

# MILL CREEK CONDOMINIUM ASSOCIATION

## AMENDED FINANCIAL PENALTIES AND RULES ENFORCEMENT RESOLUTION

**WHEREAS** the Board of Directors of Mill Creek Condominium Association (the Association) is empowered by Oregon Revised Statutes Section 100.405(4)(k) and the Association's governing documents, including Section 14.3 of the Declaration of Covenants, Conditions, and Restrictions of Mill Creek Condominium Association and Section 7.6 of the Bylaws of Mill Creek Condominium Association, to remedy violations through a variety of means that include assessing financial and other penalties against individual owners and their units for violations by those owners of the Declaration, Bylaws, Rules, Policies, and/or Resolutions of the Association,

**IT IS HEREBY RESOLVED** that the Board of Directors of Mill Creek Condominium Association adopts the following procedures, fine assessments, and actions with regard to alleged violations:

1. Procedures. Violations of the Declaration, Bylaws, Rules, Policies, and/or Resolutions may be reported to the management company by telephone, in writing, or in person. The management company shall report all violations to the Board for further action.
2. Enforcement by the Board. If the Board determines enforcement action is warranted, the Board may take all action necessary to enforce the Declaration, Bylaws, Rules, Policies, and/or Resolutions, including, without limitation, imposing fines, placing a lien on the owner's unit, commencing collection proceedings, and/or instituting legal action for injunctive relief and/or monetary fines.

The Board shall first cause a "Courtesy Notice" to be mailed by U.S. Post Office First-Class Mail to the violating owner. The Courtesy Notice shall include a statement of the violation and the time in which the owner must correct or abate the violation. The period allowed to correct or to abate the violation shall be at the sole discretion of the Board.

If the owner has not corrected or abated the violation within the stated time or made arrangements with the Board to correct or to abate the violation, the Board shall notify the owner in writing by U.S. Post Office First-Class Mail as to the specific enforcement action (hereinafter referred to as a Compliance Notice) that will be taken if the owner does not comply by a designated date.

The Board shall also advise the owner in the Compliance Notice that he or she is

entitled, upon written request within fourteen (14) days from the date of the Compliance Notice, to present a response or explanation at a hearing before the Board or its representative(s).

The Board may, in its discretion, initiate mediation proceedings to resolve the dispute.

3. Hearing. If the owner requests a hearing before the Board or its appointed representative(s) in writing within fourteen (14) days from the date of the Compliance Notice, that hearing shall be held at such date established by the Board or its representative(s). At the hearing, the Board or its representative(s) will hear the testimony of the owner and take the case under advisement. A decision will be rendered either at the hearing or in writing at a date not to exceed ten (10) business days after the hearing date. If written, the decision shall be mailed to the owner by U.S. Post Office First-Class Mail. If the Board or its representative(s) decide against the owner, the owner will be granted a further period not to exceed 50% of the original notice period in which to correct or to permanently abate the violation. Additional fines shall not be levied between the time of the owner's request for a hearing and the expiration of the period allowed to correct or to permanently abate the violation following the issuance of the final decision of the Board or its representative(s).

4. Fines, etc. The Board may levy fees, late charges, fines, and/or interest charges against the owner and his unit for violations of the Declaration, Bylaws, Rules, Policies, and/or Resolutions.

If the violation is of the nature of an **intermittent** nuisance or offensive activity such as excessive noise, a maximum fine of Seventy-Five Dollars (\$75) may be levied for the second offense, One Hundred Dollars (\$100) for the third offense, and Two Hundred Fifty Dollars (\$250) for the fourth and any subsequent offenses of the same nature. Unpaid fines will bear interest at the rate of one and one-half percent (1.5%) per month or portion of a month and compound monthly.

If the violation is of an **ongoing and continuous** nature such as failure to remove an item from the unit or the common elements or to correct or to abate an ongoing nuisance within the time designated in the Compliance Notice, a maximum fine of Twenty-Five Dollars (\$25) per day may be assessed against the owner and his or her unit until such time as the violation is corrected or abated. The Twenty-Five Dollars (\$25) per day fine shall begin to accrue on the day following the expiration of the time allowed for correction or abatement of such a violation as designated in the Compliance Notice. Unpaid fines will bear interest at the rate of one and one-half percent (1.5%) per month or portion of a month and compound monthly.

Notice that fines have been imposed and are accruing shall be mailed to the owner by U.S. Post Office First-Class and Certified Mail within five (5) business days from the

date the fines begin to accrue.

Abatement or correction of the violation by the owner will not excuse the owner from the obligation to pay any fine or other monetary sums already levied by the Board. If the owner fails to correct or to abate the violation, the Board may take other appropriate enforcement action as authorized under state law, the Declaration, Bylaws, Rules, Policies, and/or Resolutions to correct or to abate the violation.

5. Lien. Any fines or other monetary amounts assessed by the Board under this Resolution shall constitute a lien against the owner's unit. The Board, in its discretion, may elect to file a lien and to take further action to enforce the lien against the owner's unit. The lien may include all appropriate legal fees, costs, and recording fees together with any interest that accrues until the fine or other monetary amount assessed is paid in full. Correction or abatement of the violation will not waive the accrued fines, fees, costs, and interest that constitute the lien, all of which must be paid in full prior to release of the lien.

6. When the accrued amount of the assessed fees, late charges, fines, and/or interest charges against the owner and his unit for violations of the Declaration, Bylaws, Rules, Policies, and/or Resolutions **exceeds \$500** (or a lesser amount at the Board's discretion), the owner will be notified, informed the fines will continue to accrue, and advised a lien shall be recorded against the owner's unit. The lien will include all appropriate legal fees, costs, and recording fees together with any interest that accrues until the fine is collected.

This Resolution was adopted unanimously by the Board of Directors of Mill Creek Condominium Association on the 17th day of April, 2008, and is effective on the 5th day of June, 2008.

/s/ Gregory T. Nelson  
President

/s/ Sandra J. Dixon  
Secretary

Gregory T. Nelson  
\_\_\_\_\_  
Name (Print)

Sandra J. Dixon  
\_\_\_\_\_  
Name (print)