

IGNACIO CREEK HOMEOWNERS ASSOCIATION
ANNUAL POLICY STATEMENT
Adopted May 4, 2023

The following information is provided to all members annually (Civ.Code, §5310)

1. Official Communication

(Civ.Code, §5310(a)(1)) - may be sent by:

- Mail/Hand Delivery: Ignacio Creek HOA, 300 Indian Way, Novato, CA 94949
 - This is the mailing address for overnight payment of assessments. (Civ.Code, §5310(a)(11))
 - A written receipt acknowledging delivery of the document will be provided upon request.
- Email: contact@ignaciocreek.com
- Written Requests - In order to be effective, the following requests must be submitted in writing (including by email) to the association as set forth above:
 - A request to change the Member's information in the association membership list.
 - A request to add or remove a second address for delivery of individual notices to the Member.
 - A request for individual delivery of general notices to the Member, that would otherwise be posted in the common area, on the website, or made by some form of general notice, or a request to cancel a prior request for individual delivery of general notices. (Civ.Code, §5310(a)(4))
 - A request to opt out of the membership list or a request to cancel a prior request to opt out of the membership list.
 - A request to receive a full copy of a specified annual budget report or annual policy statement (or any annual disclosures)
 - A request to receive all reports that in full that are otherwise provided to members in summary form, or a request to cancel a prior request to receive all reports in full.
- Agent for Service of Process – All notices of legal action must be delivered to or served upon the Agent for Service of Process for the Association who is registered with the State of California. To locate the current registered HOA Agent:
 - Secretary of State website - <https://bizfileonline.sos.ca.gov/search/business>
 - Search for File Number: **0710963**
 - Select **“IGNACIO CREEK HOMEOWNERS’ ASSOCIATION”**

2. Association Notices to Owners

- General Notices (Civ.Code, §5310(a)(3)) - Any general notice that is required to be provided to members such as board meeting notices and agendas, notices relating to ongoing construction, notices regarding rules changes, borrowing from reserves, or any other general notice to members may be delivered as follows:
 - **Individual Notice – See below.**
 - **Posting on the front door of the HOA clubhouse (300 Indian Way, Novato)**
 - **Posting on the HOA’s website (www.ignaciocreek.com)**
- Individual Notice - Any notice permitted or required to be provided to an individual member may be delivered as follows and are subject to these rules:
 - Mail - First-class mail, postage prepaid, registered, or certified mail, express mail, or by hand delivery to the recipient’s address of record. The document shall be addressed to the recipient at the address last shown on the books of the

association. Delivery is deemed to be complete on deposit into the United States mail or the date of hand delivery of the document.

- Email – This form is permitted if the member has consented, in writing.
- Member Contact Information and Preference for Individual Notice Delivery (Civ.Code, §4041) – Members must provide written notice of the following annually:
 - Member's preferred delivery method for receiving individual notices (email, mail, or both). (Civ.Code, §5310(a)(2))
 - An alternative secondary delivery method (email, mail, or both).
 - Member's legal representative or person with power of attorney if the member has an extended absence (mailing address and email)
 - Status of the residence – Owner-occupied (includes family members), rental, or vacant
 - Special rules for Annual Roster Updates
 - Failure to provide annual contact information update - If a member fails to provide an annual update of their contact information, the Association will use the last mailing address or email consent provided by the member.
 - Changes – Members may report changes by written notice to the Association as provided in §1 above.
 - Members are not required to provide an email address (though the Association appreciates those who accept email delivery)
- Individual Notices – The following are examples of documents subject to the Individual Notice requirements:
 - Notice of Disciplinary Action
 - Annual Budget Report
 - Annual Policy Statement
 - Annual Financial Review

Note: The Board may provide a summary of these reports to our members. However, members may request a full report by giving written notice to the Association as provided in §1 above.

FOR ALL NOTICES: Any electronic record satisfies the "in writing" notice requirements, so long as it comes in a form that can be retained, electronically or printed.

