

# **MONTEREY AT THE LAS VEGAS COUNTRY CLUB HOMEOWNERS ASSOCIATION WATER LEAK DAMAGE AND REPAIR POLICY**

The Board of Directors recognizes that damage resulting from water leaks is a serious and costly issue for the Monterey At The Las Vegas Country Club Homeowners' Association (hereinafter referred to as the "Association") and its members, and that responding to and repairing such damage may be confusing and frustrating for the Owners involved. The Association requires a clear and consistent policy for handling routine and emergency water leak incidents. Such a policy is necessary to assist both individual Owners and the Association in handling future water leaks in an efficient and consistent manner that minimizes the impact and cost such water leaks can have on members of the community.

This policy has been adopted by the Association in the exercise of its duty to maintain, protect and enhance the value of the units, as well as the property and financial interests of all Owners, by establishing a consistent policy for the Association to address such claims.

## **I. Preface**

According to the Declaration of Covenants, Conditions and Restrictions and Reservation of Easements for Monterey At The Las Vegas Country Club (the CC&Rs), the Association shall, maintain, repair and replace the Common Element and Improvements thereon or shall contract for such maintenance, repair and replacement to assure maintenance of the Common Element and Improvements thereon in a clean, sanitary and attractive condition reasonably consistent with the level of maintenance reflected in the most current Budget. *See CC&R Sections Article I, 6.1.*

The CC&Rs provide that each Owner is generally responsible for the prompt maintenance and repair, and replacement of the interior of their Unit(s), which are elements of the residential condominium not owned in common with the other unit owners of the residential condominiums, the boundaries of which includes all of the space contained within the unfinished surfaces of the ceiling, floor and walls. *See CC&R Sections 6.2.*

## **II. Preventive Maintenance Requirements**

A. Owners are expected to proactively and promptly perform regular inspections and maintenance on the water lines which exclusively serve their Unit(s), plumbing fixtures and appliances whether free standing or built-in, including, but not limited to, the following:

1. Plumbing supply lines to toilets, sinks and other appliances;
2. Washing machine hoses;
3. Sewer lines, to the extent said lines exclusively serve the Unit;
4. Shut-off valves to ensure proper operation;
5. All appliances and fixtures that use or hold water; and

6. HVAC Units (in accordance with manufacturer's recommendations);

**B.** All such inspections, maintenance and repairs should be promptly performed as needed, but at least annually. All such inspections, maintenance and repairs must be performed by a licensed and insured plumber and/or contractor qualified to recognize potential problems and perform any needed inspections and repairs. Owners/Residents<sup>1</sup> should regularly use bathroom exhaust fans and keep units well ventilated in order to reduce moisture and the potential for mold growth. The Association strongly encourages Owners to document all such inspections, maintenance and repairs

**C.** As part of such inspections, maintenance and repairs, the Association recommends that the Owners/Residents accomplish the following items:

1. The water line(s)/hose(s) to each toilet and sink in a Unit should be replaced with braided stainless steel water line(s)/hose(s), and quarter turn angle stop(s) (i.e. turn-off valve).

a. **NOTE:** The shut-off valve for a Unit's dishwasher also serves as the shut-off valve for the hot water to a Unit's kitchen sink.

b. **NOTE:** The shut-off valve for a Unit's refrigerator containing an icemaker and/or water dispenser also serves as the shut-off valve for the cold water to a Unit's kitchen sink.

2. The water line(s)/hose(s) to a washing machine should be replaced with braided stainless steel water line(s)/hose(s).

a. **NOTE:** The bib(s) (i.e. turn-off valves) to washing machine line(s)/hose(s) should be replaced with new bib(s) if the current bib(s) are more than ten (10) years old.

