

MILL CREEK HIGHLANDS HOMEOWNERS ASSOCIATION
FINE AND ENFORCEMENT POLICY

The Mill Creek Highlands Homeowners Association has the ability to fine its Owners for violations of the Governing Documents under RCW 64.38.020(11) and Article VII Section 1 of the Declaration. This following policy sets out the procedures and policy for fines and due process.

This Policy was adopted by the Board on August 19th, 2019.

A. Fines

1. An Owner may be fined for a violation of the Association's Governing Documents. The fines shall be assessed against the Lot, and the Owner of the Lot, and shall be collected as any other assessment.
2. Any violation by any Owner, resident, occupant, tenant, animal and/or guest of an Lot shall be treated as a violation by the entire ownership of the Lot and any fine resulting from said violation(s) shall apply against the Lot Owner.
3. Failure of the Association to take action on any violation(s) shall not constitute a waiver on the part of the Association to take action for such violations or future similar violations as the Board deems appropriate.
4. The Board has adopted increasing fines for repeat violations and any violation that is considered a "continuing violation." A violation is a repeat or continuing violation as determined by the Board.

B. Notices of Violation

1. Contents of Notice

- a. General Contents - All Notices will identify the section of the Governing Document that was violated, and the actions or omissions that constitute the violation. The description of the violation will include details such as the location, date and time the violation occurred. Each Notice will also include the steps necessary for the Owner or Occupant to correct the violation and the date by which the measures must be completed to avoid another Notice.
- b. Specific Contents for each Notice
 - i. First Notice – Shall include General Contents, and request compliance with the Governing Documents.
 - ii. Second Notice – In addition to the General Contents, the Second Notice will provide an Owner an Opportunity to be Heard and a date by which they must request a hearing. The Second Notice will list the proposed fine as indicated by the fine schedule.

- iii. Third Notice – In addition to the General Contents, the Third Notice will provide an Owner an Opportunity to be Heard and a date by which they must request a hearing. The Third Notice will list the fine to be assessed for the violation in accordance with the fine schedule.
- iv. Subsequent Notices – In addition to the General Contents, any additional Notice will provide an Owner an Opportunity to be Heard and a date by which they must request a hearing and explain what the fine will be for additional violations. Also, this Notice will contain information about further legal action which may be taken by the Association if violations continue.
- v. Continuing violation – If a violation is continuous, as determined by the Board, and an Owner has received at least a Second Notice of Violation, the Board may choose to levy an ongoing daily or weekly fine in accordance with the fine schedule. The fine notice shall provide an Owner an Opportunity to be Heard and a date by which they must request a hearing. Examples of continuous violations may be, but are not limited to: failure to perform required maintenance or failure to remove an unauthorized improvement.

The Fine Schedule is as follows:

FIRST VIOLATION	No Fine
SECOND VIOLATION	\$75
THIRD VIOLATION	\$100
SUBSEQUENT VIOLATIONS	\$150 per violation
CONTINUING VIOLATIONS	\$75/day or \$200/week at the discretion of the Board.
NO APPROVED ACC	\$250.00

1. If any fine assessed is not paid with the next regular monthly assessment, it will be dealt with in the same manner as delinquent assessments and will be subject to all of the same collection remedies detailed in the Governing Documents of the Association.
2. Owners and/or Occupants receiving Notices should deliver their responses to the Property Manager.

C. Due Process/Opportunity to be Heard Procedure

The following procedures allow members of the Association and the Board to review issues and evidence of a violation(s) and to consider appropriate action(s), if any, when requested by an Owner.

