

## Architectural Committee:

The Architectural Committee shall be composed of at least three (3) and no more than seven (7) members to be designated by Declarant, its successors or assigns, and shall act as a reviewing and controlling body for all items requiring Committee approval as provided. The Committee will have the power to review, approve, disapprove or suggest changes to all matters under this declaration which are its responsibility; but, in no case, will approval be deemed granted without a majority vote of all current members. The Committee shall not be required to meet as a body, but approval must be in writing with the signatures of a majority of the members on any approval.

In the event that the Committee, or its designated representative fails to approve or disapprove any plan, specification, design or plot plan within sixty (60) days after the same shall have been submitted to it, then such plan shall be deemed to be approved to the extent submitted by such plan, specification, design or plot plan. Neither the members of the Committee nor its designated representatives shall be entitled to any compensation for services performed as such. The design or color scheme of the proposed building or alteration shall be controlled by that Committee to insure harmony between adjacent structures as well as throughout the subdivision. However this provision shall not be held to require Committee approval to repaint a structure with substantially the same color scheme or to repaint a structure with a color scheme existing on another structure within the subdivision. The Committee will withhold approval if the plans and specifications submitted are incomplete, inconsistent with the restrictions, or in the event the Committee deems the plans, specifications or details or any part thereof, to be contrary to the interest, welfare or right of all or any part of the real property subject thereto or the owners thereof, and the decisions of the Committee shall be final. As a means of defraying its expenses, the Committee may institute and require a reasonable filing fee to accompany the submission of plans to it. The Committee shall not be responsible in any way for any defects on any plans or specifications submitted, revised or approved in accordance with the foregoing provisions, nor for any structural or other defects in any work done according to such plans and specifications submitted.

The Committee may allow reasonable variances and adjustments of these restrictions in order to overcome practical difficulties and prevent unnecessary hardships in the application of the provisions contained herein; provided, however, that such is done in conformity with the intent and purposes hereof and provided also that in every instance such variance or adjustment will not constitute a waiver of the provisions of this Declaration.

So long as Declarant shall maintain an ownership interest in the property covered by this Declaration, then Declarant shall have the right to remove, replace or appoint all members of the Architectural Committee. However, in the event of removal, resignation, or death of any or all of the members, where such action would reduce the membership below the minimum required, and the failure by Declarant to fill the vacancy or vacancies within three (3) months, then the remaining member or members of the Committee shall appoint new members sufficient to constitute minimum membership. In the event of

resignation, removal or death of all of the members of the Committee, and the failure of Declarant to appoint members to fill the vacancies within three (3) months, or when the Declarant no longer has ownership interest in the property covered, then the right to appoint, replace or remove members of the Committee shall be transferred to the Homeowner's Association. However, nothing contained herein shall prevent, at the option of Declarant, the transfer of this right of appointment, replacement or removal to the Homeowner's Association prior to such events.

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## **Architectural Review Committee General Operating Procedures**

November, 2003

**Call the Association Office at 650-726-7676 for an "Application for Approval",**

ARC approvals, as required by the CC&Rs, are obtained by submitting an "Application for Approval" to the Association office. This form must be signed by all of the applying homeowner's immediately adjacent neighbors(s) (both sides, back, and across the street). These signatures are only for the purpose of documenting the required neighbor notification. The homeowner then submits the completed Application, proposed plans, and any necessary supplementary material in duplicate to the Association Office. Please be sure your plans include "before" and "after" views of the proposed changes and that plot plans clearly show lot boundaries, all structures and improvements, and the property set backs.

Note: For plans larger than 11" by 17" the homeowner must supply one additional set of plans that has been reduced to 11" by 17" and which is clear and read-able. For paint color approvals, the homeowner must submit 8 color chip samples or 1 sample large enough to be cut into 8 chips.

Upon receipt of a complete Application for Approval, the Association Office will distribute copies to all ARC members for their review. The ARC Chair or Vice Chair or their designee will be responsible for inspection of the property and initiating any communication with the homeowner when necessary.

The ARC meets on the 2nd and 4th Monday of each month and is permitted up to 60 days to decide on an Application.

Therefore, homeowners should plan ahead to be sure their Application is submitted in sufficient time to allow for completion of the ARC review process. In some cases, the homeowner may be asked to provide additional information.

No work needing ARC approval may be started without receiving an ARC approval letter. If the Application is approved, an ARC approval letter will be sent to homeowner. Generally this will occur within 10 days of the meeting at which the application was approved.

As a courtesy to the Association, the city of Half Moon Bay will not issue a building permit for exterior work without evidence of ARC approval.

This approval process and timeline only applies if the proposed modification falls within the provisions of the CC&Rs and the ARC Guidelines. All ARC decisions are final unless appealed to the Board.

Upon completion of the approved work, the homeowner should contact the Association office. An ARC member will then inspect the property to verify that the completed work conforms to the approved Application.

At their regular monthly meetings, the Association Board of Directors will be provided a report of all ARC actions.

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## Architectural Review Committee Guidelines

November 2003

### **GUIDELINES-**

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### I. ANTENNAS AND SATELLITE EQUIPMENT

1. All outside radio and television antennas and other transmission and receiver facilities that are greater in circumference than one meter (approximately 39 inches) and would be generally visible from a neighboring property or Ocean Colony Association common area will not be approved.

2. Satellite reception equipment having a diameter of less than one meter may be approved on a case-by-case basis, provided it is adequately shielded from view of any neighboring property or Ocean Colony Association common areas.

### II. BARBECUES - PERMANENT

Permanent barbecues and outdoor fireplaces are to be located in the rear yards only and must conform to the applicable setback requirements.

### III. BASKETBALL HOOPS AND BACKBOARDS

1. Basketball hoops or backboards attached to a home must be situated in a manner that does not negatively impact a neighbor's ability to reasonably enjoy their property. Basketball hoops poles or backboards permanently installed anywhere other than attached to the home will not be approved.

2. Portable basketball standards may be permitted if their placement and use does not negatively impact a neighbor's ability to reasonably enjoy their property. Additionally the placement of a portable basketball standard must not require a user to play on a sidewalk or street.

