

THE MABURY RANCH HOMEOWNER'S ASSOCIATION

HEARING PROCEDURE, ENFORCEMENT AND FINE POLICY

1. **Notice and Hearing Procedures.** This Hearing Procedure, Enforcement and Fine Policy (this "Policy") will be followed whenever the Board meets to consider an alleged Governing Document violation, which could result in disciplinary action against a Member.

a. **Notice of Violation.** Upon report of a violation of the Association's Governing Documents to the Board, the violating Member may be given a written Notice of Violation. The Notice of Violation shall contain, at a minimum, the following: (i) a description on the violation; (ii) notice that the violation may result in a hearing and possibly a fine or other enforcement measures; and (iii) instructions for the Member to dispute the report of violation (record of which, if and when received by the Association, shall be attached to the Notice of Violation and made a part thereof). The Notice of Violation can be sent in addition to other legal actions including, for example, a cease and desist demand or other type of demand letter.

b. **Notice of Hearing.** Should the Board determine to hold a disciplinary hearing regarding the violation described in the Notice of Violation, a written Notice of Hearing will be sent to the Member at least thirty (30) days prior to the hearing and will be given either personally or by first-class mail to the Member's most recent address shown in the Association's records. The Notice of Hearing shall contain, at a minimum, the following: (i) the date, time, and place of the hearing; (ii) the nature of the alleged violation for which the Member may be disciplined; and (iii) a statement that the Member has a right to attend and may address the Board at the hearing.

c. **Opportunity to Be Heard.** The Member shall have the right to send a letter, send a representative, or appear in person to present evidence as to why he/she should not be disciplined and/or did not commit the alleged violation. The Member shall also have the right to bring an attorney with him/her to advise him/her or to speak on his/her behalf. The hearing will be held during an executive session meeting, unless the Member requests in writing prior to the hearing that the hearing be held during an open session meeting.

d. **Rescheduled Meetings.** Upon timely, written request and for worthy cause, the accused Member may be granted a continuance to a new hearing date. In the event the Member fails to appear for a hearing, the Board will review the evidence presented to date and make its decision accordingly. The Board is under no obligation to reschedule a hearing to accommodate a Member's schedule.

e. **Notice of Decision.** Within seven (7) days after the hearing, the Member will be given written notice by personal delivery or first-class mail of the Board's decision whether to impose disciplinary measures against the Member, and, if so, what disciplinary measures will be imposed, when, and, if applicable, for how long.

f. **Procedural Safeguards.** No fine or penalty shall be levied without the following procedural safeguards: (i) A written statement of the alleged violations shall be provided to any Member against whom such charges are made, and such written statement

shall provide a date on which the charges shall be heard; (ii) No proceedings under this Section shall be brought against any Member unless such Member shall have received a written statement of charges at least thirty (30) days prior to that hearing; (iii) No proceeding shall be brought against any Member more than sixty (60) days after such Member is provided a written statement of charges; (iv) The Board shall appoint a panel of three (3) capable persons (one of whom shall be designated a chairman) who may or may not be Members, and who shall hear the charges and evaluate the evidence of the alleged violation; (v) At such hearing the Member so charged shall have the right to present oral and written evidence and to confront and cross-examine adverse witnesses; (vi) The panel shall deliver to the Member so charged within seven (7) days after the hearing a written decision which specifies the fines or penalties levied, if any, and the reasons therefor. The panel may include Board members, and if no panel is appointed, the Board of Directors shall serve as the panel.

2. Remedies for Enforcement. To enforce the Association's Governing Documents, the Board may impose one (1) or more of the remedies described below, as the Board deems appropriate in its sole discretion. The selection of one (1) of the following remedies does not preclude the Association from pursuing other remedies permitted under this Hearing Procedure, Enforcement and Fine Policy, the Association's Governing Documents, at law and/or in equity.

- a. Warning letters
- b. Monetary penalties/fines
- c. Suspension of membership privileges
- d. Imposition of a Special (Reimbursement) Assessment
- e. Alternative dispute resolution
- f. Litigation

Suspension of membership privileges, as may be applicable, may be imposed for a period of up to thirty (30) days for a single non-continuing violation. Membership privileges for any continuing violation may be suspended for so long as such continuing violation exists and remains uncured.

