

# MOSAIC CONDOMINIUM ASSOCIATION

## Resolution of the Board of Directors

### ENFORCEMENT PROCEDURE

#### RECITALS

A. "Declaration" is the *Declaration Submitting Mosaic Condominium to Condominium Ownership*, "Bylaws" is the *Bylaws of Mosaic Condominium Association*, "Act" is the *Oregon Condominium Act, Oregon Revised Statutes, Chapter 100*, and "Association" is the *Mosaic Condominium Association*.

B. Article III, Section 3.7 of the Bylaws vests the Board of Directors with the power to exercise, for the Association, all of the powers and duties necessary for the administration of the affairs of the Association.

C. Article 7, Section 7.5 (m) of the Bylaws empowers the Board of Directors to adopt and modify rules and regulations governing the conduct of persons and the operation and use of the units and common elements, as it may deem necessary or appropriate, in order to assure the peaceful and orderly use and enjoyment of the condominium property.

D. Article 7, Section 7.6 (c) of the Bylaws and ORS 100.405 (4)(k) provides that the Board of Directors may levy reasonable fines for violations of the Declaration, Bylaws, and Rules and Regulations of the Association after notice and an opportunity to be heard, if the fine is based on a schedule of fines adopted by a resolution of the Board;

E. Article 7, Section 7.6 (d) of the Bylaws and ORS 100.405(4)(L) provides that the Board of Directors has the right to terminate the right to receive utility services paid for out of assessments, until the correction of the violation of any provision of the Declaration, Bylaws, or Rules and Regulations has occurred;

F. ORS 100.450(5) provides that fees, late charges, fines, and interest imposed, pursuant to ORS 100.405(4)(k), are enforceable as assessments;

G. From time to time the Board of Directors receives complaints from owners regarding alleged nuisances; improper, offensive, or unlawful activities or use of the premises; or other alleged violations of the Declaration, Bylaws, or Rules and Regulations.

H. For the benefit and protection of the Association and of the individual owners, the Board of Directors deems it necessary and desirable to establish a procedure to ensure that owners receive notice and an opportunity to be heard in cases involving alleged noncompliance by an owner or resident with the provisions of the Declaration, Bylaws, or Rules and Regulations.

I. The Board deems it necessary and desirable to adopt a *Schedule of Fines* to be used by the Board in imposing sanctions for violations of the Declaration, Bylaws, or Rules and Regulations of the Association.

J. No formal procedure presently exists for the handling of complaints or the enforcement of provisions of the Declaration, Bylaws, or Rules and Regulations.

## RESOLUTION

**NOW, THEREFORE, IT IS RESOLVED** that:

I. The procedure set forth below be adopted to provide for a formal, uniform, and systematic procedure for handling complaints and enforcement of violations of the Declaration, Bylaws, and Rules and Regulations.

### **ARTICLE 1** **ENFORCEMENT**

1.1 **Board of Directors.** If a complaint of an alleged violation is initiated by the Board of Directors, the procedure for handling enforcement shall be governed by Article 2 below.

1.2 **Disputes between Owners.** If an Owner (“Complaining Owner”) alleges that another Owner (“Alleged Offending Owner”), or the tenant, guest, visitor or occupant of the Alleged Offending Owner, is creating a nuisance or participating in offensive or unlawful conduct in violation of the Declaration, Bylaws, or Rules and Regulations of the Association, the Complaining Owner shall first contact the Alleged Offending Owner and request that all such activities cease before submitting a complaint to the Board of Directors. The procedure for handling complaints by Owners about other Owners, or their guests, tenants, visitors, or occupants shall be governed by Article 3 below.

### **ARTICLE 2** **PROCESS FOR COMPLAINT BY BOARD OF DIRECTORS**

2.1 **Determination of Violation.** If the Board of Directors determines that there is a violation of the Declaration, Bylaws, or Rules and Regulations, the Board may proceed as provided in this article without having received a Complaint from an Owner.

2.2 **Notice of Violation.**

(a) **Notice to Alleged Offending Owner.** Once the Board has determined that there is a violation of the Declaration, Bylaws, or Rules and Regulations, the Board shall notify

the Alleged Offending Owner or the guest, tenant, visitor, or occupant of the Alleged Offending Owner of the alleged violation in writing. The notice:

- (1) Shall describe the alleged violation;
- (2) Shall state that the Alleged Offending Owner has the right to request a hearing in accordance with Section 2.5 below;
- (3) May provide for any of the actions specified in Section 2.3 below or Articles 4 or 5 below; and
- (4) Shall be mailed or delivered to the Alleged Offending Owner at the Alleged Offending Owner's address as shown on the records of the Association.

2.3 **Remedies.** The written notice given, pursuant to Section 2.2 above may provide or specify any or all the following:

- (a) The action required to abate the violation;
- (b) The time period during which the violation may be abated without further sanctions;
- (c) A statement advising the Alleged Offending Owner that if the alleged violation is not abated by the specified compliance deadline, fines will be automatically assessed, beginning on the compliance deadline date, pursuant to the *Schedule of Fines* adopted by the Board of Directors;
- (d) Such other information the Board deems appropriate under the circumstances.