Charges for HOA Notices – Associations are permitted to charge reasonable fees to cover the expenses. With the increased cost for copying and mailing such notices, the Association has adopted the following fee schedule for owners who request paper notices:

- Annual Financial Review - \$20
- Minutes - \$5 (see §3 below)
- Annual Meeting Packet (includes Reserve Report, Annual Budget Report and Annual Policy Statement - \$30

Email notices are always FREE, and all these notices will be posted on the HOA website.

3. Notice of Right to Minutes

(Civ.Code, §5310(a)(5)) - Draft Minutes of regular Board meetings are available on the HOA website (www.ignaciocreek.org) within 30 days of the meeting. Members can also request a free copy sent via email.

To obtain a printed copy of these minutes, members may submit a written request, along with a check made payable to Ignacio Creek HOA for \$5.00 for each month printed copies of the minutes are requested. Alternatively, members can make this payment via our automatic dues payment program by submitting a written request.

4. Assessment Collection Policy

(Civ.Code, §5310(a)(6)-(7)) - The Board of Directors has adopted the following Collection Policy, effective January 1, 2014, in conformity with the Declaration of Covenants, Conditions and Restrictions for Ignacio Creek ("CC&R's") and California Civil Code §§5650-5740:

The attention of all owners is directed to the following notice required by Civil Code Section 5730:

NOTICE ASSESSMENTS AND FORECLOSURE

This notice outlines some of the rights and responsibilities of owners of property in common interest developments and the associations that manage them. Please refer to the sections of the Civil Code indicated for further information. A portion of the information in this notice applies only to liens recorded on or after January 1, 2003. You may wish to consult a lawyer if you dispute an assessment.

ASSESSMENTS AND FORECLOSURE

Assessments become delinquent 15 days after they are due, unless the governing documents provide for a longer time. The failure to pay association assessments may result in the loss of an owner's property through foreclosure. Foreclosure may occur either as a result of a court action, known as judicial foreclosure, or without court action, often referred to as nonjudicial foreclosure. For liens recorded on and after January 1, 2006, an association may not use judicial or nonjudicial foreclosure to enforce that lien if the amount of the delinquent assessments or dues, exclusive of any accelerated assessments, late charges, fees, attorney's fees, interest, and costs of collection, is less than one thousand eight hundred dollars (\$1,800). For delinquent assessments or dues in excess of one thousand eight hundred dollars (\$1,800) or more than 12 months delinquent, an association may use judicial or nonjudicial foreclosure subject to the conditions set forth in Article 3 (commencing with Section 5700) of Chapter 8 of Part 5 of Division 4 of the Civil Code. When using judicial or nonjudicial foreclosure, the association records a lien on the owner's property. The owner's property may be sold to satisfy the lien if the amounts secured by the lien are not paid. (Sections 5700 through 5720 of the Civil Code, inclusive)

In a judicial or nonjudicial foreclosure, the association may recover assessments, reasonable costs of collection, reasonable attorney's fees, late charges, and interest. The association may not use nonjudicial foreclosure to collect fines or penalties, except for costs to repair common area damaged by a member or a

member's guests, if the governing documents provide for this. (Section 5725 of the Civil Code)

The association must comply with the requirements of Article 2 (commencing with Section 5650) of Chapter 8 of Part 5 of Division 4 of the Civil Code when collecting delinquent assessments. If the association fails to follow these requirements, it may not record a lien on the owner's property until it has satisfied those requirements. Any additional costs that result from satisfying the requirements are the responsibility of the association. (Section 5675 of the Civil Code)

At least 30 days prior to recording a lien on an owner's separate interest, the association must provide the owner of record with certain documents by certified mail, including a description of its collection and lien enforcement procedures and the method of calculating the amount. It must also provide an itemized statement of the charges owed by the owner. An owner has a right to review the association's records to verify the debt. (Section 5660 of the Civil Code)

If a lien is recorded against an owner's property in error, the person who recorded the lien is required to record a lien release within 21 days, and to provide an owner certain documents in this regard. (Section 5685 of the Civil Code).

