

Mountain Park Home Owners Association

August 14th, 2020

OFFICIAL NOTICE ENCROACHMENT POLICY CHANGES

Ref: Encroachment Policy Changes

Dear Mountain Park Neighbor:

As a homeowner, please be aware of the changes to the existing encroachment policy that the HOA has developed. The HOA wants to give you an opportunity to ask questions and give feedback on the new encroachment policy.

The policy changes are based on respect for and the requirements of the CC&Rs, which bind all of us in the Mt. Park community. As you know, an encroachment violates the ownership rights of all the members of the Mt. Park community by denying equal access to all common property as required by the CC&Rs.

The new policy replaces the waiver program and requires the following:

- The HOA to set a timeline for removal of encroachments based on the specific circumstances affecting the encroachment's removal.
- The removal policy affects hardscape and structures on common property, including structures such as fences and decks.
- In setting the removal timeline, the HOA intends to balance the requirement that we protect and secure common property for the use and benefit of the entire community with the cost and difficulty of removing the structure.
- Although the HOA wants encroachments removed in 60 days after notice is given to the homeowner, the timeline can be extended for good reasons based on the specific circumstances that affect the removal of the encroachment.
- The timeline may be adjusted through agreement or through a hearing process before the Common Property Committee.

This notice serves as the start of a 30-day commentary period regarding this policy change. Please visit <https://mtparkhoa.com/governance-manual/> for more information on this and other community policies and standards. Included is a list of frequently asked questions. Feel free to submit comments or questions to compliance@mtparkhoa.com.

Best regards,

Compliance Department
Mt. Park Home Owners Association



2 Mt. Jefferson Terrace
Lake Oswego, OR 97035

Phone: 503-635-3561
www.mtparkhoa.com

Frequently Asked Questions (FAQs)

Q. If I have a current waiver that has not yet expired, will the HOA be cancelling it before its expiration?

A. No, the intent is to not eliminate any remaining time that is still within the terms of the currently existing waiver. However, no new waiver or extensions of an existing waiver will be granted.

Q. If I disagree with how the encroachment will be handled under the new policy as it applies to me, can I have a hearing to raise my objections?

A. Yes, you have a right to a hearing about your encroachment before any action is taken by the HOA.

Q. My encroachment has been in effect for a long time. Can I claim common property by adverse possession?

A. No, a member cannot claim common property by adverse possession.

Q. Why are you changing the policy now?

A. The waiver program has been in place for some time, but it has not adequately addressed the continuing encroachments on common property that have given unfair benefits to some homeowners and not to other members. Members cannot treat common property as if it were their own private property.

Q. How do I know where the common property is and the extent of my encroachment?

A. Staff will do its best to identify the extent of the encroachment, but ultimately it is the property owner's responsibility to know the boundaries of the owner's own property.

Q: How soon will the new policy go into effect?

A: The HOA expects that homeowners will appreciate their obligation to comply with the CC&Rs and also assumes that they would not intentionally encroach on common property. Accordingly, the HOA is giving everyone plenty of advance notice of the policy before it goes into effect so that those homeowners with encroachments will remove them before the HOA must intervene to enforce the CC&Rs.

Q: My fence only extends 10 feet into common property. Why do I need to remove it?

A: You do not have the right to take 10 feet of common property for your own personal use any more than your neighbor can just take 10 feet of your private property for their exclusive use. Common property belongs to all of the Mt. Park community.

Q: Why didn't the seller tell me that there was an encroachment when I bought my house?

A: Irrespective of any obligations the seller may have had to you, the HOA is still obligated to protect and secure common property. Of course, the HOA will establish a reasonable timeline for your removal of the encroachment as provided in the policy.

Q: I believe the Architectural Committee gave me permission to encroach on common property. Why are you requiring me to remove it?

A: The Architectural Committee did not and does not have the authority to authorize encroachments in violation of the CC&Rs. You could not receive approval from any committee to encroach on common property. Accordingly, the HOA will establish a reasonable timeline for you to remove your encroachment, even if it was mistakenly made, as provided in the policy.

Q: Will this policy be enforced for everyone?

A: Yes. The policy will be consistently applied by staff. As encroachments are discovered or are reported to the HOA, these encroachments will be subject to the same enforcement policy.