1. If any Owner and/or Occupant feels that the enforcement for any rules violation has been issued in error, or would like to present information for any reason, he/she has the right to be "heard" before a panel of members of the Association, including Board members.
2. To obtain a hearing, the Owner and/or Occupant shall request a hearing from the Manager, in writing, within 10 days of receiving a Notice of Violation.
3. The Manager for the Association will respond to the hearing request within 30 days following receipt of the written request, and will schedule a hearing. If any party desires to reschedule the hearing, the other party(s) shall be notified at least 10 days prior to the scheduled date of the hearing.
4. The parties may provide the Hearing Panel with a written summary of their positions 10 days prior to the hearing.
5. The Hearing Panel will consist of three homeowners, one of whom shall be a Board Member and the other two may be Board Members. By majority vote, the Board shall appoint all three Hearing Panel members. None of the Hearing Panel members shall be a party to the complaint. The hearing participants will consist of:
 - a. The Hearing Panel members;
 - b. The party(s) bringing the complaint (this party may be an Owner, and may be a Board member);
 - c. The party requesting the hearing (this party shall be an Owner). The Owner may be represented by an attorney if the Hearing Panel is informed in advance;
 - d. Witnesses, if not included in above; and
 - e. Any and all other Owners that have or may have an interest or concern.
6. The hearing will be informal with a Hearing Panel member acting as chair. All sides will present evidence, witnesses and testimony regarding the validity, non-validity or other issues relevant to the complaint. The time allowed for such evidence, witnesses and testimony may be limited by the Hearing Panel. Minutes of the hearing will be kept by the Panel or person designated by the Panel. All evidence presented at the hearing shall become the property of the Association.
7. If a hearing is requested and any of the parties fail to appear at the hearing, the Hearing Panel will base its findings on information presented at the hearing or otherwise available to it.
8. Within 5 working days of the hearing, the Hearing Panel shall prepare written findings and recommendations to the Board of Directors. At the next regular Board meeting, or special meeting called for that purpose, the Board of Directors will

consider the finding and recommendations and accept, reject, or modify the recommendations, or take other appropriate action. The written findings and recommendations will be provided to all parties. Any party has a right to appeal to the Board of Directors the Hearing Panel's finding and recommendations (within 10 days of the filing of the findings and recommendations) by sending a written request to the Property Manager. No appeal shall be granted in the event the party requesting the appeal failed to appear at the original hearing.

9. Any appeals shall be conducted by writing, addressed to the Board of Directors, through the Manager. All materials for the appeal shall be delivered to the Property Manager at least 10 days before the next regularly scheduled Board meeting, and the appeal shall be placed on the meeting agenda. The Board shall consider the documents provided, and shall have the Property Manager inform the parties of the Board's decision in writing no later than 10 business days after the Board meeting.
10. Nothing contained herein shall prevent the Association from taking any action to recover the cost of damages or injunctive relief, or both. Furthermore, the failure of the Association to take action on any infraction(s) or violation(s) shall not constitute a waiver on the part of the Association to take action for such violations, as it deems appropriate. In the event the Association does commence a lawsuit or undertake other legal action, it shall receive from the Owner reasonable attorney fees, expenses, and costs incurred for such action as provided by law.
11. It is highly recommended that parties resort to mediation before any lawsuit is undertaken.

This Policy was adopted by the Board on August 19th, 2019 and has an effective date of December 9th 2019. A copy of this policy was mailed to all Owners via regular U.S. Mail on or before November 5th, 2019.

SIGNED this ___ day of _____, 2019 by _____, President of the Board of Directors for the Mill Creek Highlands Homeowners Association.

Name:

Date

**Mill Creek Highlands Homeowners Association
Report of Violation**

Date of Violation: _____

Time of Violation: _____

Location of Violation: _____

Provision of Governing Documents Violated: _____

Brief Facts of Violation and Specific Violation:

Name of Resident Causing Violation and/or Address:

Additional Information:

Signature of Person submitting complaint: _____

Date: _____

Note: Unsigned Reports of Violation need not be considered by the Board or manager.

**Mill Creek Highlands Homeowners Association
First Notice of Violation**

This Notice is to inform you of a violation of the Association's Governing Documents.