3. Portable basketball standards must be moved out of view from the street when not being used.

### IV. DOG HOUSES & DOG RUNS

1. Dog Houses:

a. Permanent doghouse structures are to be compatible with applicant's house in style and color.

b. Dog houses are to be located in side and rear yards only and may not project above the top of the fence.

- c. Dog houses must conform to the applicable setback requirements.
- d. Dog houses should be placed in an area which minimizes the visibility to adjacent neighbors.

## 2. Dog Runs:

Chain link fencing may be used for a dog run only in conjunction with a solid privacy fence (See FENCES for details on solid fencing).

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## V. DRIVEWAYS

- 1. Existing bituminous (asphalt) driveways may be repaired and maintained in kind, however use of asphalt for replacement of an existing driveway will not be approved.
- 2. Any changes to existing driveways shall:
  - a. ensure maintenance of proper drainage
  - b. have a thickness no less than 4 inches
  - c. shall include steel reinforcing, contraction and expansion joints to minimize cracking.

## VI. ELECTRICAL AND MECHANICAL EQUIPMENT

- 1. Ventilators or other mechanical apparatus requiring exterior or roof installation should be as small as is functionally possible and painted to match roof, siding, or trim color.
- 2. Units should be located on the least visible side of the roof or dwelling and may not extend above the ridgeline.
- 3. All other electrical and mechanical equipment including air conditioners, generators, pumps, and compressors must be screened from view by fencing or landscaping, and must be placed in the rear or side yard within the applicable setbacks.

## VII. FENCES & GATES

- 1. Wire fences will not be approved. Chain link fences will not be approved except as specified for Dog Runs.
- 2. Fencing in front yards is not to exceed 36" in height and must be of an open and decorative design consistent with the appearance of the home and of the neighborhood, excepting existing masonry wall courtyards. Hedges used in this manner are not to exceed 36 inches in height.

3. Placement of the fence and support structures may not interfere with existing sprinkler systems and may not be constructed over irrigation lines.

4. Material for side-yard fencing must be acceptable to adjacent neighbors and compatible with the neighborhood.

5. All support posts must be set in concrete.

6. The tops of all fences are to extend horizontally and have plumb vertical members. Stepped fencing is permissible in sloping areas.

7. Gates are to be of the same or compatible material as the fence.

8. Gates are not to extend above fence/wall line, other than they may be rounded.

9. Specific fence style requirements:

Use of a particular fence style should depend on its use, the desired degree of "openness" and the general appearance of the neighborhood.

Wrought Iron:

a. Must have corrosion resistant finish.

b. Welded wire mesh may be applied to the interior side of a fence to a height not to exceed 36" to restrain small pets or children. Supplemental landscaping on the outside of wire mesh must be used to provide a visual screen of the mesh and to soften the appearance.

Solid Wood - Privacy Fence:

a. Maximum permitted height is 6 feet including any lattice or decorative superstructure.

b. Wooden fences may have a natural finish, otherwise fences must be stained or painted to match either house trim or house color.

c. Consideration must be given to casting a shadow or creating a view obstruction of the adjacent property when seeking approval to install a solid fence.

Masonry Walls, Cinder Bloc, Brick, or Adobe Block:

a. Cinder block walls must be stuccoed and painted to blend with the existing landscaping or screened by landscaping.

b. Other types of retaining walls must be screened by landscaping.

## VIII. GUTTERS & DOWN SPOUTS

1. Must be painted to match existing trim or house color. Copper gutters and downspouts may be left unfinished.
2. Run-off from gutters must not drain onto adjacent property or Association common area and should be directed to flow underneath the sidewalk or parking bay and into the gutter or the nearest storm drain.

## IX. IRRIGATION & LANDSCAPING

New landscaping or changes to existing landscaping that do not change the grade, do not impact drainage, do not involve tree removal, paving, construction of a patio or deck, and do not involve erection of a landscape structure such as a trellis, arbor, pergola, or a retaining wall generally do not require ARC approval but shall conform to the provisions of this section as set forth below:

1. Trees and Shrubs should be selected and placed in a manner which does not obstruct adjacent homeowner's views.
2. Irrigation lines other than drip systems should be installed underground.
3. Appropriate drainage must be supplied and directed to flow underneath the sidewalk or parking bay and into the gutter or storm drains to prevent run-off onto adjacent or common area properties.
4. Sprinklers must be maintained so as not to spray adjacent properties, streets, or sidewalks.
5. In reviewing an application for a landscape change involving erection of a trellis, arbor, or pergola, consideration will be given to the degree of openness of the structure, whether or not the structure may create a view obstruction from outside the applicant's property, and the impact on the appearance of the neighborhood.

## X. LIGHTING - EXTERIOR

1. Exterior lighting must not be directed outside the applicant's property.
2. Proposed lighting fixtures should be compatible with applicant's house in style and scale.

## XI. MAILBOXES

1. Erection of a mailbox supported by a structure other than a single post, requires approval of the Committee. Erection of a mailbox supported only by a single post does not require approval subject to the provisions of this section.

2. Mailboxes should be of a design compatible in scale, materials and colors of homeowner's existing structure and must conform to standards approved by the Postmaster General and applicable postal regulations.

3. They must be placed close enough to curbside to be reachable by the mail carrier but must not extend over the sidewalk or street.

4. Support posts should be set in concrete.

## XII. PAINTING & EXTERIOR

1. Any change to the existing exterior color of a dwelling to a color that does not already exist in the Association must be approved by the Committee.

2. Consideration will be given to the new color's consistency and compatibility with the neighborhood.

## XIII. PATIOS & DECKS

1. Patios and decks are only to be located in rear or side yards and shall conform to the applicable setbacks. Concrete texturing or installation of pavers is acceptable in front yard areas.

2. Materials and color should be harmonious with applicant's house and with the general neighborhood.

3. Wooden decks are to be naturally finished or stained or painted to match existing house or trim color.

4. Deck rails will only be permitted if not located in a setback area or if required to provide a safe environment. All such deck rails shall be designed to be as open and decorative as possible.

## XIV. PATIO COVERS

1. The style and material of roll-up shades on patio covers must be compatible with the dwelling appearance and the general neighborhood.

2. Patio covers must conform to the applicable setbacks.

3. Patio covers should not unreasonably obstruct the view of adjacent properties.

4. Patio cover skylights are permitted.

## XV. PLAY STRUCTURES

Play structures are permissible in rear yards only and must conform to applicable setback requirements. Play structures must not exceed ten feet (10') in height.

