

Tollgate Property Owners Association

Enforcement of Tollgate Regulations Policy

1/23/2018

Introduction

It is important that positive communication informing an Owner/Resident of a violation and requesting their cooperation is always the preferred approach to compliance. Neighbor to neighbor contact should be pursued prior to initiating the formal complaint process if feasible.

If the possible violation concerns federal, state, county, or local law or involves danger to life or property; the proper authority must immediately be notified by complainant with follow up to the Business Manager and respective TPOA review committee. Therefore, reports of barking/ nuisance dogs are reported by residents directly to County Animal Control. A separate Board resolution regarding a report of miss-treatment or harassment of the Board and/or Staff has been adopted by the Board including its own procedure for review and action. The aforementioned violations may also include immediate review and legal action by the Association attorney.

The Tollgate Enforcement Policy includes a separate process for each of the following possible violations:

- I. Possible Usage Violation.** These include acts that can be described as the way homeowners/residents use the common areas. It also includes the activities they engage in, both on their lot and on common areas and their conduct toward fellow residents. These include, but not limited to, loud noise, speeding, dangerous activities, threatening /harassing residents, vandalism, defacing or misuse of common property.
- II. Possible Land Use/ Dwelling Violation.** These include acts that can be described as the way the Homeowner's lot is developed and maintained. This includes, but not limited to, construction, roofing, fences, screening, setbacks, lot lines, paint colors, common area encroachments, driveways, lighting, tree removal, trash/eyesore, etc.

I. Enforcement Process - Possible Usage Violation

1. Possible violation observed by Complainant (Owner/Resident, Board member, or Tollgate Representative) and reported to Tollgate Business Manager or Board Member or designee.
2. Complainant completes, dates, and signs Report of Possible Violation form.
3. Complainant delivers completed form to Tollgate Office.
4. Tollgate representative makes a cursory check to see if a violation may exist. If no violation is found to exist, it will be noted on the Report of Possible Violation form, reviewed by Board Review Committee (two Board members and a Tollgate Staff member) and placed in the Homeowner file. Complainant is notified of results. Complainant name will not be disclosed during the investigative process other than to TPOA Staff and Board.
5. If in the opinion of the Tollgate representative a violation exists, a curtesy email is sent to the homeowner/resident that a Report of Possible Violation has been received and is being investigated. If an amicable resolution is reached as a result of direct discussion between the Tollgate Representative and the homeowner/ resident, it will be noted on the

complaint form along with a follow-up date indicated to ensure compliance.

6. On the follow up date, if compliance has been completed, the Board Review Committee indicates on complaint form the matter has been resolved and filed in Homeowner's file. Owner/Resident and complainant are sent copies of board review committee findings.

7. Should an amicable resolution be unattainable by person to person contact, or if compliance is not performed or if the suspected violation is in dispute, the Board review committee will review the complaint. If the board review committee agrees a violation exists the Report of Possible violation letter is sent to the Homeowner, via certified mail, allowing the homeowner time to comply with Tollgate regulations. The letter will state the infraction/violation (including reference to relevant CC&R's articles, Bylaws, Board policies) and the due date for compliance. Also included is an advisory that failure to correct the violation within the time period stated above may result in a fine or other sanctions. The due date for compliance is usually at least 30 days from the date of the letter. This letter will also include information regarding how to request a Board Hearing per CCR 10.6, where the issue will be reviewed. The hearing may revise the authorized fine and/or due date. A template of this letter is found in the attachments to this policy. If weather or other circumstances beyond the homeowner's control, impacts the ability for the homeowner to comply, the due date may be extended.

8. Again, if the complaint concerns safety or legal issues such as, but not limited to, Dog at large, speeding, fireworks, unattended burn pile, vehicle blocking roadway, disturbing the peace, etc. it should be immediately reported by the complainant to law enforcement and the Business Manager.

9. If compliance is not achieved by the due date, a second letter is sent, in the format of the first, via certified mail, with a time extension date of $\frac{1}{2}$ the original time limit and a statement indicating the established fine that is authorized.

