

**GABRIEL COMMONS ASSOCIATION POLICY RESOLUTION No. 03:
RULES AND REGULATIONS ENFORCEMENT / COLLECTION POLICY**

WHEREAS Section 8.1.2 of the Bylaws states that: “The Board of Directors (the Board) shall have the power to:”.... “Adopt, amend, revoke, publish and cause to be enforced rules and regulations not inconsistent with the Declaration governing the use of common elements, and the personal conduct of owners, their families, tenants and guests thereon, and to establish penalties and fines for the infraction thereof.”

WHEREAS, the rules and regulations referred to above are those to be found in the governing documents of the Gabriel Commons Association. These documents include the Declaration of Unit Ownership, By-Laws, GCA General Rules, Resolutions, and past Board policy decisions documented in their Minutes,

WHEREAS, we are a community and we believe in looking to informal methods of resolving grievances and differences between owners and their Association whenever possible,

WHEREAS, we believe that the imposition of fines and other penalties should only be used when other means have failed,

THEREFORE, LET IT BE RESOLVED THAT the following rules and regulations enforcement procedures will be followed:

Procedures:

- 1 . When a violation of the rules and regulations written in the governing documents occurs, a written first notice is sent to the owner, and also a copy is sent to the resident if not the owner when appropriate. The letter will advise the owner that there is an opportunity to respond if the owner believes there was no violation by (1) submitting a written response to the Board within 10 days of receipt of the letter, and/or by (2) submitting a written request to the Board for a hearing within 10 days of receipt of the letter.
2. After 30 calendar days of the date of the first letter, if the violation is not corrected, the Board will normally assess the appropriate fine in a second letter to the owner.

If the violation takes place on common property and is a permanent violation, the original letter may immediately fine the owner with a one time fine. This could also happen if the violation represents a threat to public safety or property requiring urgent action. If the owner believes there was no violation, the owner will have 10 calendar days to dispute the fine in writing and/or submit a written request for a hearing to dispute the fine.

3. If the fines are not paid within 30 days from the date of the second letter, the Association may take a variety of legal actions against the owner as stated in the By-Laws (Sections 3.1(h), 10.3 and 10.4) and Declaration (Sections 6.1.3, 8.1.3 and 8.9). These sections are given in the Appendix.
4. In addition, the Declaration, Section 8.9, provides that when an amount owed the Association is past due by 30 days, interest accrues at 10% per year beginning on the original due date. Section 8.9 also provides for legal action in the event of nonpayment.

Violations and Fines:

1. For violations that are per occurrence: \$20 initial fine plus \$20 to \$50 per subsequent occurrence of the same violation. Examples are (but are not limited to) violations regarding pets, garbage cans, harming a common element, and noxious activities as defined in our governing documents.
2. For violations of more than one day duration: \$20 initial fine plus \$5 to \$20 for each subsequent day until the violation has been corrected. Examples are (but are not limited to) violations involving signs, carport storage, improper use of common elements, parking, missing or inadequate insurance, improper structural alterations, and improper use of units as defined in our governing documents.
3. In each case where a violation has occurred, the Board shall decide whether the appropriate fine is to be based on either Section 1 or 2 above. In addition, the Board shall have the right to adjust fines and other enforcement measures, and to adjust the length of notice given, to take into account the seriousness of the violation, hazard or harm done to others and to property, and mitigating circumstances surrounding the violation.
4. All fines are subject to a collection policy (attached).
5. If there is a property manager, this individual shall have the authority to act on behalf of the Board unless specific restrictions are imposed by the Board as recorded in their minutes.

Approved by the Association on _____, 2008

Signed: _____, 2008, _____ Chair, Board of Directors

Attested to by: _____, Secretary, Board of Directors

Attachments to this Resolution: Collection Policy and Appendix

Collection Policy:

1. AMOUNTS PAYABLE TO THE ASSOCIATION include, but are not limited to, regular assessments, special assessments, rules enforcement fees, repairs to the common area that are an owner's responsibility, legal fees and other costs associated with collection of funds on behalf of the Association.

2. PAYMENT SCHEDULE. The regular monthly assessment is payable on the 1st of each month. Fees not received or postmarked by the due date will be considered past due. For those paying quarterly, semiannually or annually, the due date is on the 15th of the appropriate month.

