

## Melbourne Place II Homeowners Association

### Violation and Fining Policy (Including Schedule of Fines)

This document sets forth Melbourne Place II Homeowner Association's policy for imposing disciplinary actions (including a Schedule of Fines) for violations of the Association's Governing Documents (Declaration of CC&Rs, Bylaws and Rules & Regulations).

Effective November 15 2021

**Authority of the Association's Board of Directors.** The Board of Directors (Board), pursuant to Bylaws Article VI, Section 6.2 has the authority to adopt and revise rules, regulations and policies governing the use of the Common Areas and facilities within Melbourne Place II, the personal conduct of Members, tenants, and guests, and to take steps as it considers necessary for the enforcement of the Association's Governing Documents

**Member Responsibility.** Each Unit Owner is a Member of the Association and is responsible for following the Governing Documents. Owners must give their tenants, if any, copies of the Governing Documents and of amendments as they are adopted. Owners are also responsible for ensuring that their tenants, invitees, guests, and Unit occupants follow the Governing Documents. In the case of violations by tenants, invitees, guests, and Unit occupants &, the Association will notify the Unit Owner. Any fines for non-compliance or Reimbursement Assessments will be imposed against the Owner and form a lien against the Unit.

**Who May Report Violations?** Complaints regarding alleged violations may be reported by one or more Owners or residents within the community, or the Association's management company, by submitting a written complaint to our Executive Board.

**Content of Complaints:** The Complainant(s) should have observed the alleged violation and should identify the alleged violator, if known, and submit a statement describing the alleged violation, referencing the specific provisions of the Governing Documents which are alleged to have been violated and any other pertinent information. Non-written complaints or written complaints failing to include any information required by this provision may not be investigated or prosecuted at the discretion of the Association.

**Investigation:** Upon receipt of a complaint, the Board at its sole discretion may appoint an individual or committee to investigate the matter. If additional information is needed, the complaint may be returned to the complainant.

**First Notice:** A courtesy notice will be sent citing the specific violation(s) and requesting correction of violation(s). The notice shall either be given personally to such Member or sent by first-class or certified mail or email to the last address for the Member shown on the Association's records.

The notification shall:

1. Identify the governing document provision that has been violated;
2. Describe the nature of the violation;
3. Describe the corrective action to be taken by the Member and the time within which it must be done (if applicable);
4. Describe intended or possible sanction(s); and
5. Give the Member the opportunity to attend a hearing and to address the Board regarding the alleged violation.

If the Member's failure to correct a violation results in the expenditure of funds by the Association to correct the violation, the notice shall also state that the Board may vote to levy a Reimbursement Assessment. .

### **Hearing Request:**

- Within fourteen (14) days after the date of the first notice, the owner shall have the right to request, in writing, to be heard and represented by counsel before the board (or their appointed designees(s), including any request for accommodation, such as phone or video conference, for individuals who are unable to attend an appeal hearing in person.
- If the owner requests a hearing, the homeowner will be notified of the date and time to appear at a hearing before the Board of Directors (or their appointed designee(s) to address the cited violation(s). The owner, with or without an attorney, shall have five (5) minutes (or such longer time as the Board may permit) to offer any basis or reason supporting the owner's assertion that there has been no violation.
- If the homeowner fails to appear at the hearing, an appropriate penalty may be imposed against the homeowner as per the violation fee schedule.
- Within ten (10) days of the hearing the Board of Directors will notify the homeowner, in writing, of its decision; the decision of the Board shall be final and unappealable.
- Any notice of violation that is not appealed shall be final on the 15<sup>th</sup> day after the date of the notice.

**Failure to Remedy:** Failure to immediately cease all unapproved architectural work or remedy any other violation within ten (10) days of the date of the second notice of violation (or sooner if specifically provided), shall constitute a continuing violation and result in one or more of the following upon receipt of the second notice of violation:

- A fine being levied by the association against the unit owner.
- Correction of the offending violation/improvement by the association at the expense of the unit owner through an assessment being levied against the unit owner, which will be deemed a lien against the unit and also may be recorded as a lien against the unit (all costs of which shall be charged back to the owner and form an additional lien against the unit), or
- Application or use of any other remedy under law or at equity or the governing documents, including but not limited to injunctive relief. Management shall send to the unit owner a formal notice informing the recipient of the continuing violation and the remedy chosen as a result thereof. The date of the notice shall be the "notice of fine date."

### **Continuing/Repeat Violation(s):**

In the case of continuing violations, the Board may impose additional disciplinary action once every thirty (30) days until the violation is remedied.. Repeated or habitual violations, such as parking or trash can violations, shall not constitute a continuing violation but shall be considered a separate violation for each occurrence, and disciplinary action may be imposed for each and every separate violation.

## FINE SCHEDULE

VIOLATION.	TIME TO CURE BEFORE VIOLATION IS REASSESSED.	FINE AMOUNT.
First notice of violation	30 (thirty) days.	No fine
Second notice of violation.	14 (fourteen) days.	\$50.00
Third notice of violation.	14 (fourteen) days.	\$75.00
Fourth and subsequent notices of violation, which may be assessed without further notice until the violation is cured.	14 (fourteen) days.	\$100.00

**Repeat Violation:** A repeat violation occurs when a person violates the same provision of the Association’s governing document more than once and has already been given the proper warnings and hearing. A repeated violation will result in an immediate doubling of fines. There may be a repeat, continuing violation, in which case fines (which have been doubled) will be assessed on a weekly basis until the violation is corrected.

Final violations may be turned over to the Association’s attorney to take legal action; all attorneys’ fees and costs of enforcement will be charged back to the owner and form an additional lien against the unit.

**Waiver of Fines:** The Board may waive all, or any part, of the fines if, in its sole discretion, such waiver is proper under the circumstances. Additionally, the Board may condition waiver of the entire fine, or any part thereof, upon the Violator coming into and staying in compliance with the governing documents or applicable state law.

**Other Enforcement Means:** This fine schedule and enforcement process is adopted in addition to all other enforcement means which are available to the Association through its governing documents and Pennsylvania law. The use of one type of enforcement does not prevent the Association from using any other enforcement means at any time in the future.

**Amendment:** This policy may be amended from time to time by the Board of Directors.