#### **D. Extended Absence Protocol**

If an Owner/Resident will be absent from their Unit for more than seventy-two (72) hours consecutively, the Owner/Resident shall:

1. Ensure all water supply line(s)/hose(s) to and within the Unit are shut-off;
2. Provide Management with a method to promptly access their Unit in the event a water leak occurs during Owner/Resident's absence (e.g., leave a key with Management or leave a key with a neighbor and provide neighbor's contact information to Management);
3. Provide Management with Owner/Resident's contact information (e.g., cell phone, email and/or address) while absent from their Unit and;
4. Provide Management with instructions on the most efficient manner to contact Owner/Resident during their absence.

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<sup>1</sup> Please note that as used herein "Resident" includes, but is not limited to, tenant(s) unless otherwise stated.

*Please note that because of the increased risk and costs involved with water leaks in a condominium complex, an Owner's failure to inspect, maintain and repair plumbing lines, fixtures and appliances in his/her Unit (including, but not limited to, preventive maintenance) and/or comply with the extended absence protocol as stated in this policy shall constitute willful misconduct by that Owner. Any such Owner shall be financially liable for any and all damage to Common Elements and/or other Units.*

### **III. Water Leak Response Protocol & Procedure**

Except as otherwise required by law, the Association shall not be liable to any Owner or their family, tenants, guests, invitees or others for damage to personal property, decorations, and other similar items within a Unit, resulting from water which may leak or flow from outside of any Unit or from any part of the building, or from any pipes, drains, conduits, appliances or equipment or from any other place or cause.

Therefore, as an Owner, are strongly encouraged to maintain proper insurance for such personal property as well as the insurance recommended by Section 21.6 of the CC&Rs.

#### **A. Water Intrusion (Leaks)**

Owners/Residents are required to promptly repair all leaks in their Unit(s), and to report all water intrusion and/or mold growth in their Unit(s) to Management (at Management's on-site office unless indicated or directed by the Association) immediately upon discovery. Upon receipt of a report of a water leak, management may prepare a "Unit Owner Incident Report." A copy of the Unit Owner Incident Report is attached hereto as **Exhibit "A."** The Incident Report may be provided to any of the Unit Owners affected by a water leak. *A Unit Owner who is not affected by a given water leak is only entitled to receive a redacted version of the Incident Report.*

It is frequently difficult, or even impossible to determine the cause of a water leak or moisture intrusion problem before remediation work begins. In addition, it is important to stop a water leak as quickly as possible in order to minimize the damage caused by the leak. **In order to contain the damage caused by any reported water leak, the Association may begin emergency service and/or remediation work under appropriate circumstances, and may provide copies of any documents related to such work to any or all Owners of Units affected by the leak.**

The Association will not clean or replace any of the Owner(s)/Resident(s)' personal property. The Owner(s) will also be responsible for the Unit(s)' utility costs, even if the contractor undertaking the remediation and restoration work uses those utilities.

Each Owner/Resident may generally choose whether to remain in the Unit(s) during the remediation and restoration work, except that the Association may require an Owner/Resident to vacate the Unit(s) during certain remediation and restoration work, including, without limitation, structural repairs and mold remediation. Anyone contemplating remaining in the Unit(s) during remediation and/or restoration work should consult with their personal physician before making a final decision. Any Owner/Resident choosing to remain in the Unit(s) during the remediation and/or restoration work does so at his/her own risk.

The Owner(s)/Resident(s), not the Association, shall be responsible for all relocation costs during the remediation and/or restoration period. If the Unit(s) at issue is/are occupied by a tenant/tenants, the Owner(s) and tenant(s) must resolve any issues associated with the relocation amongst themselves. The Association does not assume any responsibility for the Owner(s)' lost rent, temporary relocation expenses and/or damages related to loss of use of a Unit, if any.

**Owner/Resident Response Protocol:**

If you discover a water leak in your Unit(s) or any other area of the building, or if you suspect that water may be leaking, immediately take the following steps:

1. Call Management immediately (or as soon as possible) upon discovery of water intrusion. Never report a leak via email, which can result in a delayed response. Leaks should be addressed immediately (or as soon as possible) upon discovery to avoid extensive damage. Unless otherwise indicated or directed by the Association, calls reporting water leaks must be placed to the following number: (702) 735-3143.

