

# Mount Vernon Village HomeOwners Association

## RESOLUTION Schedule of Fines

WHEREAS the property owners, tenants, guests, or other persons occupying (*property name*) units or using the common facilities are subject to the rules and regulations set forth in the Declaration of Unit Owners and the Bylaws of Mount Vernon Village Home Owners Association as well as those found in the Oregon Condominiums Act, and

WHEREAS Section 100.405 of the 2001 Edition of Oregon Condominium Act (effective January 1, 2002) empowers the Board in matters relating to the collection of Assessments and the enforcement of governing documents, and

WHEREAS Section 4.2 of the Bylaws of the Mount Vernon Village Home Owners Association charges the Board with the powers and duties necessary for the administration of the affairs of the Association, and

WHEREAS Section 15.0 of the Bylaws, Section 8.12 of the Declaration of Unit Owners, and Section XII of the Condo Rules gives the Board the authority to take financial and/or legal action against property owners found to be in violation of rules if corrective action for the violation is not taken, and

WHEREAS Section 100.405(4)(k) of the 2001 Edition of Oregon Condominium Act (effective January 1, 2002) requires that all charges or fines imposed by the Board based on a Schedule of Fines, and

WHEREAS Section 100.405(4)(k) of the 2001 Edition of Oregon Condominium Act requires that property owners found to be in violation of rules be given an opportunity to request a hearing before the Board before a charge or fine is assessed, and

WHEREAS it is the intent of the Board:

1. To achieve compliance with rules, policies, and procedures
2. To promote unity and harmony within the complex
3. To maintain the appearance and value of our property
4. To maintain cohesive community relationships in a manner that is fair and equitable for all residents and property owners

NOW, THEREFORE, BE IT RESOLVED that the following procedures be used to address suspected violations of the rules and regulations set forth in the Declaration of Unit Owners and the Bylaws of Mount Vernon Village Home Owners Association:

### **A. VIOLATIONS, COMPLAINTS, and NOTIFICATION:**

1. (a) A suspected rules violation, nuisance complaint, or safety issue may be identified by the association manager, an appropriate committee, or may be

brought to the Board's attention by any member of the Association.

- (b) All alleged complaints must be submitted to the Board in writing.
2. Upon receipt of a written complaint, the property manager or appropriate committee will examine the condition and will make an initial determination of whether a violation exists.
  3. (a) If it is determined that a violation does exist, property owner will be notified in writing. The written notification to the property owner will be sent by BOTH Certified Mail, return receipt requested, and by First Class Mail.
    - (b) If the property is a rental unit the renter will also receive a copy of the notification. The notification to the renter will be sent First Class Mail only.
    - (c) The notification will state the rule that has been violated, a description of the violation, and the date by which the violation must be corrected to avoid any penalty.
    - (d) A time limit of ten (10) calendar days from the date of the postmark of the notification shall be set for compliance or correction of the violation.
    - (e) The notification will also inform the property owner of the right to request a hearing.

**B. HOMEOWNER'S RIGHT TO HEARING:**

1. (a) The request for a hearing must be submitted with ten (10) days of the date of Postmark of the notification or the right to a hearing will be waived and the fine will be automatically assessed.
  - (b) The request for a hearing must be directed to the property management Company whose name, address, and phone number and e-mail address shall be listed on the Notices of Violation.
  - (c) The purpose of the hearing is to provide the property owner the opportunity to establish why the rule has not been violated or why the rule of procedure does not apply.
  - (d) After hearing the property owner's position, the Board, or a committee appointed by the Board, shall make a determination whether the Declaration, the Bylaws, or the Condo Rules have been violated. The Board shall either render its decision at the conclusion of the hearing or will take the matter under advisement and render the decision at a later Board meeting, but not later than thirty (30) days after the hearing date.
  - (e) The same party will hold no hearing on a subsequent or continued violation of the same rule or for the same or substantially the same conduct.

4. (a) The Board's decision shall be presented to the property owner in writing by both Certified Mail, return receipt requested and by First Class Mail.
- (b) If, after the hearing, the Board determines that no violation exists, no further action on the part of the homeowner will be required.
- (c) If, after the hearing, the Board determines that a rule violation does exist, the property owner will have ten (10) calendar days from the date of postmark to correct the problem. After the ten day period, the property manager or appropriate committee shall inspect the property to insure satisfactory compliance.
- (d) If a fine is to be imposed, the amount of the fine will be included in the Board's written response and will be sent to the owner (and the renter, if applicable) at their last known address. Section 6 below describes how fines will be assessed. Fines will be immediately due and payable.

**C. PENALTIES:**

If a violation still exists after the initial ten day period, and if the property owner has not requested a hearing, the following penalties will be automatically assessed.

First notice of violation:	\$ 50.00	Applied on day eleven
Second notice of violation:	\$ 100.00	Applied the following month
Third notice of violation:	\$ 150.00	Applied per month until the violation is corrected

**D. FINE SCHEDULE CYCLE:**

The fine schedule will be implemented from January 1<sup>st</sup> through December 31<sup>st</sup> of each year. However, violations which have not been resolved within the January – December time period will continue to accrue fines until the violation has been corrected.