10. If the infraction/violation continues in whole or in part beyond the second due date, a third letter is sent, in the format of the first, via certified mail, stating a third due date (15 days after 2nd due date) for compliance, and the authorized fine that will be imposed. Also included in the letter will be a statement indicating the imposition of an additional fine of a minimum of \$250, that will be imposed one month after the third due date and increasing \$100 each subsequent month until the infraction/violation compliance has been achieved and fine paid.

11. If the third due date is not met, the file is sent to our Association attorney, who may correspond with the homeowner regarding establishment of a lien against the property per CCR Article 10 or direct other correspondence to the homeowner by the Business Manager. The homeowner will be responsible for all costs associated with staff time, legal fees, materials and equipment for failure to comply beyond the initial due date.

12. Reoccurrence of the same infraction/violation will result in the doubling of authorized fines for each reoccurrence.

All correspondence and determinations documented in all enforcement actions shall be place in the related Tollgate lot file.

**REPORT OF POSSIBLE VIOLATION
Usage / Activities/ Conduct Restrictions**

(Use Separate Report For Possible Design / Construction Conditions Violations)

To: Tollgate Board of Directors Date: _____

From: _____ Lot: _____ Signature: _____

List any witnesses: _____

(The Board Review Committee will not consider a possible violation unless it is reported on this form and signed by the Reporter). Attach additional sheets if needed.

1. Address, location of possible violation: _____

2. Briefly describe what you have observed (including date).

3. Provide the CC&R, Policy, Rule you feel was violated (provide section number, and date/time of possible violation):

4. Provide photographic, digital, or other evidence supporting this report.

5. Has this matter been brought to the Owner's attention? ___Yes ___No
If so, how (i.e., conversation or in writing), by whom, and when?

6. Have Authorities (Sheriff, Fire, Animal, etc.) been contacted? ___Yes___ No Date: _____

7. Desired action:

-----**END OF REPORT OF POSSIBLE VIOLATION**-----

For use by the Board:

Contact Made By: _____ Date: _____

Board Review Committee investigated on _____ (date) and found the following:

Describe any written or verbal communication the Board Review Committee had with the Resident/ Owner prior to receipt of the current report or during the investigation regarding this matter:

Board Review Committee proposes to the Board:

___ No further action

___ Board to send written notice to Resident/Owner of violation and request compliance

___ Board to send written notice to Owner and advise of potential fine

___ Board to send written notice to Owner of fine imposed in amount of \$ _____

___ Other: _____

Board Review Committee members that participated in reviewing report:

Confirm copy provided to Reporter if no violation found:

**Tollgate Property Owners Association
15004 Saddle, Sisters, OR 97759 541.549.7962**

**NOTICE OF VIOLATION AND REQUEST FOR COMPLIANCE
Usage / Activities/ Conduct Restrictions**

Date: _____

Dear _____ Lot _____

This is to inform you of a matter needing your attention. This matter was, brought to your attention by _____ (name/s) on _____ (date) through telephone and/or e-mail. A Report of Possible Violation was filed with the Business Manager and investigated by the Board Review Committee and their findings are available to you by contacting the Tollgate Business Manager.

It appears that you are not yet in compliance with the attached TPOA policy(s), the CC&Rs, and/or By-Laws, and that corrective action is necessary.

The Board requests that you correct the violation by _____ and would sincerely appreciate your voluntary compliance with this request.

A correction may be affected by performing the following:

- 1.
- 2.
- 3.

Please be advised that failure to correct the violation within the time period stated above may result in a fine or other sanctions:

If you have additional information or rationale that you would like to present, you may request a hearing with the Board Review Committee by checking the box below, and signing and returning this letter to Tollgate Business Manager within 15 days of your receipt of this letter. If a hearing with Board Review Committee does not resolve the matter, then you may appeal their decision to the Board of Directors by making a written request within 10 days after the hearing, with the Tollgate Business Manager to further review this matter and explain your position.

Thank you for your cooperation.