Approval is to be for a specified limited term not exceeding 5 Years. If a homeowner wishes to continue use of the structure beyond the term of approval, an application for extension must be submitted. If the extension is not granted, the structure must be dismantled or removed. Any approval or extension thereof is not transferable. If the property on which the structure is located is sold and if the play structure is to remain, the new homeowner must submit an application.

## XVI. ROOM ADDITIONS

1. Room additions must be compatible in scale, materials and color with the applicant's existing structure.
2. The roof pitch must match or complement the slope and finish of that of the existing dwelling.
3. New windows and doors must be compatible in size, shape and design with those of the existing dwelling.
4. Provisions must be made to prevent run-off to adjacent properties and drainage shall conform to the provisions of the CC&Rs.

## XVII. SCREEN DOORS

Screen doors on the front entrance or visible from street must blend with the style and color of the dwelling.

## XVIII. SOLAR COLLECTORS

1. Solar collectors are to be placed flush with and in the same plane as the roof slope.
2. All plumbing lines from collectors to tank must be concealed.
3. Collectors are to be located on the roof only. Ground panels are not permitted. Panel installation on patio covers will not be approved.

## XIX. SPAS AND POOLS

1. Permanent above-ground pools will not be approved.
2. Portable or above-ground spas are permitted in rear yards but also require approval and their placement must conform with applicable setbacks.
3. Spa equipment should be placed so as not to disturb the adjacent properties and its placement must conform with applicable setbacks.
4. Spa equipment should be shielded from view of adjacent properties and common areas or should be enclosed.
5. Plumbing lines to spa must be underground or concealed.
6. Fences should surround pool or spa areas.

## XX. STORAGE SHEDS & GREENHOUSES

1. Detached storage sheds or greenhouses will not be approved.
2. Storage sheds attached to the dwelling should have a roof pitch compatible with the dwelling's roof.

## XXI. TREE REMOVALS

### XXI (A) - INDIVIDUAL HOMEOWNERS ONLY.

1. If tree with a circumference of nine (9) inches or greater is approved for removal, it should be replaced with another tree of 15 gallon or greater size. The replacement tree may be located anywhere on the property.
2. The replacement tree should be planted within 90 days of removal (or a longer period as specifically approved, depending on weather conditions).
3. An exception to this replacement policy may be granted if the Committee determines that the removal is necessary to reduce overgrowth.
4. Stumps of removed trees must be removed or ground down below grade and covered.

5. Any property damage caused by, or any property defect revealed by, the tree removal must be repaired within 60 days of the tree removal.

#### XXI (B) - SUBASSOCIATIONS ONLY

1. If tree with a circumference of nine (9) inches or greater is approved for removal, it should be replaced with another tree of 15 gallon or greater size. A plan must accompany the application indicating where on the sub association's common area the replacement tree will be planted

2. The replacement tree should be planted within 60 days of removal (or a longer period as specifically approved, depending on weather conditions).

3. An exception to this replacement policy may be granted if the Committee determines that the removal is necessary to reduce overgrowth.

4. Stumps of removed trees must be removed or ground down below grade and covered.

5. Any property damage caused by, or any property defect revealed by, the tree removal must be repaired within 60 days of the tree removal.

#### XXII. WINDOW TREATMENTS - EXTERIOR

1. Wrought iron bars will not be approved on windows or doors.

2. Metal awnings over windows will not be approved.

3. Canvas or wooden lattice awnings are acceptable.

4. Canvas or Wood awnings should match the trim of the dwelling and be compatible in size, color, and shape with the existing dwelling.

## Use of Common Areas

Currently the terms "Lot" and "Common Area" are separately and specifically defined in the Ocean Colony Association CC&Rs. The restrictions contained in Section 7 refer to

"any lot" and "the lot." Therefore a reasonable interpretation of Section 7 is that it only applies to individual, residential lots and does not apply to Common Area. Accordingly there are no current "use" restrictions pertaining to the use of Common Area. The following resolution is intended to provide the ability to govern use of Common Area to and for only such purposes as the Board deems appropriate and reasonable, either by specific authorization or by lack of prohibition.

BE IT RESOLVED THAT: THE BOARD APPROVES ADOPTING THE FOLLOWING RULE: ANY USE OF OCEAN COLONY ASSOCIATION'S COMMON AREA BY INDIVIDUAL HOMEOWNERS, RESIDENTS, OR THEIR AGENTS IS HEREIN PROHIBITED UNLESS SUCH USE IS SPECIFICALLY APPROVED IN WRITING BY THE BOARD OF DIRECTORS.

## **Dog Poop Removal**

HMB city ordinance no. 8.04.065 Canine defecation & Removal thereof requires dog owners to clean up after their dogs. To address the continuing problem of homeowners failing to comply with this ordinance and to provide the Association with the means to independently enforce the provisions of this ordinance within Ocean Colony, it is deemed a reasonable restriction to adopt the language contained in the above referenced ordinance to be an Ocean Colony Association rule.

BE IT RESOLVED THAT: THE BOARD APPROVES ESTABLISHING THE LANGUAGE OF HMB CITY ORDINANCE NO.8.04.065 AS AN OCEAN COLONY ASSOCIATION RULE, EXCLUSIVE OF SECTION E. AND DELETING THE REFERENCES TO "ANY PUBLIC PLACE" AND "A PUBLIC PLACE" AND ALSO APPROVES ESTABLISHING THE FOLLOWING ENFORCEMENT POLICY AND FINE SCHEDULE:

1st incident: Phone call  
2nd incident: Warning letter  
3rd incident: Final warning letter  
4th incident: Fine imposed, after due process

1st fine \$10  
2nd fine \$20  
3rd fine \$30  
Each additional fine \$50

## **Enforcement Policy and Procedure for Ocean Colony Association CC&R and non-Street-related Rule Violations**

*Philosophy:* A consistent, fair, and reasonable enforcement policy and supporting procedure is necessary to foster compliance with Association CC&Rs and Rules. This enforcement policy and procedure is intended to be essentially passive and administrative in nature. This enforcement policy and procedure, while similar in nature, does not apply to enforcement of Street and Sidewalk Usage Rules, which have a separate enforcement policy and procedure. The desired goal is to effectively modify, as needed, homeowners' (and their guests and tenants) behavior through the Association, using established channels of communication, such as periodic newsletters, informing them of any new and revised Rules and pro-actively encouraging them to abide by them. Knowledge and understanding of the content and implications of all Association CC&Rs is the obligation of each homeowner and the duty to abide by same, to the extent reasonable, is also their ongoing legal obligation. Each homeowner is provided a copy of Association CC&Rs and any existing Rules at the time they purchase the property.