The collection practices of the association may be governed by state and federal laws regarding fair debt collection. Penalties can be imposed for debt collection practices that violate these laws.

PAYMENTS

When an owner makes a payment, the owner may request a receipt, and the association is required to provide it. On the receipt, the association must indicate the date of payment and the person who received it. The association must inform owners of a mailing address for overnight payments. (Section 5655 of the Civil Code)

An owner may, but is not obligated to, pay under protest any disputed charge or sum levied by the association, including, but not limited to, an assessment, fine, penalty, late fee, collection cost, or monetary penalty imposed as a disciplinary measure, and by so doing, specifically reserve the right to contest the disputed charge or sum in court or otherwise.

An owner may dispute an assessment debt by submitting a written request for dispute resolution to the association as set forth in Article 2 (commencing with Section 5900) of Chapter 10 of Part 5 of Division 4 of the Civil Code. In addition, an association may not initiate a foreclosure without participating in alternative dispute resolution with a neutral third party as set forth in Article 3 (commencing with Section 5925) of Chapter 10 of Part 5 of Division 4 of the Civil Code, if so requested by the owner. Binding arbitration shall not be available if the association intends to initiate a judicial foreclosure.

An owner is not liable for charges, interest, and costs of collection, if it is established that the assessment was paid properly on time. (Section 5685 of the

MEETINGS AND PAYMENT PLANS

An owner of a separate interest that is not a time-share interest may request the association to consider a payment plan to satisfy a delinquent assessment. The association must inform owners of the standards for payment plans, if any exists. (Section 5665 of the Civil Code)

The board must meet with an owner who makes a proper written request for a meeting to discuss a payment plan when the owner has received a notice of a delinquent assessment. These payment plans must conform with the payment plan standards of the association, if they exist. (Section 5665 of the Civil Code)

[end of statutory notice]

Additional Information

A. The foregoing statutorily-required Notice refers in certain instances to the “governing documents” Civil Code Section 4150 defines “governing documents” as “the declaration and any other documents, such as bylaws, operating rules, articles of incorporation, or articles of association, which govern the operation of the common interest development or association.” With regard to such references, please be advised as follows:

1. The governing documents do not provide for a longer time before which an assessment becomes delinquent. Assessments are **due** on the 1st day of each month and will be considered **delinquent** if not *received* at the Clubhouse Office (300 Indian Way) by 5:00 p.m. on the 16th of the month. 300 Indian Way, Novato, California 94949 is the address to which overnight payments may be sent.

2. The governing documents do provide that the association may use nonjudicial foreclosure to collect costs to repair common area damaged by a member or a member’s guests, to the extent that such damage constitutes a violation of the CC&Rs.

B. An owner who submits a **check not honored** by the bank due to insufficient funds will be charged a fee of \$15.00 per returned check. Should the returned check cause the payment to be delinquent, a late charge will also be imposed.

C. Delinquent assessments will be subject to a **late charge** equal to 10% of the amount of the assessment. The late charge will be waived if the owner pays the outstanding balance within 30 days of the due date and agrees to make future payments using the association’s Direct Payment Service. Additionally, **interest** will be charged on delinquent accounts at the rate of nine percent (9%) per annum, beginning on the 30th day following the due date of the assessment.

D. Typically, approximately thirty (30) days after the due date, an owner with an outstanding balance will receive a courtesy letter as a reminder. Only one such letter shall be sent during any period there is an arrearage, even though successive

installments may become delinquent. The sending or actual receipt of such letter shall not be a condition to the association's taking any action available to it.

E. An owner may pay disputed assessments and other charges **under protest**, and file a small claims action to recover the amounts paid. (Civil Code §5658)

F. The Notice which must be provided an owner at least thirty (30) days prior to the recordation of a document creating a lien on the owner's property (the “pre-lien notice”) shall be in substantially the form attached as “Exhibit A.”