Date: _____

Name of Owner: _____

Name of Resident (if different): _____

Address of Subject Property: _____

Mailing Address (if different): _____

Violation: _____

Provision Violated: _____

Text of Provision violated: _____

Date of Violation: _____

Time of Violation: _____

Location of Violation: _____

If this is a continuing violation, please correct the violation by the following date and time: _____

Please correct this violation as soon as possible. This First Notice serves as a warning, so that you will have an opportunity to correct the problem before further action is taken by the Board. A second or subsequent Notice will be sent if the violation continues or reoccurs, and fines will be imposed after the Second Notice unless an Opportunity to be Heard is requested. If an Opportunity to be Heard regarding the violation is requested, a hearing will be held and the Hearing Panel will make a recommendation to the Board regarding what action to take, including imposition of a fine based on the previously published schedule.

Please fill out and return the attached form indicating your response to this rule violation.

Sincerely,

Jeanmarie Trapp,
Property Manager

**Mill Creek Highlands Homeowners Association
Response to Notice of Violation**

Date: _____

Name of Owner: _____

Name of Resident (if different): _____

Address of Subject Property: _____

Mailing Address (if different): _____

Violation: _____

Provision Violated: _____

Date of Violation Notice: _____

Please place an "X" on the line next to the appropriate response and provide any explanation that you feel is necessary.

_____ I admit that the above violation occurred and I will correct the violation by:

_____ I admit that the above violation occurred, but I request a hearing for the following reasons:

_____ I request an Opportunity to be Heard before the Hearing Panel on this matter. I am available at the following dates/times:

Signature of Member

_____ Date: _____

**Mill Creek Highlands Homeowners Association
Second Notice of Violation**

This Notice is to inform you of a violation of the Association's Governing Documents.

Date: _____

Name of Owner: _____

Name of Resident (if different): _____

Address of Subject Property: _____

Mailing Address (if different): _____

Violation: _____

Provision Violated: _____

Date of Violation: _____

Time of Violation: _____

Location of Violation: _____

Fine Amount: _____

On **(Date)**, you received a First Notice of Violation, which stated that further action might be brought against you if you there were subsequent violations of the rules and regulations of the Association. Since that Notice, the violation has continued or reoccurred, as detailed above.

You have the opportunity to contest this violation in writing and/or request an Opportunity to be Heard on the matter. You may request a hearing by submitting the attached form to the Board of Directors before **(The Date Fines Will Begin, 10 Days from This Notice)**.

If you do not contest the violation or request a hearing, a fine of \$75, based on the previously published schedule, will be assessed on **(Date)**, 10 days from the date of this Notice.

Sincerely,

Jeanmarie Trapp,
Property Manager

**Mill Creek Highlands Homeowners Association
Third Notice of Violation**

This Notice is to inform you of a violation of the Association's Governing Documents.

Date: _____

Name of Owner: _____

Name of Resident (if different): _____

Address of Subject Property: _____

Mailing Address (if different): _____

Violation: _____

Provision Violated: _____

Date of Violation: _____

Time of Violation: _____

Location of Violation: _____

Fine Amount: _____

On **(Dates)**, you received Notices of Violation, which stated that further action might be brought against you if you there were subsequent violations of the rules and regulations of the Association. Since that Notice, the violation has continued or reoccurred, as detailed above.

You have the opportunity to contest this violation in writing and/or request an Opportunity to be Heard on the matter. You may request a hearing by submitting the attached form to the Board of Directors before **(The Date Fines Will Begin, 10 Days From This Notice)**.

If you do not contest the violation or request a hearing, a fine of \$100, based on the previously published schedule, will be assessed on **(Date)**, 10 days from the date of this Notice.

Sincerely,

Jeanmarie Trapp,
Property Manager

**Mill Creek Highlands Homeowners Association
Additional Notice of Violation**

This Notice is to inform you of a violation of the Association's Governing Documents.

Date: _____

Name of Owner: _____

Name of Resident (if different): _____

Address of Subject Property: _____

Mailing Address (if different): _____

Violation: _____

Provision Violated: _____

Date and Time of Violation: _____

Fine Amount: _____

On **(Dates)**, you received Notices of Violation, which stated that further action might be brought against you if you there were subsequent violations of the rules and regulations of the Association. Since that Notice, the violation has continued or reoccurred, as detailed above.

