

Fine and Enforcement Policy

Mill Creek Community Association



The Mill Creek Community Association can fine its Owners for violations of the Governing Documents under RCW 64.34.304(k) and Article IV, Section 4.5.1, and Article XIV of the Amended and Restated Mill Creek Declaration of Restrictive Covenants. This policy sets out the procedures and policy for fines and due process.

Fines

1. An Owner may be fined for a violation of the Association's Governing Documents. The fines shall be assessed against the Living/Dwelling Unit and the Owner of the Living/Dwelling Unit and collected as any other assessment.
2. Any violation by any Owner, resident, occupant, tenant, animal, and/or guest of a Living/Dwelling Unit shall be treated as a violation by the entire ownership of the Unit, and any fine resulting from said violation(s) shall apply against the Living/Dwelling Unit 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 "chronic violation." A chronic violation is a repeat or continuing violation as determined by the Board.

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 and date the violation was verified/occurred. Each Notice will also include the steps necessary for the Owner or Occupant to correct the violation and the date the measures must be completed to avoid another Notice.
 - b. Specific Contents for each Notice
 - i. First Notice/Polite Request – 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 with 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 the Owner(s) with an Opportunity to be Heard and a date by which they must request a hearing. The Third Notice will also 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 the Owner(s) with an Opportunity to be Heard and a date by which they must request a hearing and explain the fine for additional violations. Also, this Notice will contain information about further legal action that may be taken by the

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Association if the violations continue.

- v. Chronic 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. Some examples of continuous violations are failure to perform required maintenance, failure to remove an unauthorized improvement, or continuous rental of a Unit in violation of the Declaration.

The most recently published [fine schedule](#) can be found on the MCCA website.

1. Fines and Members Response
 - a. If any fine assessed is not paid when due, it will be dealt with in the same manner as delinquent assessments. It will be subject to the same collection remedies detailed in the Association's Governing Documents.
 - b. Owners and/or Occupants receiving Notices should deliver their responses to the Compliance Coordinator.

Due Process/Opportunity to be Heard Procedure

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

1. If any Owner and/or Occupant feels that the enforcement for any rule's 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 Compliance Coordinator in writing within 10 days of receiving a Notice of Violation.
3. The Compliance Coordinator for the Association will respond to the hearing request within 10 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 Covenant Hearing Board with a written summary of their positions 10 days prior to the hearing.
5. The Covenant Hearing Board will consist of three homeowners, one of whom shall be a Board Member, and the other two may be Board Members. None of the Covenant Hearing Board members shall be a party to the complaint. The hearing participants may consist of:
 - a. The Covenant Hearing Board members.
 - b. The party(s) bringing the complaint (this party may be an Owner and may be a Board member, the Association Director, or Compliance Coordinator).
 - c. The party requesting the hearing (this party shall be an Owner). The Owner may be represented by an attorney if the Covenant Hearing Board is informed in advance, in which

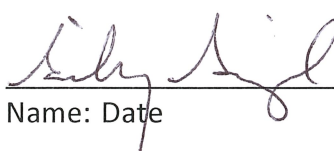
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- case the Association's attorney may also attend.
- d. Witnesses, if not included above.
 - e. Any and all other Owners that have or may have an interest or concern.
6. The hearing will be informal, with the Compliance Coordinator acting as the facilitator. All sides will present evidence, witnesses, and testimony regarding the validity, non-validity, or other issues relevant to the complaint. The Covenant Hearing Board may limit the time allowed for such evidence, witnesses, and testimony. Minutes of the hearing will be kept by the Covenant Hearing Board or a person designated by the Covenant Hearing Board. 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 Covenant Hearing Board will base its findings on information presented at the hearing or otherwise available to it.
 8. Within 10 working days of the hearing, the Covenant Hearing Board shall prepare written findings and recommendations and provide them to all parties. Any party has a right to appeal to the Board of Directors the Covenant Hearing Board's findings and recommendations (within 10 days of receiving the findings and recommendations) by sending a written request to the Association Director. No appeal shall be granted in the event the party requesting the appeal fails to appear at the original hearing.
 9. Any appeals shall be conducted in writing, addressed to the Board of Directors, through the Association Director. All materials for the appeal shall be delivered to the Association Director 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 Association Director 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 undertakes 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 July 17, 2024, and has an effective date of January 1, 2025.
SIGNED this 17 day of July 2024 by Sidney Siegel, President of the Board of Directors for Mill Creek Community Association.

 7/17/24
Name: Date

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Report of a Violation by a Member

Should a member have a valid violation to report to MCCA, they must provide the following:

- Date of violation.
- Time of violation.
- Name and address of Violator. (Name is not necessary/address is a must)
- Location of violation. (if different from property)
- Restrictive Covenant or Rule violated.
- Brief facts of violation and specific violation.
- Any additional information.
- Name and address of the person submitting the complaint.

Reports can be made to the Covenant Committee in writing to the Compliance Coordinator via mail or email. All contact information is available on the MCCA website, www.mcca.info.

Note: Anonymous Reports of Violation need not be considered by the Covenant Committee or Board

Notices of a Violation to a Member

All notices shall be written in the HOA's software and will be addressed through the HOA's portal system. To include but not limited to:

- First Notice/Polite Request
- Second Notice
- Third Notice
- Any reoccurring Notices
- Hearing Board Notices
- Fine Notices

Members who opt-in to receive electronic notifications will receive notices via email. Members who have not opted in will receive notifications via U.S. mail.