2.4 **Cure and Abatement of Violations.**

(a) **Certain Types of Violations.** The Board, in its discretion, may, by resolution, designate certain types of violations as exempt from a cure and abatement period and provided that such violations shall not be entitled to a cure and abatement period.

(b) **Repeat Violations.** Owners who repeat the violation within one year of the previous violation shall not be entitled to a cure and abatement period or the right to a hearing. For such violations, the Board shall give notice of the violation in the manner specified in Section 2.2 above.

2.5 **Right to Request a Hearing.** The Alleged Offending Owner shall be entitled to notice and the opportunity for a hearing as set forth in this Resolution, except as provided in Section 2.4 above.

2.6 **Hearing.** If an Alleged Offending Owner requests a hearing pursuant to Section 2.5 above, the Board shall set a hearing and give reasonable notice of the time and place of the hearing to the Alleged Offending Owner.

(a) **Appearance.** If a hearing has been set by the Board, but the Alleged Offending Owner fails to appear within fifteen minutes (15) of the time set for the hearing, the Board may, at its sole discretion:

- (1) Conduct the hearing without the presence of the Alleged Offending Owner;
- (2) Allow the Alleged Offending Owner additional time that day to appear;
- (3) Reset the hearing to another date and time; or
- (4) Take action as provided in Article 4, below.

(b) **Conduct.** The Board may limit testimony and evidence as it determines is reasonable and necessary.

(c) **Determination and Action by the Board.** Determinations and Actions by the Board shall be pursuant to Articles 4 and 5 below.

### **ARTICLE 3**

#### **PROCESS FOR COMPLAINTS BY OWNERS TO BOARD**

#### **3.1 Written Complaint to Board.**

(a) If an informal request of the Alleged Offending Owner, under Section 1.2 above, does not cause the offending activity to cease, and the Complaining Owner desires the Board to take corrective action, the Complaining Owner shall submit a Complaint in writing directed to the Board of Directors. The Complaint shall be signed by the Complaining Owner and include:

- (1) The name and address of the Complaining Owner;
- (2) The name and address of the Alleged Offending Owner;
- (3) A description of the offending behavior or activity, including date and approximate time;
- (4) The date and approximate time that the Complaining Owner contacted the Alleged Offending Owner;

(5) A statement that the parties have not been able to resolve the matter;

(6) Why attempts to make personal contact with the Alleged Offending Owner were either not successful or otherwise ineffective; and

(7) The date and approximate time that the behavior or activity continued thereafter.

(b) Any Complaint which is not in writing shall not be addressed as a formal complaint under the procedures set forth in this resolution. The Board shall have discretion to refuse to investigate any complaint which fails to establish clearly that the procedures set forth in Section 1.2 or Section 3.1 above have been followed.

3.2 **Notice of Complaint.** Upon receipt of any written Complaint, a copy shall be provided to the Alleged Offending Owner. If the Complaint is against a tenant, guest, visitor, or occupant of an Owner, rather than the Owner, a copy of the Complaint shall be provided to the Owner and, when the Board deems appropriate, to the offending tenant, guest, visitor, or occupant.

3.3 **Preliminary Investigation.** Upon receipt of a written Complaint, the Board, or a person authorized by the Board, may conduct a preliminary investigation to confirm the nature and existence of the allegations contained in the Complaint.

3.4 **Informal Action.** The Chairperson, a designated Board member, or other person authorized by the Board shall first attempt to resolve the matter either by an informal meeting with, telephone call to, or a letter to the Alleged Offending Owner. The Chairperson, designated Board member, or person authorized by the Board shall report to the Complaining Owner what action was taken.

3.5 **Notice of Hearing.**

(a) If the Board receives a second Complaint from the same or different owner regarding the same, or substantially the same, conduct or alleged violation within 30 days after the first attempt by the Board to resolve the matter, a copy of the Complaint shall be provided to the Alleged Offending Owner, and the Board shall set a time and place for a hearing on the Complaint. The Board shall give reasonable notice of the time and place of the hearing to the Complaining Owner.

(b) The Board may, without having received a second Complaint, follow the procedures set forth in Article 2 in its discretion.

3.6 **Appearances Required at Hearing.** All parties, including the Alleged Offending Owner and Complaining Owner, shall be required to appear at the hearing.

(a) **Procedure if Complaining Owner Fails to Appear.** If the Complaining Owner fails to appear at the hearing within fifteen (15) minutes of the time set for the hearing, the Board shall dismiss the Complaint, unless the Board determines at that time that there is just cause to:

- (1) Allow the Complaining Owner additional time that day to appear; or
- (2) Reset the hearing to another date and time.

