



Nepenthe Association

Enforcement Policy and Schedule of Fines

[Adopted November 5, 2025]

1. Introduction

It is the goal of Nepenthe Association to make its Owners and residents aware of the Association's CC&Rs, Bylaws, Articles of Incorporation, rules and policies ("Governing Documents") that govern use of the property in Nepenthe and to provide for an orderly and fair manner for enforcement of the Governing Documents. The Governing Documents may be enforced in accordance with their provisions and the laws of the State of California. This Enforcement Policy and Schedule of Fines lists certain categories of violations of the Governing Documents, provides for the Board's response to such violations, and sets forth the Association's fine schedule.

Owners' guests, tenants, family members, and invitees are subject to the same obligations imposed on Owners to comply with the Governing Documents, and Owners are subject to disciplinary action when their guests, tenants, family members, and invitees fail to comply with the Governing Documents.

2. Enforcement Policy

A. Reporting and Investigation of Alleged Violations

It is the policy of the Association to receive notice of alleged violations from management, directors, committee members, and Owners. Reports of violations must be submitted in writing, including by email.

Upon receipt of such notice, the Board or a designated committee will investigate the alleged violation within a reasonable time. If the Board or committee determines that a violation has likely occurred, the Association will proceed with the enforcement process as outlined below, consistent with Civil Code sections 5850 *et seq.* and the requirements of Assembly Bill 130 (effective July 1, 2025).

B. Pre-Disciplinary Action Procedure

Before imposing any disciplinary action, including monetary penalties (fines) or suspension of membership rights, the Association will take the following steps:

1. **Courtesy Notification Letter.** The Association will mail a letter to the Owner describing the alleged violation and requesting corrective action within a reasonable period. This letter may be referred to as a "courtesy notification letter" or "notice of violation."
2. **Follow-Up Action if Violation Persists.** If the Owner does not correct the violation, the Board may, at its discretion, send one or more of the following:
 - a. A second courtesy notification letter / notice of violation.
 - b. A Notice of Board Hearing.

- c. A Request for Resolution (for alternative dispute resolution).
- d. A combined Notice of Board Hearing and Request for Resolution.

The Board is not required to send a courtesy notification letter before issuing a Notice of Board Hearing or Request for Resolution.

3. Notice of Board Hearing. The Notice of Board Hearing (or combined notice) must:

- a. State the date, time, and place of the hearing; and
- b. Include a brief description of the action or inaction alleged to violate the Governing Documents; and
- c. Cite the specific provision(s) allegedly violated; and
- d. Inform the Owner of the right to attend and speak at the hearing.

The Association must send the notice by U.S. Mail at least ten (10) days before the hearing.

4. Conduct of Hearing and Decision. If the Owner fails to attend the hearing, the Board must still consider any evidence obtained during its investigation. Within fourteen (14) days after the hearing, the Association must mail written notice of its decision to the Owner.

C. Disciplinary Actions Requiring a Hearing

The following disciplinary actions may be imposed only after notice and a hearing, as described above:

- 1. Imposition of monetary penalties (fines), subject to the limitations in Civil Code section 5850, including the \$100 cap unless the Board makes a written finding at an open meeting that the violation presents a health or safety risk.
- 2. Suspension of the right to use recreational common facilities.
- 3. Levy of Special Individual Assessments for enforcement-related costs, including attorneys' fees, pursuant to the CC&Rs (Article VIII, Section 8.4 and Article XVI, Sections 16.6 and 16.9).
- 4. Initiation of legal action (excluding emergency relief).

D. Violations that require maintenance or repairs.

These are violations that may result in the Association performing maintenance or repairs. If such a violation occurs, the Association may send a notice of violation to the Owner requesting that the Owner correct the violation within a reasonable amount of time or immediately if the violation creates an imminent health or safety hazard. If the Owner fails to correct the violation in a timely manner, then the Association may do as follows.

- 1. Perform the maintenance or repairs.
- 2. Charge the Owner for the maintenance or repair costs.

3. Deliver to the Owner a "Notice of Board Hearing" or a combined "Request for Resolution/Notice of Board Hearing."
4. After a Board hearing, impose fines and/or other discipline.

3. Schedule of Fines

A. Notice and Hearing Requirements. Before any fine or disciplinary action is imposed, the Owner shall be provided notice and an opportunity to be heard by the Board, consistent with Civil Code section 5855. This includes:

1. Written notice of the alleged violation at least ten (10) days prior to the hearing; and
2. A hearing before the Board (or a duly appointed committee) in executive session, unless the Owner requests otherwise; and
3. An opportunity for the Owner to be heard, either in writing or in person; and
4. Written notice of the Board's decision within fourteen (14) days after the hearing; and
5. The right to request internal dispute resolution (IDR) if the Owner disagrees with the Board's decision.

B. Schedule of Fines

1. Architectural Violations

- a. First offense: up to \$100.
- b. A fine greater than \$100, not to exceed \$500, may be imposed only if the Board makes a written finding in an open meeting that the violation presents a health or safety risk to the common area or another member's separate interest, and provides that finding to the Owner before the hearing.

2. General Violations (including CC&Rs, Rules, and Maintenance Standards)

The escalating fine structure below applies only where the same or similar violation occurs again within twelve (12) months and constitutes a new and distinct act or omission, as described in Section 3.

- a. First offense: up to \$100.
- b. Second offense: up to \$100; or up to \$750 if the Board makes a written finding in an open meeting that the violation presents a health or safety risk to the common area or another member's separate interest and provides that finding to the Owner before the hearing.
- c. Third or subsequent offense: up to \$100; or up to \$1,000 if the Board makes a written finding in an open meeting that the violation presents a health or safety risk to the common area or another member's separate interest and provides that finding to the Owner before the hearing.

3. Continuing or Recurring Violations

- a. A fine may not be imposed more than once for the same continuing violation unless a new and distinct act or omission has occurred.

- b. Repeated violations of the same type on different dates (such as separate noise or unauthorized parking incidents) may be treated as separate violations.

C. Health or Safety Violations; Required Board Finding. In accordance with Civil Code section 5850, as amended by AB 130, a fine greater than \$100 may be imposed only if:

1. The Board makes a written finding, in open session, that the violation presents an adverse impact on health or safety to the common area or another member's separate interest; and
2. The written finding is provided to the Owner prior to the disciplinary hearing.

D. Opportunity to Cure. In accordance with Civil Code section 5855(c), the Board shall not impose a fine or other disciplinary action in either of the following circumstances:

1. The Owner cures the violation before the scheduled disciplinary hearing; or
2. The violation cannot reasonably be cured before the hearing, and the Owner provides the Association with satisfactory written documentation of a good faith financial commitment to cure the violation within a reasonable time. Examples of such documentation may include a signed contract with a contractor, scheduled delivery or installation dates, payment receipts, or other reasonable evidence of timely corrective action to cure the violation.

E. Enforcement Discretion. The Board reserves the discretion to determine the severity of each violation and whether a fine is appropriate. In appropriate cases, the Board may issue a warning or adopt a corrective resolution in lieu of monetary penalties.

F. Failure to Pay Fines. Failure to pay a duly imposed fine may result in further compliance actions, including referral to legal counsel or a collection agency. The Association may pursue a civil action to recover the unpaid amount. If the Association obtains a court judgment, the judgment will accrue interest at the legal rate (currently 10% per year). A court judgment may be recorded with the County Recorder; however, fines may not be collected through lien or foreclosure procedures pursuant to Civil Code section 5725(b).