



Penalties and Penalty Procedures

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INTRODUCTION

The primary objective of the Earls Court Homeowners Association (hereinafter referred to as the ECHOA) is to promote, enhance and protect the communal interests of its members.

- In terms of the ECHOA Constitution (hereafter referred to as the Constitution), certain Rules and Regulations have been adopted with a view to attaining the above goal. In addition, appropriate Penalties and Penalty Procedures have been formulated and introduced by members in general meeting and the appointed trustees of the ECHOA.
- The Penalties and Penalty Procedures will be reviewed, as and when necessary, to ensure that they remain relevant and continue to serve the communal interests of the members of the ECHOA.
- Every owner of an erf and/or unit (as may be applicable) automatically becomes a member of the ECHOA upon registration of said erf and/or unit. All members, and their successors in title or assignees, are bound by the provisions of the Constitution, Rules and Regulations and, therefore, the Penalties and Penalty Procedures introduced in terms thereof.
- It is every member's obligation, and that of his lessees or tenants, to familiarise themselves with the said Constitution, Rules and Regulations, and Penalties and Penalty Procedures.
- It is only with genuine respect and consideration on the part of all residents of Earls Court, for all fellow residents, that harmonious living will be achieved.
- A member wishing to receive clarification and or guidance on any aspect of the Penalties and Penalty Procedures, should request such clarification or guidance from the ECHOA.
- The definitions and interpretations contained in the Constitution shall apply equally to these Penalties and Penalty Procedures unless otherwise specified.

1. Objectives of the Penalties and Procedures:

- 1.1. Primary objective of the Penalties and Penalty Procedures are to ensure that Members are following the HOA constitution, and rules and regulations, to ensure a Harmonious relationship between all residents of the estate.
- 1.2. Clause 17 of the HOA Rules and Regulations allow for the implementation of Penalties.
- 1.3. In terms of the Rules and Regulations such penalties will be raised on the members through the levy process.
- 1.4. The amount of the penalties or fines will be set by the Trustees of the HOA and may be amended from time to time.

2. Penalties

Any member, and any person(s) he/she is responsible for, contravening the HOA Constitution and any Rule or Regulation promulgated by the ECHOA may be liable for a penalty. The amount of the penalties shall be consistently applied across all the violations of the HOA Constitution, and its Rules and Regulations. Annexure A attached reflects a list of penalties that will be imposed. Note that:

- The HOA trustees will from time to time look at the reasonableness of the fines and make the necessary adjustment to ensure that they prevent violations of the rules and regulations.
- Non-receipt by a member of the list of penalties shall not invalidate his liability arising from the imposition by the ECHOA of any penalty included in the list of penalties.
- A penalty must be paid within 21 (twenty-one) working days of it being issued.
- Failure to pay a penalty within the period prescribed will result in interest and other charges.
- The payment of all legal fees and costs incurred by the Home Owners Association to enforce violations or collect fines shall be the responsibility of the homeowner.
- It is the homeowner's responsibility to inform their tenants of the rules and regulations and penalties. Note that the homeowner is responsible for any common area damage caused by the tenants and are responsible for the payment of the fine.
- An immediate fine may not be imposed without following due process set out below.

3. Procedure for levying a Fine or Penalty

3.1. First Violation:

A courtesy letter citing the specific violation(s) and requesting correction of said violation(s). Under certain conditions a verbal warning may be issued but will be followed up by a courtesy warning letter.

3.2. Second Violation:

A letter sent requesting the homeowner to appear at a hearing before the Trustees (or their appointed designees) to address the cited violation(s). The letter will identify the nature of the violation(s), date, time and location of the hearing. If the homeowner fails to appear at the hearing or provide written evidence on his/her behalf, a monetary penalty will then be imposed against the homeowner. The Trustees will notify the homeowner, in writing, of its decision.