Discovery of CC&R and Rule violations will not be actively sought through any dedicated person of entity. Board members, property management personnel, and homeowners will be encouraged to report in writing any alleged violations they witness or have knowledge of, including sufficient details necessary to reasonably investigate and accomplish enforcement of the applicable CC&Rs and Rules.

Standard notice and due process provisions, including the right to a hearing before the Board will apply. Therefore when the alleged violator has reached the fine stage and before any fine is imposed, they will be offered the ability to protest or contest or provide additional information regarding any alleged violation. This protest ability will consist of being provided an opportunity to attend a hearing before the Board or alternatively, at their discretion, to submit written material to the Board in lieu of attending a hearing. A fine will be imposed only if they choose not to contest the alleged violation or if the Board determines that, regardless of their protest or additional information provided, the fine should be imposed (i.e., approves the imposition of the fine.)

## **Fine Delinquency Policy**

Subsequent to an enforcement action hearing where a fine is imposed, a letter informing the homeowner of the Board's action and of the fine imposed will be sent within ten (10) business days of the hearing.

Failure to pay any fine imposed by the Board by the established deadline, generally fourteen (14) days after the hearing date, will be addressed as follows:

- The owner will be permitted a total of thirty (30) days from the established deadline to pay the fine with no additional penalty.

- If the fine has not been paid thirty (30) days after the original deadline a letter will be sent to the homeowner advising that failure to submit payment with thirty (30) days (making a total of sixty (60) days from the original deadline) from the date of the letter, the debt will be immediately submitted to Small Claims Court and that the homeowner will then also be responsible for paying OCA for any/all costs incurred in collecting the fine (assuming OCA prevails).

- A judgment in favor of OCA will provide an opportunity and establish legal basis for the association to attach assets of the homeowner in order to effect collection of the debt and recovery of collection costs.

## Schedule of Fines

### Architectural Review Violations\*

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|--|---|
| * Unapproved tree removal                                      | \$25 per occurrence, plus \$25 per week until replacement tree is planted, starting 10 days after notice of violation |
| * Unapproved satellite dish installation                       | \$25 per occurrence, plus \$25 per week until Application submitted, starting 10 days after notice of violation       |
| * Unapproved exterior changes which require an ARC application | \$100 per occurrence, plus \$25 per week until Application submitted, starting 10 days after notice of violation      |

Exterior changes which require an ARC application include and are not limited to: construction of: decks, detached structures (dog runs, etc.), driveways & walkways, fences, gates, trellis, arbors, pergolas, room additions or expansions, window changes

### Street & Sidewalk Usage Violations

Fines are imposed pursuant to established enforcement policies and procedures.

1st incident: Phone call or "ticket" 2nd incident: Reminder warning letter

3rd incident: Final warning letter 4th incident: Fine imposed, after due process

#### Moving violations

\*Speeding \*Reckless driving \*Not yielding to pedestrians \*Not slowing for speed bump

\*Driving on the wrong side of the road \*Not heeding signs and street markings

\*Unlicensed operation of vehicle \*Driver under 14 operating a motorized scooter

\*Towing or riding double (not for vehicles)

**Fines:** 1st \$25, 2nd \$50, 3rd \$75, each additional \$100

#### *Stationary violations*

\*Parking on streets between 2 am & 6 am \*Failing to display a current OC vehicle sticker  
\*Parking at red curbs or on sidewalks \*Parking in parking bays for over 48 continuous hours  
\*Obstructing traffic flow through the use of rails, ramps, goals, etc.

**Fines:** 1st \$10, 2nd \$20, 3rd \$30, each additional \$50

### CC&R and other non Street-related Rule Violations

Subsequent to the allegation of a CC&R or Rule Violation, an enforcement hearing will be held where the alleged violator will be offered the ability to protest or contest or provide additional information regarding the alleged violation. A fine will be imposed only if they choose not to contest the alleged violation or if the Board determines that, regardless of their protest or additional information provided, the fine should be imposed (i.e., approves imposition of the fine). Specific fine amounts will be determined by the Board on a case-by-case basis.

The imposition of fines does not impact or restrict the ability of Ocean Colony Association to take other steps as allowed or provided by the Ocean Colony Associations CC&Rs and Bylaws to correct a violation.

November 25, 2003

## **"For Sale" Sign Policy**

In September 1993, the Board resolved to provide that displaying two (2) "For Sale" signs per property would be allowed in order to conform to state law. Management has recently determined that it would be appropriate and reasonable to re-affirm and update this resolution and accordingly to re-publish it to homeowners.

This policy, which re-establishes that placement of two (2) "For Sale" signs of reasonable dimensions and design in different locations on a property, would have the effect of providing for and supporting reasonable enforcement of the intent of the existing CC&R language. It also infers that literal enforcement of the existing CC&R language would generally be deemed unreasonable and to some degree arbitrary, especially given the many and varied property orientations and street layouts with Ocean Colony. Accordingly, this policy would also be deemed to reasonably support homeowners' ability to appropriately market their property while still maintaining reasonable sign restrictions in connection with the original intent of the CC&Rs.

Existing CC&R language from Section 7, Prohibited Uses:

(h) No signs whatsoever shall be erected or maintained on any lot except:

(1) Such signs as may be required by law.

(2) One "For Sale" sign which shall not exceed 18" x 24" in size, to be used solely to advertise the lot or dwelling for sale.

BE IT RESOLVED THAT: the Board herein re-affirms that placement of two (2) "For Sale" signs in different locations on a property, each of which location is not visible from the other and each of which sign is of a standard and customary size and design, would not be deemed to constitute a violation of the Association's existing CC&Rs.