You have the opportunity to contest this violation in writing and/or request an Opportunity to be Heard on the matter. You may request a hearing by submitting the attached form to the Board of Directors before **(The Date Fines Will Begin, 10 Days From This Notice)**.

If you do not contest the violation or request a hearing, a fine of \$150, based on the previously published schedule, will be assessed on **(Date)**, 10 days from the date of this Notice.

Sincerely,

Jeanmarie Trapp,
Property Manager

**Mill Creek Highlands Homeowners Association
Notice of Continuing Violation**

This Notice is to inform you of violations of the Association's Governing Documents.

Date: _____

Name of Owner: _____

Name of Resident (if different): _____

Address of Subject Property: _____

Mailing Address (if different): _____

Violation: _____

Provision Violated: _____

Date violation was first noted: _____

Time violation was first noted: _____

Location of violation: _____

Fine Amount: _____

On **(Dates)**, you received Notices of Violation, which stated that further action might be brought against you if you there were subsequent violations of the rules and regulations of the Association. Since that Notice, the violation has continued or reoccurred, as detailed above.

You have the opportunity to contest this violation in writing and/or request a hearing on the matter. If you wish to contest the violation, you may request a hearing by submitting the attached form to the Board of Directors before **(The Date Fines Will Begin, 10 Days From This Notice)**.

If you do not contest the violation or request a hearing within 10 days of this Notice, a fine of \$75 per day or \$200 per week, based on the previously published schedule, will be assessed beginning on **(Date)**.

Sincerely,

Jeanmarie Trapp,
Property Manager

**Mill Creek Highlands Homeowners Association
Notice of Hearing for Violation**

Date: _____

Name of Owner: _____

Name of Resident (if different): _____

Address of Subject Property: _____

Mailing Address (if different): _____

Violation: _____

Date Notice of Violation Received: _____

Provision Violated: _____

The Board of Directors has received your request for a hearing on the above violation, cited on **(Dates Of Notices)**. A hearing will be conducted before the Hearing Panel on:

[Day, Date, Time, Location of Meeting].

At the hearing, each party is entitled to introduce evidence, witnesses and testimony in support of their position and rebut the opposing party's position. The Hearing Panel may call additional witnesses or secure tangible evidence.

If any of the parties can show good cause as to why they cannot attend the hearing on the above date, they must submit a written request to the Board of Directors at least 10 days prior to the scheduled hearing date. Failure to appear or reschedule the hearing may result in the imposition of the fine by default.

The Hearing Panel will review all testimony presented, determine whether a violation occurred, and make a recommendation to the Board regarding whether to assess a fine or charge, based on the previously published fine schedule. You will be notified in writing of the decision. If you have any questions, please immediately contact the property manager.

Sincerely,

Jeanmarie Trapp,
Property Manager

**Mill Creek Highlands Homeowners Association
Determination by the Board Following Hearing**

Date: _____

Name of Owner: _____

Name of Resident (if different): _____

Address of Subject Property: _____

Mailing Address (if different): _____

Violation: _____

Provision Violated: _____

Date of Violation: _____

Time of Violation: _____

Location of Violation: _____

You were notified on **(Date Of First Notice)** and **(Date Of Subsequent Notices)** that a violation of the Association's Governing Documents occurred.

A hearing was held on **(Day, Date, Time)** to address the contested violation. After that hearing, the Board made the following decision:

_____ No violation occurred, and no fine will be imposed.

_____ A violation occurred, but because of mitigating circumstances a fine will not be imposed at this time. **Please be aware that if a violation occurs in the future, the Board may reach a different decision regarding imposition of a fine at that time.**

_____ A violation occurred, and a fine of \$_____ will be assessed to you for the violation beginning (Date), based on the previously published schedule. The fine(s) will appear on your next monthly assessment statement. Failure to correct any infraction will result in further fines as described in the Association's Fine and Enforcement Policy.

If you wish to appeal this assessment, please indicate so to the Board of Directors, through the manager, within **10 calendar days** of the date of this notification. Appeals are done in writing, to be submitted at least 10 days prior to the next Board meeting.

Sincerely,

Jeanmarie Trapp,
Property Manager