**PLEASE NOTE:** Upon your reporting of the water leak, the Association will provide reasonable notice that it wishes to access to your Unit(s) in order to investigate the water leak. Upon receiving said notice, you must promptly schedule a time for the Association to access your Unit(s) as soon as possible. Nevertheless, if the Association deems the water leak an emergency, the Association has the right to immediately access your Unit(s) without notice.

2. Shut-off the water source, if possible.
3. Clean up small water leaks immediately.
4. Cooperate with management in determining the extent of the leak and its cause.
5. Assist management with remediation activities.
6. Ensure that any water leak maintenance, repair or installation undertaken by an Owner/Resident is completed by a licensed and insured plumber and/or contractor.

If you discover a water leak in any other area of the building, immediately or as soon as possible, inform Management.

Please note that an Owner/Resident's failure to execute the response protocols may constitute willful misconduct and/or gross negligence. Accordingly, the Owner(s) may be held liable for any damage caused by or related to the failure to execute said protocols. Additionally, the Owner(s) may be held liable for any costs incurred by the Association in addressing said damage caused by or related to the Owner(s)/Resident(s)' failure to execute said protocol.

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## **Association Response to Water Leaks Protocol**

1. Upon being notified of a possible water leak, Management staff or maintenance personnel will perform an initial investigation of the water leak.

**PLEASE NOTE:** Upon receiving a report of the water leak, the Association will provide reasonable notice to the Unit Owner(s)/Resident(s) that it wishes to access to the Unit(s) at issue in order to investigate the water leak and promptly schedule a time with the Owner(s)/Resident(s) for the Association to access said Unit(s) as soon as possible. Nevertheless, if the Association deems the water leak an emergency, the Association has the right to immediately access said Unit(s) without notice.

2. If not already accomplished, Management staff will turn off the water source.
3. If necessary, authorization will be requested from the Unit's Owner(s) to perform emergency repairs and remediation work to the extent required by Nevada law.
4. Upon receipt of a report of a water leak, management may prepare a "Unit Owner Incident Report." A copy of the Unit Owner Incident Report is attached hereto as **Exhibit "A."** This Incident Report may be provided to any of the Unit Owners affected by a water leak. *A Unit Owner who is not affected by a given water leak is only entitled to receive a generalized record related to the water leak.* Furthermore, management shall log into the water leak detection system and note and/or record the source of the leak and size of area affected into the portal to update the water leak detection system records. These incident reports will be maintained as records of the Association.
5. Management shall promptly contact a licensed plumbing, water remediation and/or restoration company ("Contractor") to investigate and determine the source of the water leak and identify those Units affected by the water leak. The Contractor shall prepare a "Contractor's Report" describing the results of its investigation. The Contractor's Report shall include, but is not limited to, the following information: (a) the source of the water leak; (b) the identity of the Units affected by the water leak; (c) the extent of the damage to the Common Areas of the Association and/or the extent of damage to condominium Units; and (d) the cause(s) or possible cause(s) of the water leak. *The Association may provide a copy of the Contractor's Report to any or all of the Unit Owners affected by a water leak.* A form for the Contractor's Report is attached hereto as **Exhibit "B."**
6. It is frequently difficult, or even impossible, to determine the cause of a water leak or moisture intrusion problem before remediation work begins. It is important to stop a water leak as quickly as possible in order to minimize the damage caused by the leak. **In order to minimize the damage caused by any reported water leak, the Association may begin emergency service and/or remediation work under appropriate circumstances, and may provide copies of any documents related to such work to any or all Owners of Units impacted by the leak upon request.**
7. Management shall also provide the Unit Owners affected by the water leak with an "Affected Resident Statement." The Affected Resident Statement is attached hereto as **Exhibit "C."** *The Affected Resident Statement shall not be provided to anyone other than to the person providing the statement.*

Please note that an Owner/Resident's interference with or prevention of the Association executing these protocols may constitute willful misconduct and/or gross negligence. Accordingly, the Owner(s) may be held liable for any damage caused by or related to the Owner(s)/Resident(s) interference with or prevention of the Association executing said protocols. Additionally, the Owner(s) may be held liable for any costs incurred by the Association in addressing said damage caused by or related to the Owner(s)/Resident(s) interference with or prevention of the Association executing said protocols.