Tollgate Business Manager

Board Member

Board Member

Yes, I request a hearing with the Board Review Committee

_____(signature) _____(phone #)

Attachment 1: Page(s) from CCR's, Policy and/or By-Laws

II. Enforcement Process - Possible Land Use/Dwelling Violation

1. Possible violation observed by resident, staff, Board member.
2. Complainant to complete and sign Report of Possible Violation form and deliver it to Tollgate Office. Complainant name will not be disclosed during the investigative process other than to TPOA Staff and Board. Tollgate representative makes a cursory check to see if a violation may exist. If no violation is found to exist, it will be noted on Report of Possible Violation form, reviewed by the PLURC and placed in the Homeowner file and Complainant is notified of results.

If in the opinion of the Tollgate representative a violation exists, a curtesy email is sent to the homeowner that a Report of Possible Violation has been received and is being investigated.

- a. If the possible violation is difficult to correct (i.e. Improperly placed foundation, or driveway), the Office Manager immediately contacts the Planning and Land Use Review Committee (PLURC) to review the alleged infraction and if complaint appears to be valid, a written notice (email) will be delivered to homeowner and contractor within 14 calendar days.
 - b. If the possible violation is not difficult to correct, the Tollgate Business Manager contacts (email) the Owner and Contractor to inform them that a Report of Possible Violation has been received and reviewed.
3. If in the opinion of the Tollgate Business Manager an amicable resolution is reached as a result of direct discussion it will be noted on the complaint form along with a follow-up date indicated to ensure compliance. If compliance has been achieved by the follow-up date; it is so noted on the complaint form.

4. Should a resolution not be reached, if compliance is not performed, or if the suspected violation is in dispute, the PLURC will verify its validity. If it is agreed a violation exists, the Report of Possible Violation letter is reviewed by a minimum of two Board members and sent to the Homeowner, via certified mail, and may include a copy to the Contractor stating the due date for compliance. Further construction/activity shall stop immediately except for compliance activities. The letter will state the infraction/violation (including reference to relevant CCR's articles, Bylaws, Board policies) and the due date for compliance. The due date for compliance will be determined by the PLURC. This letter shall include fines that can be levied for non-compliance. This letter will also include information regarding how to request a Board Hearing per CCR 10.6, where the issue will be reviewed. The hearing may revise the authorized due date for compliance and/or fine amount.

If weather or other circumstances beyond the homeowner's control, impacts the ability for the homeowner to comply, the due date may be extended.

5. If compliance is not achieved by the due date, a second letter, via certified mail, is sent indicating the established fine that is being levied for non-compliance.
6. If the second due date and/or fine is ignored, the file is sent to our Association attorney, who may correspond with the homeowner via certified mail regarding establishment of a lien against the property per CCR Article 10 or direct other correspondence, via certified mail, to the homeowner by the Business Manager. The homeowner will be responsible for all costs associated with staff time, legal fees, materials and equipment for failure to comply beyond the initial due date.
Reoccurrence of the same infraction/violation will result in the doubling of authorized fines for each reoccurrence.
All correspondence and determinations documented in all enforcement actions shall be placed in the related Tollgate lot file.

**REPORT OF POSSIBLE VIOLATION
Of Land Use / Dwelling Conditions**

(Use Separate Report For Possible Usage/ Activities/ Conduct Violations)

To: Planning and Land Use Review Committee (PLURC) Date: _____

From: _____ Lot: _____ Signature: _____

(PLURC will not consider a possible violation unless it is reported on this form and signed by the Reporter). Attach additional sheets if needed.

1. Address of possible violation: _____

2. What have you observed? (use additional sheets if needed)

3. Provide the CC&R, Policy, Rule Violated (provide section number, and date/time of possible violation):

4. Provide any photographic, digital, or other evidence supporting this report.

5. Has this matter been brought to the Owner's attention? ___Yes ___No.
If so, how (i.e., conversation or in writing), by whom, and when?