**E. ASSESSED FINES and LEGAL ISSUES:**

1. The above fines are in addition to any legal fees or other expenses that may be incurred by the Association in seeking compliance with violations or for replacement or repair of common areas or facilities damaged by the property owner.
2. Should a fine be assessed by the Board, the amount will be invoiced and sent to the property owner at their last known address, and will be immediately due and payable.
3. Unpaid fines shall be subject to collections as assessments in accordance with the resolutions adopted by the Board of Directors, applicable state law, the Declaration, and the Bylaws.

4. Failure to pay fines within sixty (60) days may result in a lien placed against the property.
5. The following notices in substantially the form attached hereto will be used to notify property owners and renters of the rule violations:

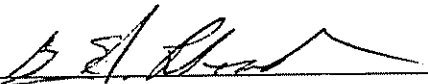
Attachment 1: First Notice of Violation  
Attachment 2: Second Notice of Violation  
Attachment 3: Third Notice of Violation

NOW, THEREFORE BE IT RESOLVED notwithstanding any other provisions in this resolution, the Board may take immediate legal action as it deems reasonably necessary to prohibit conduct which it determines is in violation of the Declaration, Bylaws, Condo Rules, or applicable state or federal law.

AND BE IT FURTHER RESOLVED that a copy of this resolution shall be sent to all property owners at their last known address.

Adopted by the Board the 3 day of JUNE 2003

  
\_\_\_\_\_  
Board President

  
\_\_\_\_\_  
Board Secretary

ATTACHMENT 1 FIRST NOTICE OF VIOLATION

Date

First Notice of Violation VIA Certified Mail Return Receipt and First Class Mail

Dear:

**It has been brought to our attention that your unit at \_\_\_\_\_ is in violation of the Bylaws, (specify rule) in that (describe situation/condition/violation).**

This is a First Notice of Violation for the above problem.

**1. COMPLIANCE DEADLINE and FINES:**

The Board of Directors is committed to maintaining an attractive, harmonious community at Mount Vernon Village. Therefore the Board requests that you take appropriate action to correct the violation **no later than ten (10) calendar days from the date of postmark of this notice.**

If the violation is not satisfactorily corrected within the ten (10) day period, the Board may assess a fine as specified in Resolution \_\_\_\_\_, Schedule of Fines. For a First Notice of Violation, the fine is \$50.00, which will be sent to you by invoice.

Unpaid fines shall be subject to collection as assessments in accordance with resolutions adopted by the Board of Directors, applicable state law, the Declaration, and the Bylaws. Fines not paid within sixty (60) days may also result in a lien placed against your property.

**2. YOU HAVE THE RIGHT TO REQUEST A HEARING:**

If you believe the rule has not been violated, or the rule or procedure does not apply, you are entitled to a hearing with the Board of Directors who will consider your specific situation.

If you wish to schedule a hearing, please notify Excelsior Property Management **no later than ten (10) calendar days from the postmark of this notice.**

If you do not notify us of your desire for a hearing, your right to a hearing will be waived. If you do not correct the violation, the fine will automatically be sent to you by invoice.

We know that you are committed to maintaining our community, and we anticipate your compliance. To report completion of your corrective action, please contact me, your Property Manager at \_\_\_\_\_.

Sincerely,

Property Manager

cc: Board of Directors

ATTACHMENT 2 SECOND NOTICE OF VIOLATION

Date

Second Notice of Violation VIA Certified Mail Return Receipt and First Class Mail

Dear \_\_\_\_\_:

**It has been brought to our attention that your unit at \_\_\_\_\_ continues to be in violation of the Bylaws (specify rule) in that (describe situation/condition/violation).**

This is a Second Notice of Violation for the above problem.

**The Board requests that you take appropriate action to correct the violation no later than ten (10) calendar days from the date of postmark of this notice.**

If the violation is not satisfactorily corrected within the ten (10) day period, the Board may assess a fine as specified in Resolution \_\_\_\_\_, Schedule of Fines. **For a Second Notice of Violation, the fine is \$100.00, which will be sent to you by invoice.**

Unpaid fines shall be subject to collection assessments in accordance with resolutions adopted by the Board of Directors, applicable state law, the Declaration and the Bylaws. Fines not paid within sixty (60) days may also result in a lien placed against your property.

To report completion of your corrective action please contact me, your Property Manager, at \_\_\_\_\_.

Sincerely,

Property Manager

cc: Board of Directors

ATTACHMENT 3 THIRD NOTICE OF VIOLATION

Date

Third Notice of Violation via Certified Mail Return Receipt and First Class Mail

Dear \_\_\_\_:

It has been brought to our attention that your unit at \_\_\_\_\_ continues to be in violation of the Bylaws, *(specify rule)* in that *(describe situation/condition/violation)*.

This is a Third Notice of Violation for the above problem.

The Board requests that you take appropriate action to correct the violation **no later than ten (10) calendar days from the date of postmark of this notice.**

If the violation is not satisfactorily corrected within the ten (10) day period, the Board may assess a fine as specified in Resolution \_\_\_\_, Schedule of Fines. For a Third Notice of Violation, the fine is \$150.00, which will be sent to you by invoice. **Because this is a third notice of violation for the same problem, you will be billed \$150.00 per month until the problem is corrected.**

Unpaid fines shall be subject to collection as assessments in accordance with resolutions adopted by the Board of Directors, applicable state law, the Declaration, and the Bylaws. Fines not paid within sixty (60) days may also result in a lien placed against your property.

To report completion of your corrective action please contact me, your Property Manager at \_\_\_\_\_

Sincerely,

Property Manager

cc: Board of Directors