



Mountain Park Homeowners Association Enforcement Control of the CC&Rs

Objective

To clarify and better enforce the rules and regulations as outlined in the Codes, Covenants, & Restrictions document (CC&R's) and the Mountain Park Homeowners Association Handbook.

Authority

Association's legal counsel believes that 7.1A of the Bylaws gives the authority to implement an enforcement program. The provision states: "The Board of Directors shall have the power to: Adopt and publish rules and regulations governing the use of the Common Properties and facilities provided by the Association, and the personal conduct of members and their guests thereon, and to establish penalties for the infraction thereof:" All property owners, within Mountain Park, are subject to this enforcement program.

Effective January 1, 2002, the legislature made revisions to the laws which define an association's authority to impose fines for violations of declarations, bylaws, or other association rules:

ORS 94-695 (Part of the Oregon Planned Community Act)

- (n) After giving written notice and an opportunity to be heard, levy reasonable fines for violations of the declaration, bylaws, rules and regulations of the association if the charge imposed or the fine levied is based on a schedule contained in the declaration or bylaws, or an amendment to either that is delivered to each lot or mailed to the mailing addresses of each lot or mailed to the mailing addresses designated in writing by the owners, or based on a resolution of the association or its Board of Directors that is delivered to each lot, or mailed to the mailing address of each lot or mailed to the mailing addresses designated in writing the owners.

Procedures

CC&R violations fall into four main categories: Project, Incident, Common Property, and Architectural Standard Violations. Additionally, there are enforcement clauses involving special circumstances; Recurrent Violations, and Willful Disregard of the CC&R's, which fall within the main categories. The basic steps for each category are largely the same but the notification process, timing and fine structure will differ between each violation category. In the event a violation is appealed, the Board of Directors will determine if a violation has occurred and to which category it falls.

1 - Project Violations

Project Violations are characterized as violations that are visible on a daily or continuing basis, and evident on or around an owner's home or property. Project Violations will usually require the owners to

expend time, resources, and/or money to correct the violation. Examples of Project Violations include but are not limited to:

- Homes or properties in disrepair: in need of painting, roofing, fencing, siding, windows, exposed misc. materials
- Operation of home-based business that has negative impact on neighborhood
- Landscaping or gardens not maintained
- Lawns not maintained
- Fallen trees and limbs
- Vegetation creeping on other properties
- Accumulation of fallen leaves
- Overgrown shrubs, bushes, ground covers
- Vacant lots not maintained

2 - Incident Violations

Incident Violations are characterized as violations which can be quickly remedied by the owner without much time, energy, and/or money expended. Examples of Incident Violations could include but are not limited to:

- Trash container and bins visible from street or neighboring properties
- Yard debris bags curbed too early (no earlier than 48 hours to pickup day)
- Non-approved signs
- Use of brightly colored tarps (brown, gray, or dark green are permissible)
- Debris piles
- Clutter and debris visible from street or neighboring properties
- Storage of boats, RV's, trailers, and vehicles in disrepair
(See the City of Lake Oswego policy for long-term parking on city streets)

3 - Common Property Violations

Common Property Violations are characterized as violations that involve the misuse, dumping, or performing of work on land and vegetation on Mountain Park common property. Examples of Common Property Violations could include but are not limited to:

- Dumping of any materials on common property (yard debris, construction materials, garbage, soil, rock, etc.)
- Blowing of leaves or any yard debris on to common property
- Removal, topping, or alteration of trees
- Removal or alteration of common property markers
- Damaging of common property to access private property
- Building or replacement of any private structures on common property (fences, sheds, patios, etc.)
- Planting and/or altering any landscaping on common property (gardens, trees, shrubs, etc.)

4 - Architectural Standard Violations

Architectural Standard Violations are characterized by violations that involve the non-approved exterior change, alteration, or addition to the owner's home or property. Examples of architectural violations could include but are not limited to:

- Commencement of projects without submitting application to the Architectural Committee
- Commencement and/or completion of non-approved projects
- Commencement and/or completion of projects with non-approved alterations

In addition to the assessment of fines for architectural standard violations, owners may be required to redo non-approved projects and incur the associated costs.