## **Gate Access Control Procedures and Rules**

The following resolution was passed by the OCA Board in June 2002:

### **Remote access device usage rule**

Whereas Ocean Colony's remote access devices are the property of the homeowner, not the Association, and;

Whereas the Association has the right and authority to restrict Colony access, specifically electronic access, to Colony residents;

Be it resolved to prohibit any Ocean Colony resident or homeowner from using any remote access device purchased from the Association for any purpose which would serve or contribute to allow unauthorized electronic access to the Colony.

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### **Ocean Colony Gate Access Control Procedures and Rules**

Ocean Colony Association sells remote control devices and issues vehicle stickers to provide residents with authorized and electronically controlled access through the residents' gates at the Fairway Drive entrance and at the Caddy's Gate.

- Each resident is provided one vehicle sticker and can purchase one remote control device for each vehicle maintained in Ocean Colony. These access control tools will only be provided upon registration of license number and complete vehicle description information with the Association office. Remote controls, if needed, must be paid for at the time of purchase.

- All vehicles maintained in the Colony must affix the current vehicle sticker to the lower

left corner of the front windshield. It must be visible to the front gate staff when you drive through the residents' electronic access lane. This sticker serves to verify that your vehicle is validly registered to an Ocean Colony resident.

- Vehicle stickers may not be transferred to another vehicle. Residents need to immediately contact the Association office to re-register any new vehicles and to de-register any vehicles sold or no longer maintained in the Colony. Residents must remove the OC vehicle sticker from any vehicle sold or no longer maintained in the Colony.
- Residents needing to arrange for temporary access for guests or other individuals must contact the Association office in order to obtain a temporary pass. All temporary passes must be prominently displayed on the vehicle's front dash in front of the driver and clearly visible to the front gate staff.
- The Board, the Association's property management company, or any authorized and designated agent has the authority and the right to take appropriate action against any resident who violates the applicable vehicle-related policies, procedures, and rules, including but not limited to those governing remote control usage, vehicle stickers, and street and sidewalk usage (e.g., speed limits, traffic signs, street markings). This action may include temporary or permanent suspension of the electronic access privilege. Homeowners and residents are responsible for any violations committed by family members, guests, tenants, or agents.
- Vehicle stickers are re-issued and remote control codes are changed periodically in order to maintain a reasonable amount of control over authorized Colony access. There is no charge to residents for these changes.
- Ocean Colony residents or homeowners are prohibited from using any remote access device for any purpose that would serve or contribute to allow unauthorized electronic access to the Colony. Management is authorized to buy back previously sold Ocean Colony remote access devices from the Ocean Colony resident or homeowner at a price of \$5 for the older, larger remotes or \$10 for the newer, smaller remotes.
- All residents are required to timely inform Association Management of any changes in the license number, make, model, color, and year information gathered and retained by the Association with regard to any vehicle(s) the resident may have in Ocean Colony, including identifying obtained and sold vehicles.

These procedures and rules were established to prevent unauthorized electronic access to the Colony. Your cooperation and compliance with these procedures and rules is necessary to ensure the Association's ability to protect your privacy with a minimum of inconvenience and cost to you.

## **Policy Statement on Home Occupation**

OCA CC&Rs establish that "the private area may be used only for single-family

residential living and for no other purpose." However, there have been substantial lifestyle and technology changes since 1974 when the OCA CC&Rs were drafted. These changes have allowed a growing number of individuals to be able to do and conduct business in their home with minimal, if any, external impact to the neighborhood or the Association. The Board therefore now believes that it would not be reasonable to attempt to literally and strictly enforce this restriction as written. The Board further believes that it would now be reasonable to establish an Association policy to clarify what type(s) of non-residential use(s) will generally not be deemed to be in violation of the CC&Rs.

BE IT RESOLVED: That "home office" and "home occupation" are defined as non-residential uses which will generally not be deemed to be in violation of the CC&Rs only if such non-residential use is customarily conducted entirely within a residence, by a person or persons customarily residing in the residence, and which use is clearly a secondary and incidental use of such residence and meets the following conditions:

- The use or activity does not change the residential character of the residence or of the generally surrounding area (i.e., the neighborhood).
- The use or activity does not generate vehicular traffic in excess of that normally associated with single family residential use.
- There is no generally perceptible exterior indication of the home office or occupation.
- No exterior signs are used.
- No noise, odor dust, fumes, vibration, smoke, electrical interference or other interference with the residential use of adjacent properties is being created.
- No persons except the resident(s) shall be employed in the home office or utilized in the conduct of the home occupation.
- The resident or property owner has provided the Association satisfactory evidence that the home office, home occupation, or other non-residential use activity conducted on the property is in compliance with relevant city and county ordinances or laws, including, but not limited to providing a copy of a valid business license for the non-residential activities.

OCA CC&Rs and policies and practices cannot override or take precedence over municipal, state, or federal law or statute. Therefore this policy does not pertain to or seek to modify or apply to those certain types of non-residential use activities that are protected by municipal, state, or federal law from such restrictions. Public policy establishes that individuals shall be in compliance with applicable laws and ordinances.

Any OC resident seeking relief from the residential use restriction in the OCA CC&Rs or from the conditions or provisions of this policy must apply in writing to the Board for an exemption from one or more of the above conditions. Requested exemptions deemed in violation of public policy will not be granted.

## **Ocean Colony's CC&Rs & Half Moon Bay's "Leash Law"**

June 28, 2001

The Association is receiving more and frequent complaints about unleashed dogs and dogs running free in the Colony. Fortunately there have been no serious incidents, yet. However, there is a heightened awareness in the entire Bay Area about the possibility of dog attacks and we would be ill-advised to be complacent and take a "wait and see" approach. There also seems to be a view that the solution is for the Board to revise and strengthen the CC&Rs to prohibit unleashed dogs and to then establish a rigorous enforcement program which would ensure all dogs in the Colony are leashed whenever they are out of their yard. The following discussion attempts to clarify and perhaps educate as to the complicated nature of the situation and to suggest a viable and sustainable solution to this perceived problem.

