members at the time the pro forma budget, required under the Bylaws, is distributed or in the manner specified in Corporation Code 5016, for delivery of written notice or report. Such manner of delivery shall constitute “written notice” within the meaning of such law, when addressed and mailed or delivered to a Member or in the case of Members who are residents of the same household and who have the same address on the books of the Association, when addressed and mailed or delivered to one of such Members at the address appearing on the books of the Association.

Addendum

FINE AND SUSPENSION SCHEDULES

Section 9.01 Purpose of Fine and Suspension Schedules

In the event the Board of Directors levies a monetary Penalty or suspends a Member's voting rights for any violation of the Project Documents, the provisions of this addendum shall determine such discipline.

Section 9.02 Payment of Monetary Penalty

Members shall have fifteen (15) days from receipt of Notice from the Association in which to pay any monetary Penalty. There is a late charge equal to ten percent (10%) of the penalty, for any penalty not paid within fifteen (15) days after it becomes due. There is an interest charge on any unpaid penalty at a rate of twelve percent (12%) per annum. The Association may commence legal action to collect any unpaid penalty, late charge, and interest from the delinquent Member, with such delinquent Member liable for all attorney's fees and court costs attributable to such collection action.

Section 9.03 Suspension of Membership Rights

The Association may suspend the voting rights of a Member for violation of the Project Documents. The suspension of any Member's voting right shall conform to Section 12 of the Bylaws and shall be limited to a maximum period of thirty- (30) days per infraction or violation. In addition, suspension shall be imposed only after a hearing before the Board of Directors. The Board of Directors may extend said period for an additional period, in the case of a continuing infraction or violation and no hearing need be held for such extension.

Section 9.04 Schedule of Monetary Penalties

The Penalties represented below may be levied against an Owner determined to be in violation of provisions of the Management Documents:

Restrictions	Period to Correct Violation of Restrictions	Monetary Penalties	Rule & Regulation Corresponding Provision	CC&R's Corresponding Provision	Architectural Design Guidelines Corresponding Provision
Activities Causing Increase in Insurance Rates	24 Hours	\$100/Day	Section 4.02	Section 8.6	
Animals	24 Hours	\$25.00/Day	Section 6.01	Section 10.7	
Antenna & Satellite Dish Equipment	30 Days	\$100.00/Week	Section 6.02	Section 10.10	Section 8.8
Alterations Enclosed Rear Yards	30 Days	\$100.00/Week	Section 7.02	Section 8.2(b)	Article 8, Article 11
ARC Submittal Requirements	30 Days	\$100.00/Week		Section 5.5	Article 4
Basketball Standards	7 Days	\$25.00/Day	Section 6.3		Section 8.22
Building & Maintenance Standards	30 Days	\$100.00 Week	Article 7	Article 8 and Article 9	Article 8, Article 9, Article 10 & Article 11

Restrictions	Period to Correct Violation of Restrictions	Monetary Penalties	Rule & Regulation Corresponding Provision	CC&R's Corresponding Provision	Architectural Design Guidelines Corresponding Provision
Clothes Drying Facilities	7 Days	\$50.00/Day	Section 6.04		Section 8.13
Commercial Use Restrictions	30 Days	\$100.00/Week	Section 5.1 & Section 5.2	Section 10.1	
Compliance with Management Documents	7 Days	\$50.00/Day	Section 4.1		
Drainage	30 Days	\$100.00/Week	Section 6.05	Section 10.13 & Section 8.3(d)	Section 5.9
Driveway Standards	30 Days	\$100.00/Week	Section 6.06		Section 8.25
Garages	30 Days	\$25.00/Day	Section 6.07	Section 10.14	Section 8.10
Garage Sale Standards	24 Hours	\$25.00/Day	Section 6.08		
Hazardous Waste	24 Hours	\$50.00/Day	Section 6.09	Section 10.19 & Section 8.3(c)	
Architectural Standards	30 Days	\$100.00/Week		Article 5	Section 4.6
Failure to Pay Architectural Processing Fee	30 Days	\$100/Month	Section 3.6	Section 5.3 (f)	Section 4.6
Landscape & Drainage Standards	7 Days	\$100.00/Week	Article 7	Section 9.3 & 9.4, Section 8.2	Article 9
Lighting	7 Days	\$50.00/Week	Section 6.10		Section 8.12
Leases	7 Days	\$25.00/Day	Section 5.04	Section 10.16	
Maintenance by Owner	7 Days	\$100.00/Week	Article 7	Article VIII Article IX	Section 5.6
Nuisances	24 Hours	\$50.00/Day	Section 6.12	Section 10.3 Section 16.10	
Provisions Related to Invitees/Guests	24 Hours	\$50.00/Occurrence	Section 5.5		
Restrictions on Business	30 Days	\$100.00/Week	Section 5.02		
Screen Doors	7 Days	\$100.00/Week	Section 6.14		Section 8.11
Signs	24 Hours	\$25.00/Day	Section 6.15	Section 10.2	Section 5.2
Solar Energy Systems	30 Days	\$100.00/Day	Section 6.16	Section 10.11	Section 8.17
Storage of Waste Materials	24 Hours	\$50.00/Day	Section 6.17		
Temporary Residence	30 Days	\$100/Week	Section 5.03	Section 10.4	Section 5.4
Unightly Items	24 Hours	\$25.00/Day	Section 6.18	Section 10.9	

Restrictions	Period to Correct Violation of Restrictions	Monetary Penalties	Rule & Regulation Corresponding Provision	CC&R's Corresponding Provision	Architectural Design Guidelines Corresponding Provision
Unstated Category	Board Discretion	Board Discretion		Variable	
Vehicle	24 Hours	\$25.00/Day	Section 6.19	Section 10.5	
Window Coverings	30 Days	\$100/Month	Section 6.20	Section 10.15	Section 8.09