## **B. Water Shut-Offs**

Since the water shut-off in your Unit(s) may affect other Units, please abide by the following protocol for water shut-offs:

### **Protocol:**

1. Contact Management to determine if non-emergency plumbing repairs in your Unit(s) requires shutting off water to other Units, such that those Units may be notified at least twenty-four (24) hours before the shut-off.
2. Non-emergency water shut-offs shall not be conducted on weekends, or legal holidays.
3. For emergency shut-offs, locate the water shut-offs in your Unit(s) or building(s) and shut-off the water. If you do not know where water shut-off valves are located, please contact Management immediately so that maintenance staff may assist you in this process.

## **IV. Responsibility for Water Damage**

The Association may rely on the information contained in the Contractor's Report, as well as any other relevant information regarding the source and/or cause of a water leak in making a determination regarding which Owner(s), if any, may be liable for the damage caused by the leak. In the event it is determined that an Owner(s) should be liable for any damage to other Units and/or the Common Areas of the Association, the Owner(s) may be assessed the costs and expenses required to repair such damage. *See* NRS 116.3115(6); CC&R Section 6.5.

### **A. Association Responsibility for Water Damage**

The Association will incur the cost to repair the water leak, dry out the affected Common Areas and/or Units, and will remediate any mold in the Common Areas and/or Units when the water leak or mold can be attributed to a Common Area/Element source.

### **B. Affected Unit Owner Responsibility for Water Damage**

When a water leak originates in a Unit, the Association is not responsible to repair the leak, dry out affected Units, or repair damage to the affected Units by the water leak. Each Owner affected by a leak must be prepared to act to protect and restore his or her own Unit. *However, under certain circumstances where a water leak may cause extensive damage if not immediately*

*addressed in other affected Units, the Association may take whatever action it deems necessary to minimize such damage.*

If an Owner or his/her insurance carrier does not immediately accept responsibility for a water leak, the Association may enter the affected Unit(s) to make remedial repairs, including, but not limited to: extracting any water; drying out the Unit(s); and removing any cabinets, any floor coverings, baseboards, appliances and other fixtures, and drywall as necessary to access any water and/or mold in the Common Area wall cavities. Regardless of whether a Unit is the source of the water leak or is merely damaged by a water leak, the Association does not guarantee or warranty the condition of any removed items or whether these items can be reinstalled or whether the items will have to be replaced. The Association will not be responsible for any damage to these items. The risk of loss or damage to these items shall remain with the Owner(s). **The Owner(s) shall be responsible for the cost of repair or replacement of personal property.** (As stated above, Owners must carry their own insurance coverage to protect themselves against damage to these items).

The Association shall bear the costs to remediate any mold in the Common Area wall and ceiling cavities and within the affected Unit(s) as necessary to obtain mold clearance, provided the mold originated from the water leak. The Association will also pay to replace any removed drywall in the Common Area.

*Other affected Owner(s) may seek their own recovery from the party(ies) ultimately found to be responsible for the water leak. The Association will not act as the representative for any Owner(s)/Resident(s) on the issue of cost recovery.*

#### **C. Unit Owner Responsibility for Water Damage**

If it appears that a water leak, and/or mold growth is contained within, or has only affected the responsible Unit, and Common Area walls, ceilings or floors have not been affected by the water leak, the Association will take no immediate action beyond ensuring that water leak will not spread to Common Areas or other Units. The responsibility for addressing damage caused by a water leak within a Unit falls solely upon the Owner(s) of the affected Unit.