Our CC&Rs read as follows (from the 1974 CC&Rs Article 7. Prohibited Uses (b)):

No animal of any kind shall be bred, raised or otherwise kept on any lot; provided that this restriction shall not be deemed to prohibit the maintenance thereon of two dogs, two cats, fish, turtles, birds or other animals normally considered as house pets and kept and maintained solely as such. Property owners shall insure that animals are not allowed to run free when not on their own property. [Emphasis added]

Note - the legal definition or interpretation of the word "shall" is "must" and the use of that word signals a specific and absolute prohibition, and that the prohibition refers to "animals" not just dogs.

The HMB city ordinance reads as follows (from Chapter 8.04 Animal Control, Section 8.04.060 Prohibited conduct):

No owner or possessor of any animal shall cause or permit it to do any of the following:

A. To be upon any public street, sidewalk, park, school grounds, any public property, or upon any unenclosed premises in this jurisdiction unless the animal is properly licensed, if such licensing is necessary hereunder, and under control of the owner by being saddled, harnessed, haltered, or leashed by a substantial chain, lead rope, or leash, which chain, lead rope, or leash shall be continuously held by some competent person capable of controlling such animal;

B. To trespass upon any private property without the consent of the owner thereof, and to knowingly permit the animal to remain upon the property or to habitually continue to trespass thereon;

C. To suffer or permit such animal to habitually bark or meow or act in such manner as to continuously disturb the peace of any citizen or to be a public nuisance;

D. To be without proper and adequate food, water, shelter, care, and attention as described to in Section 597(f) of the Penal Code;

E. Subsection (A) of this section shall not be applicable to cats.

Translated into Ocean Colony English, the pertinent parts essentially dictate that animals, (dogs for example) owned by any Ocean Colony resident must be on a leash held by a person who has control of the dog any time the dog is outside its own yard. Ocean Colony Residents are subject to all HMB ordinances, the same as any other HMB resident, regardless of the fact that Ocean Colony is a "private community."

There is apparently some misunderstanding among some Ocean Colony residents as to what rules or requirements can or should be embodied within the Association's CC&Rs. We should all be aware that we do need to update our CC&Rs to ensure they are not in conflict with applicable and current city, county, and state laws. However, CC&Rs can never function as literal law, and the concept of CC&Rs was never that they would replicate or shadow actual laws. Accordingly, there has never been any plan or intent to attempt to incorporate any or every such law into our CC&Rs. To do so would provide no greater enforcement abilities than we currently have, in this particular instance, i.e., enforcing both our CC&R prohibition, as well as the city's leash law.

The Board is being hounded (pun intended) and berated for allegedly failing to promptly update the CC&Rs to include the language of the city ordinance in the Association CC&Rs in the belief that by so doing, the Board would then finally be able to "enforce" this requirement and thus protect all Ocean Colony residents from being subjected to unleashed dogs. The fact is that it would serve no effective purpose to do so, as the issue of enforcement would still remain.

The most neighborly approach would certainly seem to be one of education, to make sure that all Ocean Colony residents clearly understand they have no immunity from the need to comply with city ordinances, as well as to comply with the CC&Rs. Another part of

the process is for all of us, as neighbors, to accept that we are each and all human and thus see things differently. Our national heritage protects our right to "the pursuit of happiness" among other things, but not if such "pursuit" jeopardizes the safety or pursuit of happiness of any other individual, and certainly not when it is in violation of the law. The more we can bring ourselves to simply talk to our neighbors, share our concerns, and explain the dangers of unleashed dogs, the better chance we have of being able to achieve a reasonable degree of amicable compliance with the intent of the ordinance. However, that is not to say that where there is a clear and/or repeated threat or apparent disdain for the law, there should have any doubt or hesitation about reporting the matter to the police and letting them handle the matter professionally, as they are trained to do.

We should all be clear that, in general, homeowner associations have no essentially legal enforcement rights other than to nag and complain and to use peer pressure to try to persuade more of our neighbors than not to follow the rules they contractually agreed to when they chose to reside in Ocean Colony. It is true that the Association can write letters, impose fines, and initiate an alternative dispute resolution, as well as ultimately file suit against the offending party. However, there is no way we can actually enforce or collect the penalties if the offending party simply chooses to ignore the letters, fines, refuses to participate in the resolution (i.e., mediation) process, or even counter-sues on some basis. The Association has no legal remedy to enforce collection of any such imposed fines and is only able to lien a property for failure to pay assessments, not for failure to pay penalty fines.

Alternatively, the police have the civic legal system available to them to pursue individuals who are found in violation of city law. This is the way the system of rules and laws was intended and designed to work. Ocean Colony is not a city-state (or a police-state) and we have no internal patrol or policing force. We pay the city taxes to support our local police force and we should utilize that police force when we need them to do their job of enforcing the ordinances of the city in which we all live.

Certainly we as an Association are committed to using all reasonable means available to us to guide or, if need be, pressure those parties who appear to hold themselves outside the law to comply with its terms. We have asked Ocean Colony Partners to educate the marshals to watch for unleashed dogs on the cart paths and on the courses and to take appropriate action. We will be posting information on the Association web site, including publishing the Community Service phone number that should be used to report any incidents to the HMB police, and we will periodically address the topic in the News Letter.

## Nuisance and Compliance with Laws

### RESOLUTION OF THE BOARD OF DIRECTORS of OCEAN COLONY ASSOCIATION

Whereas, to facilitate better living conditions among the residents of Ocean Colony, the need for clearer rules concerning nuisance and compliance with laws is necessary;

**BE IT RESOLVED THAT: the following rules shall apply to all owners, residents, guests and tenants at Ocean Colony:**

**A) No Unlawful Activities.** No unlawful activity shall be carried on in any lot or in any other part of Ocean Colony. Nothing shall be done within Ocean Colony that is an unreasonable annoyance, inconvenience or nuisance to the residents of the development, or that unreasonably interferes with the quiet enjoyment of occupants of Ocean Colony. No sidewalks, walkways, inside or outside parking areas or streets shall be obstructed in any manner which would interfere with their use for ingress or egress.

**B) Noise.** Sound shall be kept at reasonable levels so as not to cause an annoyance, inconvenience or nuisance to others. Owners, tenants, occupants and their guests and any other parties present in Ocean Colony shall observe quiet hours from 10:00 p.m. to 6:00 a.m.