(b) **Procedure if Alleged Offending Owner Fails to Appear.** If the Complaining Owner appears at the hearing, but the Alleged Offending Owner fails to appear within fifteen (15) minutes of the time set for the hearing, the Board shall proceed to hear from the Complaining Owner and make a determination of whether the Declaration, Bylaws, or Rules and Regulations have been violated and what action, if any, the Board shall take with respect to the Complaint in accordance with Sections 4 and 5 below, unless the Board determines at that time that there is just cause to:

- (1) Allow the Alleged Offending Owner additional time that day to appear; or
- (2) Reset the hearing to another date and time.

(c) **Dismissal.** In the case of dismissal, the Board shall notify the Complaining Owner and the Alleged Offending Owner, in writing, that the Complaint has been dismissed. Any further or later Complaint in writing by the same Complaining Owner relating to the same, or substantially the same, conduct or alleged violation shall be treated as a first Complaint.

### 3.7 **Conduct of Hearing.**

(a) **Testimony from Parties.** If both the Complaining Owner and the Alleged Offending Owner appear, the Board shall proceed to hear from the Complaining Owner and from the Alleged Offending Owner, and make a determination whether the Declaration, Bylaws, or Rules and Regulations have been violated, and what action, if any, the Board shall take with respect to the Complaint.

(b) **Evidence and Witnesses.** The Complaining Owner and the Alleged Offending Owner may present evidence and witnesses at the hearing. The Board may limit testimony and evidence as it determines is reasonable and necessary.

**ARTICLE 4**  
**ACTION BY BOARD**

**4.1 Board Determination.**

(a) The Board shall make a determination of what action, if any, is appropriate under the circumstances.

(b) Deliberations by the Board shall be in an open meeting of the Board in accordance with ORS 100.420, unless otherwise permitted under ORS 100.420, as it may be amended from time to time.

(c) The Board shall either render its decision at the conclusion of the hearing, or take the matter under advisement and render the decision at a later Board meeting.

(d) All decisions of the Board shall be in writing, a copy of which shall be provided to the Alleged Offending Owner within seven calendar days of the determination.

**4.2 Board Actions.** Action by the Board may include, but is not limited to:

(a) Imposition of assessments of one-time fines and/or continuing fines until the Offending Owner takes corrective action satisfactory to the Board pursuant to the *Schedule of Fines* set forth in attached **Exhibit A**;

(b) Suspension of the right to receive utility services paid for out of assessments, pursuant to Article 7, Section 7.6(d) of the Bylaws;

(c) Legal action against the Offending Owner and tenants, guest, or other occupants of the Offending Owner;

(d) Any other action specifically provided for pursuant to the Oregon Condominium Act, the Declaration, Bylaws, Rules and Regulations, or resolution adopted by the Board of Directors.

**4.3 Additional Corrective Action by Board.**

(a) Right of Board to Take Additional Corrective Action. If, after the Board has made a determination under Section 4.1 above, the Offending Owner fails to correct the matter, the Board may take additional corrective action without prior notice to the Offending Owner or opportunity for hearing under Section 2.5 or Section 3.5 above.

(b) Notice of Additional Action. The Board shall give an Offending Owner written notice of any additional action taken under Subsection (a) of this section.

**ARTICLE 5**  
**IMMEDIATE LEGAL ACTION**

Notwithstanding any other provision in Article 1 through Article 4 above, the Board may take immediate legal action, as it deems reasonably necessary, to enjoin conduct which it determines is in violation of the Declaration, Bylaws, Rules and Regulations or applicable state or federal law.


II. The *Schedule of Fines* attached hereto as **Exhibit A** be adopted by the Board of Directors in determining fines for violations of the Declaration, Bylaws, and Rules and Regulations of the Association.

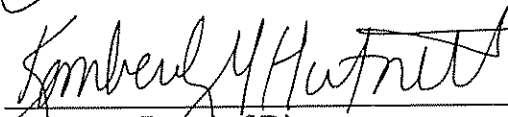
III. The Board reserves the right to amend, revise, or add to this Resolution and/or the *Schedule of Fines* from time to time as the Board deems necessary.

IV. A copy of this Resolution be sent to all owners at their last known address and any further amendments to this Resolution and/or the *Schedule of Fines* also be sent to all owners.

Date: March 10, 2005

ATTEST:

  
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Chairperson, Board of Directors,  
Mosaic Condominium Association

  
\_\_\_\_\_  
Secretary, Board of Directors,  
Mosaic Condominium Association

**EXHIBIT "A"**  
**SCHEDULE OF FINES**

1.	Obstruction, damage to, or interference with the use of Common Elements	\$100
2.	Offensive or unlawful activities	\$25
3.	Animals not attended, animals not on their leash or tether, failure to pick up animal waste	\$25
4.	Unsightly exterior items and/or appearance	\$25
5.	Unsightly appearance of unit visible from exterior	\$25
6.	Unauthorized changes to exterior	\$50
7.	Other violation of the Declaration, Bylaws or Rules and Regulations not set forth above	\$25

**\*\* The above fines may be imposed on a one-time, each occurrence, or continuing daily, weekly, or monthly basis as determined by the Board.**