G. An owner has the right to submit a written request for a meeting with the association's Board of Directors to discuss a payment plan, as provided in Civil Code §5665. The board shall meet with the owner, in executive session, within 45 days of the postmark of the pre-lien notice, if the request is mailed within 15 days of that date of postmark, unless there is no regularly scheduled board meeting within that period, in which case the board may designate a committee of one or more directors to meet with the owner. The association has no obligation to agree to a payment plan and, even if it does agree, a payment plan does not impede the association’s ability to record a lien to secure payment of delinquent assessments.

H. The Association has not adopted standards for payment plans.

5. **Discipline Policy**
(Civ.Code, §5310(a)(8))

SCHEDULE OF FINES & PENALTIES
(Art. IV, Section 5)

<u>Violation</u>	<u>Amount</u>
Non-residential use of property (Art. V, Section 1)	\$50
Restrictions on animals and pets – breeding, large dogs, excessive noise (Art. V, Section 2)	\$35
Parking violations (Art. V, Section 3)	\$40
Erection of fences, hedges and/or walls (Art. V, Section 5)	\$40
Conducting business on the Properties (Art. V, Section 6)	\$40
Nuisance Activities (Art. V, Section 7(a))	\$50
Storage of garbage and trash (Art. V, Section 7(b))	\$40
Maintenance of outside clothes lines (Art. V, Section 7(c))	\$25
Exterior fires – except barbecues (Art. V, Section 7(d))	\$50
Exterior newspaper tubes (Art. V, Section 7(e))	\$25
Display of signs – except legally permissible “For Sale” signs (Art. V, Section 7(f), see also Civ. Code §§712-713)	\$30

Maintenance of accumulated waste plants (Art. V, Section 7(g))	\$30
Basketball standards, sports apparatus (Art. V, Section 7(h))	\$40
Alteration or construction in the Common Area (Art. V, Section 7(i))	\$50
Relocation of fences (Art. V, Section 7(j))	\$50
Vehicle repairs/reconstruction (Art. V, Section 7(k))	\$30
Unlawful activities, waste in Common Area (Art. V, Section 7(l))	\$50
Painting, roof replacement, landscaping (Art. V, Section 8)	\$50
Development of Common Areas (Art. V, Section 9)	\$50
Architectural standards (Art. VI)	\$50
Rules adopted by the ICHOA Board (See Homeowners Assn. Rules and Regs)	\$50

Additional daily fines – If an owner continues to violate a covenant or rule, or fails to cure such a violation, the Board may impose an additional fine of \$50 per day for each day the violation continues. (Art. IV, Section 5).

Enforcement Rules and Procedures

NOTICE & HEARING REQUIREMENTS

Civil Code Section 5855 sets forth procedural requirements that must be satisfied when an association’s board of directors imposes discipline (i.e., imposes a fine or suspends privileges) on a member for a violation of the association’s governing documents, or imposes a reimbursement assessment against a member for repairing damage caused to the common area as a result of the member, the member’s guest or tenant. Those procedural requirements are outlined below will be followed when the board imposes disciplinary action in response to a violation.

Notice of Violation & Hearing

At least ten (10) days prior to the meeting (the “hearing”) at which the board will decide to impose discipline, the board must notify the member in writing, by either personal delivery or individual delivery, pursuant to Civil Code Section 4040. (*Civ. Code § 5855(a)*) If the disciplinary measure will involve suspension of the member’s membership privileges, the notice must be provided at least fifteen (15) days in advance of the hearing. (*Corp. Code § 7341(c).*)

Contents of Notice – At a minimum, the notification must include:

- The date, time and place of the hearing;
- The nature of the alleged violation for which the member may be disciplined or the nature of the damage to the common area for which a reimbursement assessment may be imposed; *and*
- A statement that the member has a right to attend and may address the board at the hearing. (*Civ. Code § 5855(b).*)

Hearing Where Board Decides to Impose Discipline

The board may conduct the hearing in executive session if it so desires. (*Civ. Code § 4935(a).*)

However, if the member requests for the hearing to be conducted in executive session, the board must honor the member's request, and also allow for the member to attend the executive session hearing. (*Civ. Code* §§ 4935(b); 5855(b).) It is common practice for disciplinary hearings to be conducted in executive session even in the absence of a member's request for the same.

