

MILL CREEK CONDOMINIUM ASSOCIATION

LANDSCAPE RESOLUTION

WHEREAS the Board of Directors of Mill Creek Condominium Association (the Association) is empowered by Oregon Revised Statutes Sections 100.405(4)(a) and 100.405(4)(g) and the Association's governing documents, including Section 14.3 of the Declaration of Covenants, Conditions, and Restrictions of Mill Creek Condominium Association and Sections 3.7(a), 7.5(o), and 7.6 of the Bylaws of Mill Creek Condominium Association, to exercise all of its powers and duties necessary to the administration of the affairs of the Association to include operation, care, upkeep, maintenance, repair, and replacement of the common elements and Association property; and

WHEREAS the Board of Directors of Mill Creek Condominium Association is empowered by the Association's governing documents to set forth rules and guidelines governing the conduct of persons and the operation and use of the units and common elements as the Board of Directors may deem necessary, and those rules and guidelines shall be binding on all unit owners and unit occupants upon adoption by the Board of Directors; and

WHEREAS the Board of Directors of Mill Creek Condominium Association is **required** under Oregon state law and the Association's governing documents to be responsible for the necessary work to maintain, to repair, and/or to replace the common elements and Association property; and

WHEREAS the Board of Directors of Mill Creek Condominium Association deems it necessary to enact rules and guidelines pertaining to landscaping, a common element; and

WHEREAS the Board of Directors of Mill Creek Condominium Association seeks to enhance the livability of all residents within the Association; to preserve and to protect the condition of the common elements, namely, landscaping; and to maintain optimum property values,

IT IS HEREBY RESOLVED that the Board of Directors **ADOPTS** the following rules and guidelines regarding the common element of landscaping:

1. **General Requirements under Oregon State Law and the Governing Documents of Mill Creek Condominium Association, including the Declaration and Bylaws.**

- a. All landscaping is subject to the restrictions contained in the Forest Heights

Homeowners Association Declaration, Bylaws, Rules, and Resolutions, which restrictions are enforceable by the Board of Directors of Mill Creek Condominium Association to the

same extent as if expressly set forth in Mill Creek Condominium Association's Declaration, Bylaws, Rules, and Resolutions.

b. A unit owner may not change the appearance of the landscaping, which is a common element of the Association, without written permission of the Association's Board of Directors except as permitted below.

c. The necessary work of maintenance, repair, and replacement of landscaping and additions or improvements to landscaping, a common element of the Association, is the sole responsibility of the Association's Board of Directors and shall be carried out only by the Association's Board of Directors except as permitted below.

2. **Specific Rules and Guidelines Governing Landscaping.**

a. In the side yard area pertaining to that unit, the unit owner may add at his or her own expense small-to-medium shrubs and/or flowering plants (all plants with a maximum size of 4' x 4' at maturity). The shrubs must be consistent with the type of shrubs currently in existence in Mill Creek yards and must be low maintenance. Any shrubs or flowering plants installed by the unit owner must be maintained by the unit owner.

b. In the front or back yard pertaining to that unit, the unit owner may plant at his or her own expense small shrubs and/or flowering plants (annuals, bulbs, shrubs, and all plants with a maximum size of 3' x 3' at maturity) as accents to the Association's landscaping. The shrubs must be consistent with the type of shrubs currently in existence in Mill Creek and must be low maintenance. Any shrubs or flowering plants installed by the unit owner must be maintained by the unit owner.

c. If the Board of Directors determines, in the exercise of its discretion, that the shrubs or flowering plants installed by a unit owner do not meet the requirements of the provisions of this Resolution, the unit owner shall remove those shrubs or flowering plants upon written notice from the Association. If the unit owner fails to remove those shrubs or flowering plants within the designated time, the Association may remove the shrubs or flowering plants without further notice. The expense of removal shall constitute a supplemental assessment to the unit owner and shall be subject to all of the collection procedures and legal actions applicable to monthly assessments.

d. The unit owner shall maintain all shrubs and flowering plants that the unit owner installs. If the unit owner fails to adequately maintain such plantings, the

Association may remove those shrubs and flowering plants upon written notice to the unit owner and at the unit owner's expense. The expense of removal shall constitute a supplemental assessment to the unit owner and shall be subject to all of the collection procedures and legal actions applicable to monthly assessments. Whether the shrubs or flowering plants installed by the unit owner are

being adequately maintained by the unit owner is the discretionary decision of the Board of Directors.

e. Only the Association may remove or plant trees in Mill Creek. A unit owner may not trim or top any tree in Mill Creek without permission of the Board of Directors. If a unit owner does so, the Association may hire an arborist to correct any damage to the condition or to the attractiveness of the tree or the Association may remove and replace the tree without notice to the unit owner and at the expense of the unit owner. The expense of correcting any damage to the condition or to the attractiveness of such a tree and/or the expense of removing and replacing the tree shall constitute a supplemental assessment to the unit owner and shall be subject to all of the collection procedures and legal actions applicable to monthly assessments. Whether the condition of the tree has been damaged, whether the attractiveness of the tree has been diminished, or whether the tree shall be removed and replaced is at the discretion of the Board of Directors.