If it appears that the water leak, and/or mold growth is not contained within the responsible Unit, and has damaged the Common Area walls, ceilings and/or floors, the responsible Owner(s) shall be liable for all repair and restoration costs in the event it is determined that the negligence or willful misconduct of the Owner(s) was the cause of such damage. Willful misconduct shall include the unauthorized or improper installation or maintenance of any improvement located within an owner's unit(s) (e.g., failing to use a licensed and insured plumber and/or contractor).

Any costs and expenses incurred by the Association to repair the damage caused by a water leak shall be assessed and charged solely to and against the Owner(s) who causes damage to the Common Area or any area which the Association is obligated to maintain. See NRS 116.3115(6); CC&R Section 6.5, 18.2(e).

#### **D. Shared Responsibility: Association and Unit Owner Responsibility for Water Damage**

Should damages result from concurrent leaks from a Unit and Common Areas, the Association will repair the water leak, dry out the affected Unit(s) and Common Area, and/or perform the mold remediation and Unit restoration as described above in Section IV(A). However, the Association will require the co-responsible Owner(s) to contribute their proportional share of the cost of the repair and/or remediation work based upon their percentage share of the responsibility.

The Association will notify the affected Owner(s) as soon as reasonably possible of the co-responsible Owner(s)' anticipated or expected financial contribution in the event of shared responsibility. Failure of the Association to notify the co-responsible Owner(s) will not eliminate the co-responsible Owner(s) responsibility to pay their proportionate share of the total costs incurred.

#### **V. Responsibility for Mold Contamination**

The Association may rely on the information contained in the Contractor's Report, as well as any other relevant information regarding the source and/or cause of a mold contamination in making a determination regarding which Owner(s), if any, may be liable for mold contamination caused by a water leak. In the event it is determined that an Owner should be liable for any damage to other Units and/or the Common Areas of the Association, the Owner may be assessed the costs and expenses required to repair or remediate the mold contamination. *See* NRS 116.3115(6); CC&R Section 6.5; 18.2(e).

#### **VI. Responsibility for Third Parties**

Should an Owner/Resident engage a third party(ies) to perform any inspections, maintenance and repairs within their Unit(s) (i.e. a licensed and insured plumber and/or contractor), the Owner/Resident is responsible for ensuring that the third-party(ies) complies with the Association's governing documents including, but not limited to, the terms set forth herein. Furthermore, an Owner will be held liable for any damage caused by or related to the actions of the third party(ies) and any costs incurred by the Association in addressing said damage caused by or related to the actions of the third party(ies). *See* CC&Rs § 9.4.

#### **VII. Association Efforts to Recover Expenses Associated with Water Leak**

Upon review of the Contractor Report and any other relevant information provided to or obtained by the Board, the Board of Directors may make a determination as to the cause of a water leak. If the findings of the Contractor's Report are inconclusive, the Association reserves the right to retain another Contractor to make a determination as to the cause of the water leak.

If the Contractor determines that a Unit's Owner(s) was the cause of a water leak, the Association may call the Unit Owner(s) to a violation hearing in accordance with the Association's Governing Documents and Nevada law. Following the violation hearing the Board of Directors may assess the responsible Unit Owner(s) the costs or expenses associated with the water leak (the "damage assessment"), and/or take any other action or impose any other penalty permitted. *See* CC&R Section 6.5; and NRS 116.3115(6).



In the event a Unit Owner whose Unit(s) has/have been assessed the costs and/or expenses associated with a water leak fails to pay the damage assessment, the Association reserves the right to pursue any and all legal remedies available to it, including but not limited to, filing a lawsuit against the Unit Owner for failing to pay the damage assessment.

THE MONTEREY AT LAS VEGAS COUNTRY CLUB HOMEOWNERS ASSOCIATION

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