Decision Must be Based Upon Findings – The decision to impose discipline should be based upon findings made by the board regarding the alleged violation for which discipline is being imposed. (*Ironwood Owners Assn. IX v. Solomon* (1986) 178 Cal. App. 3d 766.) Those findings are necessary to demonstrate that the board's decision was made in good faith, was reasonable and not arbitrary or capricious. (*Id.*)

Notice of Decision

If the board imposes discipline or a reimbursement assessment, the board is required to, within fifteen (15) days following the action, provide the member with written notification of the board's decision by either personal delivery or individual delivery pursuant to Civil Code Section 4040. (*Civ. Code* § 5855(c))

6. Dispute Resolution Procedures

(*Civ. Code*, §5310(a)(9)) –

PLEASE TAKE NOTICE: California Civil Code Sections 5925, and following, address your right to sue the Association or another member of the Association, and the Associations' right to sue you, regarding the enforcement of the governing documents or certain laws concerning common interest subdivisions and mutual benefit nonprofit corporations. The following is a summary of those provisions.

In general, the statutes encourage parties to disputes involving enforcement of an Association's governing documents, or enforcement of the law concerning common interest subdivisions or nonprofit mutual benefit corporations, to submit the dispute to a form of alternative dispute resolution (ADR). ADR is defined (*Civil Code* Section 5925(a)) as: (a) "...mediation, arbitration, conciliation, or other nonjudicial procedure that involves a neutral party in the decision-making process. The form of alternative dispute resolution chosen pursuant to this article may be binding or nonbinding, with the voluntary consent of the parties."

The intent of the statute is to promote the speedy and cost-effective resolution of such disputes, to better preserve community cohesiveness and to channel disputes away from our state's court system.

There are exceptions to the requirement that parties utilize ADR prior to, or instead of, litigation. These include:

- (a) Any enforcement action that is not solely for declaratory, injunctive, or writ relief, or for that relief in conjunction with a claim for monetary damages not in excess of the jurisdictional limits of the small claims court.
- (b) A small claims action.
- (c) Except as otherwise provided, an assessment dispute.

Any party to a dispute covered by the ADR requirement may initiate the process by

serving on all other parties a Request for Resolution. The Request for Resolution must include a brief description of the dispute; a request for alternative dispute resolution; a notice that the party receiving the Request for Resolution is required to respond within 30 days of receipt or the request will be deemed rejected and, if the party on whom the notice is served is a member, a copy of Civil Code Sections 5925-5965.

If the party on whom a Request for Resolution is served accepts the request, the parties shall complete the ADR process within 90 days after acceptance, unless all parties agree to extend that time.

Costs associated with ADR shall be borne by all parties.

If a party does not agree to participate in ADR, or if the ADR process is unsuccessful, then a party may initiate litigation. However, in an enforcement action in which attorney's fees and costs may be awarded, the court, in determining the amount of the award, may consider whether a party's refusal to participate in alternative dispute resolution before commencement of the action was reasonable.

7. Architectural Approval

(Civ.Code, §5310(a)(10)) – Per Association CC&Rs, Art. VI – Architectural Control:

“No building, fence, wall or other structure shall be commenced, erected or maintained upon the Properties, nor shall any exterior addition to or change or alteration therein be made until the plans and specification showing the nature, kind, shape, height, materials, and location of the same shall have been submitted to and approved in writing as to harmony of external design and location in relation to surrounding structures and topography by the Board of Directors of the Association, or by an architectural committee composed of three (3) or more representatives appointed by the Board. In the event said Board, or its designated committee, fails to approve or disapprove such design and location within thirty (30) days after said plans and specifications have been submitted to it, approval will not be required and this Article will be deemed to have been fully complied with. The foregoing does not apply to Declarant, or Declarant's assignee, in its development of the Properties or other parcels to be Annexed.”