f. Any potted plants placed in the yard areas or on the sidewalk, outside stairs, driveway, deck, or porch of a unit must be maintained by the unit owner. If the plants are not adequately maintained, the unit owner must remove the plants within ten (10) days of written notice from the Association. If the unit owner fails to remove the plants within that time, the Association may remove the plants without further notice. The Association shall not be responsible for the care or condition of the pots or the plants during or after removal. Whether potted plants are being adequately maintained by the unit owner is the discretionary decision of the Board of Directors.

g. A unit owner may not remove from any yard area in Mill Creek any shrub or other plant that has been installed by the Association except with written permission from the Board of Directors. If the unit owner removes a shrub or other plant installed by the Association from any yard area without permission from the Board of Directors, that unit owner must replace the removed shrub or plant with one of a similar kind and size upon written notice from the Association. Whether the shrub or plant is of a similar kind and size is the discretionary decision of the Board of Directors. If the unit owner fails to replace the shrub or plant within the time designated by the Association, the Association may replace the shrub or plant with one of a similar kind and size at the unit owner's expense without further notice. The expense of replacing and installing the shrub or plant shall constitute a supplemental assessment to the unit owner and shall be subject to all of the collection procedures and legal actions applicable to monthly assessments.

h. All plants in the common elements are the property of the Association. The Association has the right to move or to remove any plant installed by the Association to another location without notice to the unit owner. The Association has the right to move or to remove any plant in the common elements.

i. Any shrubs or flowering plants installed by a unit owner that interfere with easy access to the sidewalk, outside stairs, patio, gates, driveway, porch, or other parts of the common elements shall be removed or cut back by the unit owner. If the unit owner fails to do so, the Association may remove or cut back the shrub or flowering plant upon written notice to the unit owner and at the unit owner's expense. Whether such shrubs and/or flowering plants interfere with easy access to the sidewalk, outside stairs, patio, gates, driveway, porch, or other parts of the common elements is the discretionary decision of the Board of Directors. The expense of removing or cutting back such shrubs or flowering plants shall constitute a supplemental assessment to the unit owner and shall be subject to all of the collection procedures and legal actions applicable to monthly assessments.

j. Any shrubs or flowering plants installed by a unit owner (e.g., climbing roses, vines) that interfere with yard, sidewalk, gates, outdoor stairs, driveway, deck, porch, unit structure, fence, or arbor maintenance must be removed or cut back by the unit owner to the satisfaction of the Association prior to the time of any scheduled maintenance. The Association shall notify the unit owner in writing in advance that the shrubs or flowering plants must be removed or cut back prior to the scheduled maintenance. If those plants installed by a unit owner are not removed or cut back to the satisfaction of the Association before the scheduled maintenance, the Association may remove such plants at the unit owner's expense without further notice. The expense of removal shall constitute a supplemental assessment to the unit owner and shall be subject to all of the collection procedures and legal actions applicable to monthly assessments. Whether shrubs or flowering plants installed by the unit owner interfere with yard, sidewalk, gates, outside stairs, driveway, deck, porch, unit structure, fence, or arbor maintenance is the discretionary decision of the Board of Directors.

k. If a unit owner plants shrubs or flowering plants in the front, back, or side yard that do not comply with the provisions of this Resolution and the unit owner has not obtained the written permission of the Board of Directors to do so, the unit owner shall remove such nonconforming shrubs and flowering plants within thirty (30) days of written notice from the Association. If the unit owner fails to do so within that designated time, the Association may remove the shrubs and/or flowering plants at the expense of the unit owner without further notice. The expense of removal shall constitute a supplemental assessment to the unit owner and shall be subject to all of the collection procedures and legal actions applicable to monthly assessments.

l. If the unit owner has installed shrubs and/or flowering plants in the front, back, or side yard in compliance with the provisions of this Resolution or, in the alternative, with the written permission of the Board of Directors, the unit owner, before selling the

unit, must obtain a written agreement from the new buyer in which the buyer agrees to maintain those particular shrubs and/or flowering plants. The new buyer also must acknowledge that the buyer understands he or she is subject to each of the provisions of this Resolution as if that buyer were the unit owner who installed the shrubs and/or flowering plants. Any such written agreement must be provided to the Association's management company before completion of sale of the unit. In the alternative, the unit owner must remove the plants at the unit owner's expense before sale of the unit.

m. The Board of Directors of the Association shall retain the responsibility for and decisions about pruning and otherwise maintaining all plants that are installed by the Association in the front, back, and side yards of each unit in Mill Creek as required by Oregon state law and the Association's governing documents. The Association shall not be responsible for any inadvertent harm to a shrub or flowering plant installed by a unit owner caused by the Association's landscape contractors. The Association also retains the right, but not the obligation, to prune, to maintain, or to take an action in the front, back, or side yards of each unit that may affect or alter shrubs and/or flowering plants that were installed by the unit owner.

This Resolution was adopted by the Board of Directors of Mill Creek Condominium Association on the 1st day of November, 2004, and is effective on the 17th day of November, 2004.

/s/ Terry Dean

/s/ Dean Fortin

President

Secretary

Name (Print)

Name (print)