

**Enforcement Policy with Fine and Fee Schedule**  
**Brighton at Mill Creek Homeowners Association Board Resolution**  
**Approved: January 8, 2016**

WHEREAS, the Board is charged with enforcement of the provisions of the CC&R's, Articles of Incorporation, Bylaws and Rules and Regulations of the Association (together, the "Governing Documents"). Correcting compliance issues at the lowest possible level is in the best interests of the Association because it reduces the amount of administrative time necessary to deal with infractions, lessens the duration of infractions, and may save in legal expense. It also promotes a harmonious living environment. To this end, a fine schedule for violations of the Governing Documents helps the Association ensure residents' compliance with the Governing Documents.

WHEREAS, "Assessments" as used in this Resolution include all of the amounts chargeable under the CC&R's, Articles of Incorporation, Bylaws, and at law, including but not limited to maintenance and initial, Annual and Special Assessments, fines, costs, interest, late charges, attorneys' fees and all costs incurred in collecting delinquent assessments.

WHEREAS, the Board's and Association's powers to take the actions set out herein are set out in the Washington Homeowners' Association Act (RCW 64-38 *et seq.*, the "HOA Act"), the Washington Nonprofit Corporations Act (RCW 24.03 *et seq.*), the Articles of Incorporation, the CC&Rs, and the Bylaws, including *but not limited to*, the sections enumerated below:

1. RCW 64.38.020(1) provides that the Association may adopt and amend bylaws, rules and regulations.
2. RCW 64.38.020(11) empowers the Association to impose and collect charges for late payments of Assessments, and, after notice and opportunity to be heard, levy fines for violations of the Governing Documents according to a previously established schedule.
3. RCW 64.38.020(13) & (14) provide that the Association may exercise any other powers that may be exercised by a nonprofit corporation in Washington, and may exercise any other powers necessary and proper for the governance and operation of the Association.

WHEREAS, **voluntary compliance** with Association Governing Documents is the primary method of ensuring high community standards are preserved within Brighton at Mill Creek. As a result, the Board of Directors should not have to take enforcement action often to restore compliance with the Governing Documents.

WHEREAS, it is understood occasionally some Owners will fail to comply with the Governing Documents. When this occurs, the Board of Directors has been given authority and has the responsibility to bring them into compliance. This Enforcement Policy ("Policy") is meant to guide the Board's actions to restore a homeowner's

compliance with the Governing Documents through a process that is fair, efficient and effective.

WHEREAS, All Lots and residents within Brighton at Mill Creek Homeowners Association (the "Association") are subject to the Declaration of Covenants, Conditions and Restrictions recorded on March 4, 1996 under Snohomish County Recording No. 96030040754, and any amendments thereto ("CC&Rs"), Articles of Incorporation, Bylaws and Rules and Regulations of the Association (together, the "Governing Documents"). Each owner, and their guests and tenants, is required to comply strictly with the Governing Documents as they may be amended from time to time by the Association. Failure to comply may result in the issuance of fines, actions to recover sums due for damages or injunctive relief, or both, maintainable by the Board of Directors (the "Board") for the Association or by an aggrieved owner on their own against the party failing to comply. Owners are responsible for ensuring their tenants and guests comply with the Governing Documents.

WHEREAS, the Association Governing Documents give the board of directors authority and a variety of tools to use in preserving and advancing the community-wide standards through enforcement of the Governing Documents. The Board is authorized to create rules, regulations, procedures and penalties, and may use its discretion to determine the manner in which enforcement is to be achieved.

The Board has a variety of means to assure compliance with the Governing Documents, including but not limited to:

- Imposing a fine;
- Taking action to cure the violation and charging the Owner for the cost of the work;
- Charging the Owner for all legal fees Incurred by the Association;
- Preventing a contractor, agent, or others from continuing work;
- Requiring an Owner to pay for the costs of removing the problem and restoring the condition of the property;
- Imposing a specific assessment or charge to cover the costs of repair;
- Filing a lien against the property; and/or
- Filing a lawsuit to get a court order requiring compliance, as well as a judgment for all damages, attorney's fees and costs incurred

NOW THEREFORE, BE IT RESOLVED THAT the following enforcement procedures, fine schedule and hearing opportunity are hereby adopted by the board of directors:

1. **Discretion of Board.** This Policy describes the typical way the Association manager and the board of directors may maintain compliance with the Covenants and Rules. The Board retains discretion to determine whether it will enforce against any violation, whether and the extent to which the Association will spend money, issue notices, impose fines or conduct hearings to seek compliance.

2. **Identifying a Possible Violation.** Brighton at Mill Creek has primarily a complaint-based enforcement system. Possible violations may be identified by periodic inspections by the Association Manager or the Board, by an Owner's written complaint, or by other reasonably reliable means. The Association Manager and the Board have no obligation to perform inspections.
3. **Written Complaint.** Owners are encouraged to take responsibility for the condition of the Association. Any Owner may bring a possible violation to the Board's attention through a written complaint, e-mailed, faxed or mailed to the Association Manager. The complaint must identify the property address or Owner, and must specifically describe the violation and date of the violation. Complaints may, but are not required to, be kept confidential.
4. **"Three Step" Approach and Fine Schedule.** The Board will use a "three step" approach for handling violations, unless a violation constitutes a health or safety hazard in the Board's sole subjective determination.
  - a. **Step One: Written Warning to Owner.** After the first violation within any 60 day period, the Association Manager will deliver notice to the Owner, requesting voluntary restoration of compliance with the Covenant or Rule being violated and including a warning that continuing or future violations will subject the owner to fines as set forth below. Some situations may require immediate action on the part of the owner, but unless otherwise stated in the warning letter, owners will have 30 days to correct the violation.
  - b. **Step Two. Second written Violation notice that Owner is subject to fine.** If the same or similar violation is not corrected within the time expressed in the warning letter, a second notice will be sent to the Owner advising they are subject to a fine of \$100.