Failure by a Member to pay any fines or Special (Reimbursement) Assessment imposed within thirty (30) days of the due date thereof may result in legal action against the Member by the Association to collect the fines or assessment. If the Association is forced to retain an attorney to ensure compliance, collect fines or a Special (Reimbursement) Assessment, etc., the Member shall be liable for those attorney fees and costs and all related expenses in addition to the fines or Special (Reimbursement) Assessment.

3. Fine Schedule. Violation of the Association's Governing Documents may result in the imposition of a fine as the Board may determine to be appropriate to the situation and as provided for in the fine schedule below. In addition to or instead of imposing fines, the Board may pursue other remedies for enforcement described in this Hearing Procedure, Enforcement and Fine Policy.

1st violation:	fine up to \$500
2nd violation, same offense:	fine up to \$1,000
3rd violation, same offense:	fine up to \$5,000
Additional violations, same offense:	fine up to \$5,000

Illegal and/or Dangerous Acts (i.e., risking health or safety):	fine up to \$10,000
Damage to Common Area:	fine up to \$5,000
Unapproved Construction and/or architectural violations:	fine up to \$5,000

4. Selection of Remedies. The Association may pursue one (1) or more enforcement remedies simultaneously. The selection of one (1) enforcement remedy does not preclude the Association's right to pursue any other remedies. For example, the Board of Directors may - depending on the circumstances of the matter - decide to pursue litigation in addition to the imposition of fines, suspensions, etc.

5. Subsequent Violations. For subsequent violations (2nd, 3rd, etc.) of the same type as prior violations, no Warning Notice will be sent to the Owner in violation. Instead, the Association may immediately send a Fine/Hearing Notice establishing a fine amount and setting a hearing regarding the violation and fine amount at least ten (10) days from the date appearing on the Fine/Hearing Notice. For subsequent violations of the same type, the Board may assess fines pursuant to the schedules established for second and third violations. In addition, for second or subsequent violations of the same rule or Governing Document by an owner, guest, tenant, etc., the Board of Directors shall have the power and authority to double the fine or monetary penalty imposed at the prior hearing.

6. Continuing Fines. The Association reserves the right to make any of the above fines a continuing fine which will be assessed monthly to the owner's account until the violation is removed. Additional hearings are not required for the levying of ongoing fines in the same amount.

7. Special (Reimbursement) Assessments. If an owner's failure to correct a violation results in the expenditure of funds (including without limitation, damages, attorney fees, costs, expenses, repair/replacement costs, management fees, investigation costs, expert fees, contractor fees, locksmith fees, fines imposed by the City, etc.) by the Association to correct the violation, the Board of Directors shall have the option to vote to levy a Special (Reimbursement) Assessment if the Board finds that a violation has occurred.

8. Limitation on Challenge. Any action challenging a fine, Special (Reimbursement) Assessment, suspension, etc. or other disciplinary action taken against an owner under this Policy, including a claim of defective notice, defective procedure, lack of due process, must be commenced within one (1) year after the effective date of the suspension or other action.

9. Conflicts Severability. This Policy shall be enforced to the fullest extent permitted by law. If there is a conflict between any provision of this Policy and any statute, law, ordinance, rule, order or regulation, the latter shall prevail, and in such event the provision of this Policy at issue shall be curtailed and limited only to the extent necessary to bring it within applicable legal requirements. Each provision of this Policy shall be considered as separate and divisible, and in the event any provision of this Policy is held to be invalid, void, or unenforceable by a court of competent jurisdiction, the remaining provisions of this Policy shall continue to be in full force and effect without being impaired or invalidated in any way, to the extent possible.

10. Interpretation / Dispute. If there is a dispute regarding this Policy or interpretation of a particular provision contained in this Policy, such dispute shall be submitted to the Board of Directors for a final decision, which shall be binding on the parties.

**CERTIFICATE OF SECRETARY OF
THE MABURY RANCH HOMEOWNER'S ASSOCIATION**

I, the undersigned, do hereby certify that:

1. I am the duly appointed and acting Secretary of the Association; and

2. The foregoing Hearing Procedure, Enforcement and Fine Policy of THE MABURY RANCH HOMEOWNER'S ASSOCIATION was approved by a majority of a quorum of the Board members during a duly noticed Board meeting held on 12/10/2024

IN WITNESS WHEREOF, I have hereunto subscribed my hand this 20 day of Dec, 2024.

THE MABURY RANCH HOMEOWNER'S ASSOCIATION

Dated: 12/20/2024

By: Nancy Edwards

Name: Nancy Edwards

Title: Secretary