6. Desired action:

-----**END OF REPORT OF POSSIBLE VIOLATION**-----

For use by the: PLURC

Contact Made By: _____ Date: _____ PLURC members reviewed the Report of Possible Violation on _____ (date) and found the following:

Describe any written or verbal communication the PLURC had with the Owner/ Contractor prior to receipt of the current report or during the investigation regarding this matter

PLURC proposes to the Board:

___ No further action

___ Board to send written notice to Resident/Owner of violation and request compliance

___ Board to send written notice to Owner and advise of potential fine

___ Board to send written notice to Owner of fine imposed in amount of \$_____

___ Other: _____

PLURC members that participated in reviewing report:

Confirm copy provided to Reporter if no violation found:

**Tollgate Property Owners Association
15004 Saddle, Sisters, OR 97759 541.549.7962**

NOTICE OF VIOLATION AND REQUEST FOR COMPLIANCE
Land Use / Dwelling Conditions

Date: _____

Dear _____ Lot _____

This is to inform you that the Planning and Land Use Review Committee (PLURC) has brought to the Board's attention, your noncompliance with the attached TPOA policy(s), the CC&Rs, and/or By-Laws. A copy of the pertinent page(s) is enclosed for your convenience. This matter was brought to your attention by _____ (name/s) on _____ (date) through telephone and/or e-mail.

At least two elected members of the Board have reviewed the PLURC findings and concur that a violation continues to exist and that corrective action on your part is necessary. The Report of Possible Violation and the PLURC findings are available to you by contacting the Tollgate Business Manager.

The Board requests that you correct the violation by _____ and would sincerely appreciate your voluntary compliance with this request.

A correction may be affected by performing the following:

- 1.
- 2.
- 3.

Please be advised that failure to correct the violation within the time period stated above may result in a fine or other sanctions.

If you have additional information or rationale that you would like to present to the PLURC, please indicate your desire for the PLURC to reconsider its decision. You may request a hearing with the PLURC by checking the box below, and signing and returning this letter to the Tollgate Business Manager within 15 days of your receipt of this letter. If a hearing with the PLURC does not resolve the matter, then you may appeal their decision to the Board of Directors by making a written request within 10 days after the decision of the PLURC, with the Tollgate Business Manager to further review this matter and explain your position. Thank you for your cooperation.

Tollgate Business Manager
Phone: _____

Board Member

Board Member

Yes, I request a hearing with the PLURC. Signed: _____

1 Attachment: CCR Sections

Types of Infractions and Violations and Associated Authorized Fines

The following types of infractions/violations are not exhaustive of all that may occur, but serve as types most common that may be found in Tollgate regulations.

Authorized Fines (per infraction) Related to infractions on Common Areas and of the rules and regulations governing such:

1. Destruction, vandalism or defacing of Association Property

These including but are not exclusive to Buildings and facilities, Signage, Roadways, Fire Hydrants, Benches, Equipment, Systems, etc.

A fine of \$500 to \$1,000, in addition to the Association filing charges with the local law enforcement agency.

2. Animal,

These include but are not exclusive to aggressive dogs (\$250), unsafe horses handling (\$250), mistreatment of native animals (\$100), others (\$100)

3. Vehicles,

These include but are not exclusive to, Licensed vehicles, Parking, Noise, Bicycle Use, Scooters, Non-licensed motorized vehicles (\$50), exceeding posted speed limit (\$100)

4. Safety,

These include but are not exclusive to, Sports, Games, Sledding, etc.(\$50) , Fireworks, use of weapons, including but not limited to: explosives, guns (including air pistols and air rifles), and any weapon defined in ORS 161.015 (\$250)

5. Unauthorized uses of the common area.

These include but are not exclusive to, destruction of, fencing, landscaping, non-approved driving upon and tree removal (each \$250 to \$1,000).

Authorized Fines (per violation) Related to violations occurring on Owners lots: Non-qualifying and/ or prohibited Improvements, Activities, Conditions, and Nuisances, pursuant to the Tollgate Property Owners Association and Tollgate Water Company Bylaws and Declarations, Restrictions, Protective Covenants and Conditions and Policies.

The following types of violations on an owner's lot are not exhaustive of all that may occur; but serve as types most common that may be found in Tollgate regulations.