**C) Residential Community.** The Ocean Colony property is to be used for residential purposes only. Adherence to all laws and ordinances is mandatory, including the City of Half Moon Bay Curfew ordinance. No person shall loiter, idle, or wander upon, about or in any of the streets, sidewalks, open spaces, vacant lots or other unsupervised places within Ocean Colony between the hours of 11:00 p.m. and 5:00 a.m.

## Parking Bay Usage Policy

Whereas Ocean Colony Common Area is defined in the Ocean Colony Association Bylaws as "all real property owned by the Association for the common use and enjoyment of the Owners" and;

Whereas Ocean Colony's parking bays are Common Area, are the property of the entire Association, and accordingly are for non-exclusive, mutual use, and;

Whereas no individual homeowner or Association member has the right or authority to use Common Area solely for their personal use; and

Whereas the Board had previously established that parking bays should only be used by visitors and guests;

The Board believes that it would now be reasonable to clarify the Association policy and establish specific guidelines regarding what constitutes appropriate and acceptable use of Ocean Colony Association parking bays.

As the parking bays located within the several sub-associations in Ocean Colony (i.e., Bayhill Place Association, HMB Muirfield Association, Muirfield II Association, and Pinehurst Lane Association) are the property of those sub-associations and accordingly are not Ocean Colony Common Area, this resolution has no impact on the usage of those parking bays located in any of the aforementioned sub-associations.

**BE IT THEREFORE RESOLVED TO:** that the Board herein confirms and clarifies that Ocean Colony parking bays should generally be kept available for the usage only by non-residents present in the Colony on behalf of or by invitation of an Ocean Colony resident and that the following specific parking bay usage guidelines are hereby established:

- \* Repeated use of any parking bay for days at a time is not allowed, and in no case may a vehicle be parked for more than 48 continuous hours in a parking bay.
- \* Parking bays cannot be used to house or park residents' vehicles on a regular and on-going basis.
- \* Residents who may have more vehicles than can be parked on their property, e.g., in their garage or on their driveway must find locations other than Association Common Area on which to park any such excess vehicle(s).
- \* Use of the parking bays by residents on an occasional or periodic basis will not be deemed in violation of this policy.
- \* Requests for exceptions to this policy shall be made to the Community Manager and may only be granted on a temporary basis.

**BE IT FURTHER RESOLVED:** that the Board approves utilizing the penalty structure for stationary violations as specified in the Enforcement Policies and Procedures for Ocean Colony Street and Sidewalk Usage Rules for violations of this policy.

## **OCA Policy on Real Estate Access & Literature**

(REVISED JUNE 2003 TO ALLOW WEEKEND ACCESS TO PROSPECTIVE HOMEBUYERS)

OCA Policy on Real Estate Access & Literature

In August 2002 (and as revised in June 2003 in bold print), the Board adopted a policy regarding the distribution of real estate information by gatehouse staff and regarding access to Ocean Colony by prospective homebuyers. The policy's purpose is to reasonably address the concerns of homeowners seeking to sell their homes, as well as those of realtors marketing these properties, while continuing to preserve the privacy and privilege of our gated community and comply with established access procedures and CC&R provisions.

The general terms of the policy are:

- 1) The Association will not show favoritism to any realtor or to any real estate firm.
- 2) The Association is not responsible for the production or content of real estate information or materials.
- 3) Real estate literature for homes for sale within Ocean Colony will be accepted for distribution, to the extent reasonable, from any realtor representing a home or homes within Ocean Colony, which literature may only contain information on Ocean Colony properties.
- 4) All real estate literature should be delivered to the Gate House in a form ready for distribution. This literature will be handed out to anyone interested in current Ocean Colony properties for sale.
- 5) Gate House personnel will not offer directions to any real estate office or to make any comment regarding any real estate firm or agent. Gate House personnel will have available a list of local realtors.
- 6) The placement of A-frame real estate signs on the shoulder of Highway 1 is in violation of city ordinance **and of CalTrans requirements, and is unsightly. Realtors are requested not to place any such signage in the Ocean Colony frontage area, at least between Redondo Beach Road and Miramontes Point Road, in order to preserve their real estate literature distribution privilege.**
- 7) The Association may revoke this literature distribution privilege for any realtor whose literature is found to be inappropriate or not conforming to applicable standards governing real estate sales and advertising material. The Association has no obligation or responsibility to accept or distribute such literature.
- 8) **The Association will place one "Open House" sign at the entrance to Ocean Colony and on OCA property on every Sunday and during the hours that open**

houses are available for inspection within Ocean Colony.

**9) Prospective homebuyers unaccompanied by a realtor or unauthorized by a homeowner will only be allowed into Ocean Colony on Saturdays and Sundays from 900AM to 500PM. During this time period Gate House personnel will allow unaccompanied access into Ocean Colony for those who express a specific desire to look at homes for sale within Ocean Colony. Gate House personnel will record standard OC visitor log information for these unaccompanied prospective buyers along with the name and number from the driver's license of the person driving. Open House visitors seeking entry on Sundays between 1:00 and 5:00 pm will not be required to provide driver's license information.**

Contact the Association office (726-7676) with any questions about this policy.

## **Remote Buy-Back Policy**

In June 2002 the Board resolved to prohibit any Ocean Colony resident or homeowner from using any remote access device purchased from the Association for any purpose which would serve or contribute to allow unauthorized electronic access to the Colony.

In order to facilitate better compliance with this requirement, it now seems prudent to, upon request, offer a token payment for retrieval of previously sold remote access devices.

BE IT RESOLVED THAT: Management is authorized to buy back previously sold Ocean Colony remote access devices from the Ocean Colony resident or homeowner at a price of \$5 for the older, larger remotes or \$10 for the newer, smaller remotes.

## **Ocean Colony Street and Sidewalk Usage Rules & Guidelines**

*Updated February 2004*

The streets and sidewalks within Ocean Colony are available for equal and protected use and enjoyment by all residents. Ocean Colony residents are responsible for informing their guests and tenants of these rules and guidelines and ensuring they are obeyed and followed.