3.3. Continuing Violation:

The Trustees may impose a continuing monetary penalty, assessed on a bi-weekly basis, without additional notice or hearing, until the infraction or violation has been remedied. (A continuing violation is a violation of an ongoing nature which has not been corrected.)

3.4. Repeat Violation:

Hearing Letter sent to Homeowner. (A repeat violation occurs when a person violates the same provision of the Association's governing document more than once in a calendar year and has already been given the appropriate warnings and hearing. A repeated violation will result in an immediate doubling of fines.)

- 3.5. There may be a repeat, continuing violation, in which case fines (which have been doubled) will be assessed on a bi-weekly basis until the violation is corrected.

4. Complaint Process:

- 4.1. Complainants' should lodge a Written/Email complaint or incident report to the HOA Estate Manager or Trustees.
- 4.2. The Trustees of the ECHOA will consider the complaint.
- 4.3. The member and/or tenant will then be given a written notice of the complaint in writing and given a reasonable opportunity to respond to the complaint. In the written advice the transgressor will be given enough information and adequate detail on the nature of the conduct as well as the specific sections of the Act or rules that were allegedly breached. The offender will be warned that if he or she persists with such conduct or contravention, a fine will be imposed.
- 4.4. If the owner or occupier persists with the conduct, the trustees will then send a second notice pointing out that the contravention is continuing or has been repeated and invite the person to a trustee meeting to explain or defend their actions. The notice period of this meeting should be long enough for the person to prepare a defence. The process therefore includes an opportunity for a hearing from the transgressor. The trustees must also consider any representations received or made by the owner.
- 4.5. At the meeting the transgressor will be allowed to state their side of the matter and call witnesses in their support.
- 4.6. The trustees will then discuss the matter after considering the submissions of all the affected parties.
- 4.7. An aggrieved member or other person who is not satisfied with the decision of the Trustees shall lodge a written appeal with the Trustees within 7 (seven) days of their decision being issued. The decision by the Trustees on the appeal shall be regarded as final and the member or other person will be called upon to pay any amount due.
- 4.8. Note that the Trustees may appoint security personnel and/or ECHOA representatives to enforce the rules and regulations and to issue penalties where appropriate.

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**WRITTEN RESOLUTION OF THE TRUSTEES PURSUANT TO ARTICLE
16 OF THE CONSTITUTION OF EARLS COURT HOMEOWNERS
ASSOCIATION**

Earls Court HOA Trustee Resolution

Approval of Penalties and Penalty Procedures

WHEREAS, the Earls Court Homeowners Association (the "HOA") intends to institute
a Penalty and Penalty Procedure pursuant to its article 9, 16 and 17 of the Constitution and
section 17 of the Rules and Regulations.

Therefore, IT IS

RESOLVED, that the HOA Trustee's hereby approve that the Penalty and Penalty
Procedure Policy effective September 2018.

Dated _____, 2018

Signed:

(Chairman)

Signed: Signed:

(Trustee)

(Trustee)

Signed: Signed:

(Trustee)

(Trustee)

Annexure A

1. Traffic and Vehicles:

Members and Residents are reminded that the rules of the Estate roads are governed by the National Road Traffic Act 93/1996. The same rules apply as on any public road outside of the Estate. Fines for points 1 to 5 can only be issued by the Traffic Authorities and for this reason, such authorities will visit the Estate periodically.

Fines:

	Description	Penalty per Offence R	Repeat Offence
1.	Failure to stop at a stop sign	Dependant on Speed and Issued by Traffic Department	
2.	Cutting a traffic circle		
3.	Driving any powered 2, 3 or 4 wheeled vehicles without a licence		
4.	Speeding on estate road		
5.	Riding without correct Head Gear	R 500.00	X 2 per following Offence
6.	Parking on Sidewalks/Verges is not allowed. Visitors should park on the road where possible. Overnight parking can be arranged with Estate Manager	R 500.00	X 2 per following Offence
7.	Parked caravans, boats, trailers etc visible from the road, unless by prior arrangement with Estate Manager. Note provision is made for a Trailer/Caravan/car Park on the estate	R 500.00	X 2 per following Offence