Any lot owner receiving a violation letter may request a hearing before the Board in accordance with the procedures set out in Section 6 below.

All warning or violation letters will be sent to the owner at the lot address unless an alternate address has been previously given in writing by the owner to the secretary of the Association. Warning or violation letters may be sent by the Board, Association manager or attorney in accordance with the Governing Documents.

- c. **Step Three - Fines.** If the Owner fails to correct the violation identified in a first and second written notice or other correspondence from the Board or its managing agent, owner may be subject to weekly fines of up to \$50.00 per week until corrective action is taken.

Owners are responsible for their guests, tenants, agents, contractors and invitees. If a non-owner occupant of a lot is in violation of the Governing Documents, the warning letter, violation letter or other notice will be sent to the owner at the lot address unless an alternative address has previously been given in writing to the secretary of the Association. The lot owner is responsible for notifying his or her tenants or occupants, for paying any fines, and for taking corrective action.

An invoice showing the fines will be sent to the Owner.

Fines are not an exclusive remedy. The Board may resort to other remedies in addition to, or instead of, fines. Paying a fine does not relieve a person from the responsibility to cure a violation.

Fines are assessments. Owners shall be financially responsible for all fines, damages and other accounts assessed resulting from their own actions, and the actions of their tenants, guests or occupants. Fines imposed under this schedule constitute assessments and may be enforced as such; including the imposition of late fees and interest if authorized by law or the Governing Documents.

5. **Stop Work Order.** If appropriate based upon the nature of the violation, the Association Manager may issue a Stop Work Order to any person engaged in an unauthorized activity. An unauthorized activity is any activity which requires the prior written approval of the Board or the Design Review Committee, which has not received prior written approval. A Stop Work Order must:
  - a. List the home's address;
  - b. Describe the unauthorized activity;
  - c. Identify the specific prior approval requirement being violated;
  - d. Explain that unauthorized activity must cease immediately, and describe any other sanctions the Board intends to impose;
  - e. Explain that delivery of the Stop Work Order is the a determination that a violation has occurred;
  - f. Explain that this determination is final unless it is appealed to the Board, in writing, within 10 days of the date that the Stop Work Order was issued; and
  - g. Explain that failure to immediately comply with the terms of the Stop Work Order will cause a **\$250.00** fine to be imposed and that for each week thereafter in which noncompliance with the Stop Work Order takes place, a separate **\$250.00** fine will be imposed.
  
6. **Opportunity for Hearing.** An owner who has been sent a violation letter may request a hearing on the violation by sending a written request to the Board within ten (10) days of the date appearing on the warning letter. Failure to request a hearing in a timely manner is a waiver of the owner's right to challenge

the violation and imposition of a fine. If a hearing is requested, the hearing will be scheduled and held in the following manner:

- a. **Notice of Hearing.** When the Board has received a timely request for hearing, it will provide the affected owner with written notice of a hearing before the Board or a specially appointed committee (“Hearing Committee”) regarding the proposed action or fine.

The hearing shall be set not less than ten (10) nor more than thirty (30) days of the receipt of the timely request for hearing and shall be set between the hours of 8:00 a.m. – 10:00 p.m. unless the Board and the affected owner otherwise mutually agree upon a date and time for the hearing.

The Notice of Hearing shall include (a) a statement of offense, (b) the proposed action and/or fine, (c) the date, time and place of the hearing, (d) any time limits upon the presentation of evidence, and (e) whether the affected owner may offer a written statement in lieu of appearance.

If the owner intends to have an attorney present at the hearing, the owner must notify the Board seven (7) days prior to the hearing so that the Association may also have counsel present.

- d. **Hearing Procedure.** At the hearing the affected owner shall have a reasonable amount of time under the circumstances to present evidence and argument to the Board disputing the violation. Specific time limits may be set out in the Notice of Hearing. Additional time may be granted by mutual agreement of the parties. Presentation of evidence or argument shall be subject to reasonable rules of procedure established by the Board or Hearing Committee to assure a prompt and orderly resolution of the issue. Other owners may be allowed to present evidence or argument demonstrating the violation or in favor of the imposition of fines in accordance with procedures established by the Board or Hearing Committee or at the discretion of the Board or Hearing Committee.
- e. **Decision of the Hearing Committee.** Within a reasonable time, the Board or Hearing Committee will meet in executive session to make its decision on whether a violation has been committed, and shall endeavor to send the owner notice of its decision in writing in the same manner in which the notice of the meeting was given within fourteen (14) days of the hearing. Any fines imposed after a hearing shall become due on the first of the month following the notice of the Board or Hearing Committee decision unless the notice of decision states otherwise.
- f. **Multiple Violations prior to Hearing.** One or more violations of the Governing Documents and or proposed fines may be combined and heard

in one enforcement hearing, if convenient to the Board or Hearing Committee. Once a hearing is set for one or more alleged violations, additional alleged violations and fines occurring subsequent to the initial notice(s) of violations and prior to the date of the hearing may also be heard at the scheduled hearing, at the discretion of the Board or Hearing Committee.

- g. Additional Violations after Hearing.** An owner is entitled to one hearing per type of violation. A request for an additional hearing may be denied if the Board or Hearing Committee determines that the violations are continuing in nature and that no evidence that could be presented by the owner would change the previous decision of the Board or Hearing Committee. Notice that a request for hearing has been denied may be sent in the manner of a Notice of Hearing.

Approved: January 8, 2016

President: Original Signature on File  
James Feinberg

Secretary: Original Signature on File  
Richard Haataja

Date: January 8, 2016