Recurrent Violations

Recurrent violations are characterized as CC&R violations which occur more than once on different occasions. An owner will be considered a recurrent violator if the owner has been notified (via Blue Tarp Notice or formal letter) by the HOA on three or more occasions during a six month period for the same or any other CC&R violation, or if owner has been assessed fines more than once for the same violation. In the event of a recurrent violation, the HOA will require owner compliance within a limited time period, and failure to act will result in fines twice the amount than what would be imposed to first time offenders.

Willful Disregard of the CC&R's

Willful disregard of the CC&R's is characterized as the owner knowingly and deliberately committing CC&R violations after they have been contacted by the homeowners association and advised to refrain. If there is documented record of a past violation(s), or the HOA has information the owner is familiar with the CC&R being violated, the owner will be considered to have willful disregard of the CC&R's and will be fined accordingly. In addition to the assessment of fines, such violations will result in a minimum of 30 day suspension of rights to enjoyment of common property. Examples of willful disregard violations could include but are not limited to:

- The posting of non-approved signs
- Recurrent violation of the Apartment Property Advertising Sign policy
- Continuation or completion of architectural projects after HOA has issued notification that no application has been submitted and/or project was not approved
- Recurrent violations that have resulted in paid or unpaid fines

Violations of Law

When a CC&R violation occurs that is also a violation of the law, the HOA reserves the right to report this to the appropriate authorities.

Fine Schedule Process

NOTICE

1. **Initial Notice.** Association gives initial notice to Member. Mountain Park staff leaves Blue Tarp Notice at residence, sends letter or email or calls resident informing Member of a CC&R Violation that must be corrected by Member (the “Violation”).
2. **1st Notice.** Mountain Park Homeowners Association (the “Association”) mails Notice of Violation to Member (the “1st Notice”). The 1st Notice shall provide up to 7 days from the date of the 1st Notice to correct the Violation with very clear expectations of remedy in detail. Included in the 1st Notice is notice to Member of Association’s right to assess fine.
3. **2nd Notice/Hearing.** If Member does not remedy the violation, then the Association mails a 2nd written notice of violation (the “2nd Notice”) which includes a conditional fine amount and a hearing date. Member has the following options:
 - a. Attend hearing date identified on 2nd Notice or submit written response prior to hearing date.
 - b. Request an alternate hearing date.

HEARING AND APPEALS

1. **The Hearing**
 - a. Hearing shall be conducted by a Committee established by the Board of Directors that has the authority to hear disputes and make binding decisions (the “Hearing Committee”).
 - b. At the Hearing, Member shall be given a reasonable amount of time to present evidence in support of Member’s position.
 - c. The Hearing Committee shall have the authority to table the decision to a later date in order to accommodate the need for the collection of additional evidence and/or to extend deliberations if necessary.
 - d. The Hearing Committee shall render its binding decision in writing within 10 days after close of hearing.
 - e. In the event that the Hearing Committee rules against the Member, decision is binding unless Member submits request to Appeal the Hearing Committee’s decision to the Board as provided in Appeals Process. .

- f. Regardless of the outcome of Hearing, Member shall bear his/her own costs and expenses in connection with the alleged violation including all costs associated with the Hearing.
- g. Failure of Member to appear will give immediate authority to the Hearing Committee to impose fines and costs associated with the fine schedule.

AFTER THE HEARING AND APPEAL

1. **Uncured Violations.** As provided in the Association's Enforcement Policy, Association shall assess an additional fine against each Violation every 30 days until the Violation has been remedied.
2. **Collections of Fines.** Any fines levied against a Member shall be payable within 30 days after the date of written notice of the imposition of the fine. If fines are not paid within 45 days of the date of written notice, the Association will follow its approved collection policy.