Response to Notice of Violation

Any member receiving this notice must respond within 14 days of the date of the letter. A response must either be in writing to the MCCA office or by email as directed in the notice and must include:

- Members name.
- Address of violation.
- Mailing address.
- Violation addressed.
- Date of violation notice.

And one of the following:

- When the violation will be corrected.
- You admit there is a violation but are requesting a hearing.
- There is no violation and request for a hearing.

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If the response is in writing, it must be signed and dated by the owner (the owner is the party that shall request a hearing).

Chronic Violation

The Board has adopted increasing fines for repeat violations and any violation considered a “chronic violation.” A chronic violation is a repeat or continuing violation as determined by the Board. This notice is after MCCA has sent the first, second, and/or third letters or if the violation is still occurring or is a result of a repeat violation.

Sample First Notice of Violation/Polite Request

This First Notice or Polite Request serves as a warning so the member has an opportunity to correct the problem before further action is taken by the Covenant Committee.

The Covenant Committee and/or the Compliance Coordinator were in your neighborhood on **(Date)** and noticed the following:

(Brief facts of violation and specific violation)

(Restrictive covenant or rule violated).

(Brief request and description of what needs to be done and how to comply).

Please respond to this email with any questions you might have. Also, if you already have the work scheduled to bring this matter into compliance, please let me know so I can update the committee. You can also send a photo or email to me once the issue is resolved so I can mark this as complete.

If we don't receive a response by [date], we'll send you a violation letter. This letter will also mention the fine that could be applicable if the issue remains unresolved.

Sincerely,

Compliance Coordinator

Sample Second Notice of Violation

A second notice will include the facts of the violation, the restrictive covenant or rule violated, and a description of what needs to be done to achieve compliance from the first letter and the following:

On **(Date)**, you received a First Notice of Violation/Polite Request, which stated that further action might be brought against you if there were subsequent violations of the Association's Governing Documents. Since that Notice, the violation has continued or is reoccurring, as detailed below.

(Brief facts of violation and specific violation)

(Restrictive covenant or rule violated).

(Brief request and description of what needs to be done and how to comply).

You may contest this violation in writing and/or request an Opportunity to be Heard on the matter.

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You may request a hearing by submitting your request in writing to the MCCA office or by email to the Compliance Coordinator before **(Date Fines Will Begin, 14 Days from This Notice)**.

If you do not contest the violation, request a hearing, or become compliant, a fine of (\$0), based on the most recently published [fine schedule](#), will be assessed on **(Date)**, 14 days from the date of this Notice.

Sincerely,
Compliance Coordinator

Sample Third Notice of Violation

A third notice will include the facts of the violation, the restrictive covenant or rule violated, and a description of what needs to be done to achieve compliance from the first and second letters and the following:

On **(Dates)**, you received Notices of Violation, which stated that further action might be brought against you if there were subsequent violations of the Association's Governing Documents. Since that Notice, the violation has continued or is reoccurring, as detailed below:

(Brief facts of violation and specific violation)

(Restrictive covenant or rule violated).

(Brief request and description of what needs to be done and how to comply).

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 your request in writing to the MCCA office or by email to the Compliance Coordinator before **(Date Fines Will Begin, 14 Days From This Notice)**.

If you do not contest the violation, request a hearing, or become compliant, a fine of (\$0), based on the most recently published [fine schedule](#), will be assessed on **(Date)**, 14 days from the date of this Notice.

Sincerely,
Compliance Coordinator

Sample Notice of Chronic/Repeat Violation

A notice of chronic or repeat violation will include the facts of the violation, restrictive covenant or rule violated, and a description of what needs to be done to achieve compliance from all other letters and the following:

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

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(Brief facts of violation and specific violation)

(Restrictive covenant or rule violated).

(Brief request and description of what needs to be done and how to comply).

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 your request in writing to the MCCA office or by email to the Compliance Coordinator before **(The Date Fines Will Begin, 14 Days From This Notice)**.

If you do not contest the violation or request a hearing within 14 days of this Notice, a fine of (\$0) per day or (\$0) per week, based on the most recently published [fine schedule](#), will be assessed beginning on **(Date)**.

Sincerely,
Compliance Coordinator

Sample Notice of Hearing for Violation

Within 10 days of a member requesting a hearing, the Compliance Coordinator shall notify the member of that hearing date, and that notification will include all the following:

- Name of owner.
- Name of resident (if different).
- Subject property address.
- Violation.
- Date notice of violation received.
- Provision violated.

The letter will also include the following:

I have received your request for a hearing on the above violation, cited on **(Dates of Notices)**. A hearing will be conducted before the Covenant Hearing Board on:

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

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

If any 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 Compliance Coordinator at least 10 days before the scheduled hearing date. Failure to appear or reschedule the hearing may result in the imposition of the fine by default.

The Covenant Hearing Board will review all testimony presented, determine whether a violation occurred, and whether to assess a fine or charge based on the most recently published fine

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schedule. You will be notified of the decision in writing. If you have any questions, please contact the Compliance Coordinator or Association Director immediately.

Sincerely,
Compliance Coordinator

Sample Determination by the Covenant Hearing Board Following a Hearing

All determination letters following a hearing shall include:

- Name of owner.
- Name of resident (if different).
- Subject property address.
- Violation.
- Provision violated.

The letter will also include the following:

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 Covenant Hearing 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 Covenant Hearing Board may reach a different decision regarding imposing 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 most recently published [fine 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 against this assessment, please indicate so to the Board of Directors through the Association Director within **10 calendar days** of the date of this notification. Appeals must be received in writing and submitted at least 10 days prior to the next Board meeting.

Sincerely,
Compliance Coordinator