2. Environment:

Fines

	Description	Penalty per Offence R	Repeat Offence
1.	Vandalism and damage to estate property and garden	R 500.00	X 2 per following Offence
2.	Littering at Clubhouse and common areas	R 500.00	X 2 per following Offence
3.	Dumping of any garbage/garden waste	R 500.00	X 2 per following Offence
4.	Refuse or garden waste stored on verges or driveway out side collection days.	R 500.00	X 2 per following Offence
5.	Burning waste or any other elements on private property	R 500.00	X 2 per following Offence
6.	Spillage of oil, cement, paint, petrol etc on estate roads	R 500.00	X 2 per following Offence
7.	Damaging the estate irrigation systems	R 500.00	X 2 per following Offence
8.	Illegal use of estate water	R 500.00	X 2 per following Offence

3. Building and Aesthetic

Fines

	Description	Penalty per Offence R	Repeat Offence
1.	Alterations and building activity after 17H00 on Weekdays and any activity on weekend	R 500.00	X 2 per following Offence
2.	Exterior of residence in need of repair and/or painting	R 500.00	X 2 per following Offence
3.	Landscaping unattended/overgrown garden	R 500.00	X 2 per following Offence
4.	Contravention of Architectural Guideline	R 500.00	X 2 per following Offence

4. Disturbance

Fines

	Description	Penalty per Offence R	Repeat Offence
1.	Antisocial noise after 22H00	R 500.00	X 2 per following Offence
2.	Dogs barking for long periods	R 500.00	X 2 per following Offence
3.	Treating other HOA Members in an abusive and threatening manner	R 500.00	X 2 per following Offence

5. Pets

Fines

	Description	Penalty per Offence R	Repeat Offence
1.	Dogs not on a leash within the Estate	R 500.00	X 2 per following Offence
2.	Dogs repeatedly escaping from erven	R 500.00	X 2 per following Offence
3.	Dogs or Cats attacking other animals or people	R 500.00	X 2 per following Offence
4.	Dog/Cat litter not removed	R 500.00	X 2 per following Offence
5.	Keeping farm-like animals or poultry	R 500.00	X 2 per following Offence
6.	Keeping more than 2 dogs/2 cat without prior approvals	R 500.00	X 2 per following Offence

6. Security

Fines

	Description	Penalty per Offence R	Repeat Offence
1.	Treating Security guards in an abusive manner and refusing inspection of vehicles if requested	R 500.00	X 2 per following Offence

7. Visitors and Domestic Staff

Fines

	Description	Penalty per Offence R	Repeat Offence
1.	Failing to enrol in the estate access system and /or access card given for use to an unauthorised person	R 500.00	X 2 per following Offence

8. Sports and Leisure

Fines

	Description	Penalty per Offence R	Repeat Offence
1.	Children under 13 years old using the gym	R 500.00	X 2 per following Offence
2.	Unauthorised person using the gym	R 500.00	X 2 per following Offence
3.	Riding scooters, bicycles, skate boards etc inside the clubhouse premises	R 500.00	X 2 per following Offence
4.	Refuse or garden waste stored on verges or driveway out side collection days.	R 500.00	X 2 per following Offence
5.	Damaging sports equipment and clubhouse furniture	R 500.00	X 2 per following Offence
6.	Not adhering to the published clubhouse rule	R 500.00	X 2 per following Offence
7.	Not adhering to the published bicycle track rule	R 500.00	X 2 per following Offence

The above list is not complete and comprehensive. All other violation not listed or specified above will result in reasonable fines up to R500.00 per violation. Note that non-receipt of the above list of penalties shall not invalidate the members liability arising from the imposition by the Home Owner association of any penalty.

A complaint process is set out in the policy document.