**RULES THE SPEED LIMIT IN OCEAN COLONY IS 20 MPH**

## **Motor Vehicles & Drivers**

- Obey the speed limit, stop signs, and street markings
- Operation of motor vehicles by unlicensed drivers is not allowed
- Obey the California Vehicle Code
- Parking is not allowed in red curbed areas or on sidewalks
- On-street parking is not allowed between 2 am and 6 am
- Vehicles are not allowed to be parked in a parking bay for more than 48 continuous hours
- All OC vehicles must properly display a current OC vehicle sticker
- OC residents must timely update their vehicle information

## **Bicycles, Skate Boards, Roller Blades & Go-Peds**

- Being towed or "riding double" is not allowed
- Go-Peds and motorized scooters are not allowed to be operated in OC by individuals under 14
- Rails, ramps, goals, etc. which affect traffic flow are not allowed

## **Guidelines**

### **Motor Vehicles & Drivers**

- Drive defensively and watch for pedestrians, bicycles, skate boarders, skaters, and scooters
- Slow for speed humps and yield to pedestrians
- Park in your garage or driveway and keep the parking bays available for use by guests and visitors
- Do not park by fire hydrants

### **Bicycles, Skate Boards, Roller Blades & Go-Peds**

- Observe state helmet laws and wear protective gear
- Stay on the correct side of the road
- Observe stop signs and street markings
- No cycling on cart paths during golf play hours, as per the CC&Rs ('91 Amenities Agreement)
- If riding at night, be sure your bike is equipped with state-approved lights and reflectors
- No boarding, skating, or go-peding in the dark
- Yield to pedestrians, be careful, and ride defensively

### **Pedestrians**

- No walking on cart paths during golf play hours, as per the CC&Rs ('91 Amenities Agreement)
- Pet owners must immediately clean up and remove any waste left by their pets

**Parents are advised that the Colony (and the city) has an 11 pm curfew.**

## **Enforcement Policies and Procedures for Ocean Colony Street and Sidewalk Usage Rules**

Philosophy: A consistent, fair, and reasonable enforcement policy and procedure is necessary to foster compliance with these rules. This enforcement process is intended to be essentially passive and administrative in nature. The desired goal is to effectively modify homeowners (and their guests and tenants) behavior by informing them of the applicable rules and encouraging them to abide by them. Discovery of violations will not be actively sought through any dedicated person or entity. All homeowners, Board members, and property management personnel will be encouraged to report alleged violations they witness, including the details necessary to accomplish enforcement of the applicable rules. The incident count is specific to the type of violation. For example, a homeowner will not receive a final warning letter until the third report of parking on the sidewalk. Notwithstanding, the Board has the authority and reserves the right to take any direct and immediate enforcement action which in its sole judgment may be deemed appropriate in any egregious or serious violation situation. Examples include but are not limited to: any incident involving personal injury, damage to Association or homeowner property, aggressively reckless behavior involving threat or risk to persons or property, etc.

For example, a homeowner witnesses a car parked on the sidewalk. They should make note of the vehicle license no., OC vehicle sticker no. (if present), vehicle color and make, OC address nearest to where the car is parked, and the date and time of the occurrence. This information should be relayed verbally or in writing to the property management firm who will in turn initiate the enforcement process. For instances involving vehicles, the property management personnel will first consult the OC Cars database to attempt to determine ownership of the vehicle. For vehicles owned by an OC resident, the OC resident owning the car will be contacted. For vehicles not registered in the OC Cars database, the front gate's visitor log will be consulted. For vehicles associated with visitors of OC residents, the OC resident will be contacted. For vehicles not registered in the OC Cars database and not in the front gate's visitor log, the OC resident at the address nearest to where the car was parked will be contacted. The incident count will be tracked over a rolling 12-month period.

First incident: Phone call or "ticket" left on vehicle, as applicable

Second incident: Reminder warning letter or phone call

Third incident: Final warning letter noting the next incident will result in fine being imposed.\*

Fourth incident: Fine imposed, after due process

First incident: Phone call or "ticket left on vehicle, as applicable

Second incident: Reminder warning letter or phone call

Third incident: Final warning letter noting the next incident will result in fine being imposed.\*

Fourth incident: Fine imposed, after due process

<b>Fine schedule</b>	<u>Moving violations</u>	<u>Stationary violations</u>
1st	\$25	\$10
2nd	\$50	\$20
3rd	\$75	\$30
Each additional	\$100	\$50

Moving violations (for vehicles only, unless otherwise noted)

- |   |   |
|---|---|
| * Speeding                              | * Driving on the wrong side of the road                   |
| * Reckless driving                      | * Towing or riding double (not applicable for vehicles)   |
| * Not heeding signs and street markings | * Driver under 14 operating a go-ped or motorized scooter |
| * Not yielding to pedestrians           | * Unlicensed driver operating a vehicle                   |

Stationary violations

- |   |   |
|---|---|
| * Parking at red curbs or on sidewalks            | * Obstructing traffic flow through the use of rails, ramps, goals, etc. |
| * Parking on streets between 2 am & 6 am          | * Parking in parking bays for over 48 continuous hours                  |
| * Failing to display a current OC vehicle sticker | * Failure to timely update OC vehicle information                       |

Cyclists, Skate Boarders, Roller Bladers, Go-Peders, will be cited as applicable.

\* Standard notice and due process provisions, including the right to a hearing before the Board will apply. Therefore when the violator has reached the fine stage and before any fine is imposed, they will be offered the ability to protest or contest the alleged violation. This protest ability will consist of being provided an opportunity to attend a hearing before the Board. A fine will be imposed only if they choose not to contest the fine or if the Board determines that, regardless of their protest, the fine should be imposed (i.e., approves imposition of the fine).

Failure to pay a fine within the established time frame is addressed in the separate Fine Delinquency policy.

## **Rule requiring residents to update their OC vehicle information**

In order to facilitate the Association's ability to maintain accurate and up-to-date information regarding residents' vehicles in Ocean Colony, it has been determined to be necessary and appropriate to establish a rule requiring residents to timely advise and

inform Management of any changes in their vehicle information needed and retained by the Association.

Failure to comply with this rule will be considered a stationary violation as detailed in the established Street and Sidewalk Usage Rules and subject to the associated enforcement policy and procedures.

BE IT RESOLVED THAT: the Board approves establishing this rule that requires all residents to timely inform Management of any changes in the license number, make, model, color, and year information gathered and retained by the Association with regard to any vehicle(s) the resident may have in Ocean Colony, including identifying obtained and sold vehicles.