1. Non-qualifying and prohibited Improvements: All restrictions on use of property, but not limited to those found in CCR Article 7.1 through 7.8, 9.1, 10.1, Bylaws and Policies (\$150)

2. Non-qualifying and prohibited Activities: All restrictions on use of property, but not limited to those found in CCR Article 7.9 through 7.12. , Bylaws and Policies (\$150) Tree removal (\$250-\$1,000)

3. Non-qualifying and prohibited Conditions: All restrictions on use of property, but not limited to those found in CCR Article 7.13 through 7.18 , Bylaws and Policies (\$150)

4. Nuisances: All restrictions on use of property, but not limited to those found in CCR Article 7.9 (\$150)

5. Vandalism of another owner's property, \$500 to \$1,000 per violation, in addition to the Association facilitating the filing of charges with the local law enforcement agency.

The Board may also increase the fine by the indicated amount for any of the following conditions that they find to occur at the time of the violation:

1. Physical threat (including fire) to any adjacent property existed. Fine plus 100%.

2. Threat to personal safety of staff or other owners or tenants existed. Fine plus 100%.

3. Disturbing the peace (per ORS 165.023-.070) of other owners or tenants existed. Fine plus 50%.

The Board also has the authority to prohibit a homeowner/resident from common areas. Examples include but not limited to acts of Tollgate property vandalism, harassment or assault of staff, Board Members and Tollgate volunteers (Bylaw 7.6.1).

Bylaw Reference:

7.6. ENFORCEMENT. The Board shall have the authority to make and enforce reasonable rules and regulations governing the conduct, use, and enjoyment of Lots and Common Areas, provided that copies of all such rules and regulations be furnished to all Owners. However, any rule or regulation may be repealed by the affirmative vote of a majority of the eligible Members of the Association at a Special Meeting at which the repeal of any rule or regulation is to be considered by the Members. The Notice of a Special Meeting shall state that the repeal of a rule or regulation shall be considered and voted on at such Meeting.

7.6.1. The Board shall have the power to impose reasonable fines and to suspend a Member's right to vote or to use Common areas for violation of any duty imposed under the Declaration, these Bylaws, or any rules or and regulations duly adopted hereunder. However, nothing herein shall authorize the Association or the Board to limit ingress and egress to or from a Lot. In the event that any occupant of a Lot other than the Owner violates the Declarations, Bylaws, or rule or regulation, and a fine is imposed, the fine shall first be assessed against such occupant. However, if the fine is not paid by the occupant within the time period set by the Board, the Owner shall pay the fine upon Notice from the Association. Any unpaid fine shall be processed to become a Lien upon the Lot as provided for in Article 6 of the Declaration.

7.7. NOTICE, HEARING

7.7.1. NOTICE. In the event a rule or restriction contained in the Declaration, these Bylaws, or a rule or regulation adopted pursuant thereto is violated, the Board shall serve the violator and/or Owner with written Notice sent by certified mail return receipt requested, which shall contain:

7.7.1.1. The nature of the alleged violation;

7.7.1.2. The proposed sanction to be imposed;

7.7.1.3. A statement that the violator may challenge the fact of the occurrence of a violation, the proposed sanction, or both;

7.7.1.4. The name, address, and telephone number of a person to contact to challenge the proposed action; and

7.7.1.5. A statement that the proposed sanction shall be imposed not less than ten (10) days from the date of certification.

7.7.2. HEARING. If the alleged violator and/or Owner challenges the proposed action within the time period allowed, a Hearing before the Board shall be held in Executive Session affording the alleged violator and/or Owner a reasonable opportunity to be heard. The Hearing shall be set and Notice of the time, date and place of the Hearing and an invitation to attend the Hearing and produce any statements, evidence, and witnesses shall be sent to the alleged violator and/or Owner. The Hearing shall be set at least 10 days from the giving of the notice. Prior to the effectiveness of any sanction hereunder, proof of Notice shall be placed in the minutes of the Hearing. Such proof shall be deemed adequate if a copy of the Notice, together with a statement of the date and manner of delivery, is entered by the officer, Director, or designated agent who delivered such Notice. The Notice requirement shall be deemed satisfied if a violator appears at the Hearing. The minutes of the Hearing shall contain a written statement of the results of the Hearing and the sanction(s), if any, imposed.