3. LATE FEES, NSF & INTEREST CHARGES.

- At the discretion of the Board, a late fee of \$25 may be charged monthly in addition to interest on all delinquent balances.
- An NSF (Non-Sufficient Funds) charge will apply to any returned check when this amount has been assessed against the Association by its financial institution.

4. ORDER OF CREDITING PAYMENTS. Payments received shall be first applied to late charges, interest, and collection expenses, then to assessments owed.

5. LEGAL SERVICES. If a delinquent account is referred to an attorney for collection, the owner shall be charged the Association's reasonable attorney fees and related costs as per Declaration Sections 8.1.3 and 8.9.

6. OTHER CHARGES. The Association may charge the owner for:

- Fees charged to collect funds payable to the Association,
- Liens and collection expenses, including owner bankruptcy,
- Foreclosure action or deed in lieu of foreclosure,
- Notification, filing and satisfying liens,
- Enforcement of the Association's Rules, Bylaws, Declaration or Policies,
- Costs of litigation,
- Repairs to the Association's common areas that result from the acts of owners, their tenants or guests.

7. DEBT COLLECTION OPTIONS. In order to collect a debt owed to the Association by an owner, the following options may be invoked to satisfy that debt:

- Garnishment of owner's wages
- Seizing of owner's personal property
- Collection of rents being generated by owner's unit.

- Foreclosure of owner's unit.
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Appendix: Sections of our Declaration and Bylaws referred to in this Resolution

Section 8.1.3 of the Declaration provides that: "Such annual and special assessments and fines, together with interest thereon and cost of collection thereof as hereinafter provided shall be a continuing lien against the condominium of any owner to whom such assessment and/or fine applies..."

Section 8.9 of the Declaration states that: "if an assessment and/or fine is not paid on the date when due, such assessment and/or fine shall become delinquent and shall, together with interest thereon and cost of collection thereof as hereinafter provided, continue as a lien on the condominium against which such assessment and/or fine as made, and the Association shall comply with the provisions of ORS 91.58 (now ORS 100.450) with respect to such lien. The personal obligation of the then owner to pay such assessments and fines, however, shall remain his personal obligation and the successor in title shall be liable therefor as provided in ORS 91.590 (now ORS 100.475). If the assessment and fines are not paid within thirty days after the delinquency date, the assessment and fines shall bear interest from the date of delinquency at the rate of ten per cent per annum and the Association may bring an action at law against the owner personally obligated to pay the same, or to foreclose the lien against the property."

Section 3.1 (h) of the Bylaws states: "In addition to all other remedies available for the enforcement of these restrictions, the Board of Directors, on behalf of the Association shall have the right:

- (i) to enter the unit in which or as to which such violation exists and to summarily abate and remove, at the expense of the defaulting unit owner, any structure, thing, or condition that may exist therein contrary to the intent and meaning of the provisions hereof, providing, however, that the unit owner has first been given 30 days notice and opportunity to cure, and the Board of Directors shall not thereby be deemed guilty of any manner of trespass; or
- (ii) to enjoin, abate, or remedy such thing or condition by appropriate legal proceedings; and
- (iii) to establish, assess and collect fines for any and all violations."

The Declaration, Section 6.1 states that: "Each owner's right to the use of the common elements shall be subject to the following limitations:" (Subsection 6.1.3 then reads) "The right of the Association to suspend the enjoyment rights of any owner, member of his family, guest or tenant for any period during which any assessment remains unpaid and for any period not to exceed thirty days for any infraction of published rules and regulations."

The By-Laws, Section 10.3 states that: "Each owner agrees that in the event an unpaid assessment or fine becomes a lien upon his/her condominium in accordance with the

provisions of the Declaration and ORS 100.450, that the amount of such lien shall conclusively be deemed to be the reasonable value of such common expenses and fine as are represented by such lien."

The By-Laws, Section 10.4 states that: "In any foreclosure suit against a unit, the owner shall be required to pay a reasonable rental for the unit and the Association shall be entitled to the appointment of a receiver to collect such rental." ..."Any rental received shall be applied first to the costs of renting such units and secondly to the amount of such unpaid assessments and fines thereon."