



Mountain Park  
Home Owners Association  
Resolution of The Board of Directors  
Collection of Unpaid Charges

WHEREAS, “Declaration” is the *Declaration of Restrictions of Mountain Park Corporation, Covenants*; “Act” is the *Oregon Planned Community Act, Oregon Revised Statutes, Chapter 94*; “Association” is *The Mountain Park Home Owners Association*; and “Bylaws” are the *Bylaws of Mountain Park Home Owners Association*;

WHEREAS, “assessments,” as used in this Resolution, includes all amounts validly assessed against a Unit or Lot Owner (“Owner”) pursuant to the Declaration, the Association’s Bylaws, Rules and Regulations, and any Board of Director Resolution, including, but not limited to common expenses, interest, fees, fines, attorney fees and all collection costs;

WHEREAS, the Declaration and Bylaws allow the Association to adopt rules and enforce compliance with the Declaration, Bylaws, and rules and regulations;

WHEREAS, the Declaration and Articles VII and X of the Bylaws authorize the Board to enforce provisions of the Declaration, Bylaws and Rules and Regulations, including action to collect unpaid assessments;

WHEREAS, Article VII of the Bylaws authorizes the Board to establish penalties for violation of the rules and regulations; and ORS 94.630(1)(n) authorizes the Board to establish late charges and fines;

WHEREAS, Article V of the Declaration and the Act provides that all assessments, together with interest and costs of collection shall be a continuing lien upon the unit or lot against which each such assessment is made;

WHEREAS, Article V of the Declaration authorizes the Board, on behalf of the Association, to bring suit to foreclose the lien against the unit or lot and/or to bring an action to obtain a money judgment against an Owner for damages and/or for unpaid assessments;

WHEREAS, Article V of the Declaration and the Act provide that Owners shall be obligated to pay reasonable fees and costs including, but not limited to, attorney fees incurred in connection with efforts to collect delinquent and unpaid assessments, and/or to enforce the provisions of the Declaration, Bylaws, rules and regulations or the Act;

WHEREAS, Article V, Section 7 of the Declaration provides that the Association shall give an Owner written notice of assessments at least thirty (30) days in advance of the due date of such assessments; and whereas assessments are billed on January 1st and July 1st of each year and such assessments are considered delinquent sixty (60) days from such dates respectively;

WHEREAS, from time to time Owners become delinquent in the payments of their assessments and fail to respond to the demands from the Board to bring their accounts current, and

it is imperative assessment payments are timely received;

WHEREAS, Article V, Section 8 of the Declaration provides that any assessment not paid by its due date shall bear interest from the date due until paid at the rate of seven percent (7%) per annum;

WHEREAS, the Board deems it in the Association's best interest to adopt a uniform and systematic procedure for the collection of unpaid assessments in a timely manner, and further believes it to be in the Association's best interest to refer these accounts promptly to an attorney for collection so as to minimize the Association's loss of assessment revenue.

NOW, BE IT FURTHER RESOLVED, that the following steps be adopted to provide for the uniform and systematic procedure for the collection of unpaid assessments:

1. If any assessment remains unpaid 15 days after it is due, the Board or its agent shall send a notice to the Owner indicating the amount due, including notice of the late fees and interest, and demand for immediate payment thereof. *See* Exhibit "A" attached hereto. In addition, the Board or its agent shall prepare and record a lien against the Owner's Lot. The Board, or its agent, shall mail or otherwise notify the Owner within twenty (20) days of recording that the lien has been recorded. The lien shall include all collection costs to date, including the cost of preparing and recording the lien, and the cost for any notice of the lien required by law.

2. If three assessments remain unpaid by the Owner, or earlier if the board determines it is appropriate under the circumstances, the Board shall turn over collection to the Association's attorney ("Attorney"), who shall (a) send a written demand for payment and any notice as required by the federal Fair Debt Collection Practices Act, if applicable. The demand for payment shall notify the Owner of the Owner's liability for payment of charges imposed by Attorney to cover fees and costs associated with all collection efforts. The demand for payment shall include all collection costs to date.

3. If any assessment remains unpaid by the Owner thirty (30) days after the date of Attorney's demand, Attorney shall file suit for a money judgment, unless the Board, after recommendation by Attorney, determines that lien foreclosure or other action is advisable under the circumstances. In such cases, the attorney may file a lawsuit for a money judgment, for foreclosure, or for both a money judgment and foreclosure, or take such other action as the board directs and as permitted by applicable law.

4. If the Association is successful in obtaining a money judgment, Attorney shall collect on the judgment in this order, unless the attorney determines other actions or another order of collection is appropriate under the circumstances: (1) file and send a ten (10) day demand to pay judgment; (2) garnish accounts, wages and/or rents; (3) levy against any personal and real property; and (4) levy against the unit or lot. Additional steps may be necessary to determine the availability and location of the judgment debtor's assets. If the Association is successful in a suit to foreclose on the lien, Attorney shall proceed as necessary to complete the foreclosure unless otherwise directed by the Board.

NOW, BE IT FURTHER RESOLVED, that the cost of collection includes attorney or legal fees and costs incurred in the collection of a delinquent account and that such costs of collection shall be assessed against the delinquent Owner and shall be collected as an assessment as provided in

the Article V of the Declaration and the Act.

NOW, BE IT FURTHER RESOLVED, that all contacts and/or contracts with the delinquent Owner shall be through Attorney. Neither the Board nor any of its agents shall discuss the collection of the account directly with the Owner after it has been turned over to Attorney, unless one of the attorneys is present or has consented to the contact and/or contract.

NOW, BE IT FURTHER RESOLVED, that Attorney shall have the discretion to enter into an installment payment plan with a delinquent Owner in appropriate circumstances. In all cases in which a law suit has been filed, any such plan must be secured by a Stipulated Judgment. Any payment plan providing for a down payment of less than the greater of one-third (1/3) of the delinquent balance or a duration in excess of twelve (12) months shall require approval of the Board president.

NOW, BE IT FURTHER RESOLVED, that Attorney, in its initial demand notice, shall communicate to Owner that the account has been turned over to it for collection, and that all payments are to be made to Attorney until the account has been brought current. The Association hereby grants to Attorney its limited power of attorney to endorse for deposit checks made payable to the Association (or its agent management company, if any) in satisfaction of accounts sent to Attorney for collection. Attorney shall deposit all payments in its trust account. All amounts collected shall be disbursed by Attorney according the provisions of the Association and Attorney representation agreement.

NOW, BE IT FURTHER RESOLVED, that nothing in this Resolution precludes the Board from taking further or different action in the collection of unpaid assessments permitted by the Association's governing documents or applicable law, including, but not limited to, adopting or enforcing rules regarding the termination of utility services paid for out of assessments of the association and access to and use of recreational and service facilities available to owners and, after giving notice and an opportunity to be heard, terminate the rights of any owners to receive such benefits or services until the correction of any violation covered by such rule has occurred.

NOW, BE IT FURTHER RESOLVED, that a copy of this resolution shall be sent to all Owners at their last known address.

ATTEST:

---

Chairman (President), Board of Directors  
Mountain Park Home Owners Association  
Association

---

Secretary, Board of Directors  
Mountain Park Home Owners

Date: \_\_\_\_\_