

PREAMBLE (Introduction to Proposed Rules and Regulations)

The Mullan Owners Association Board of Directors, by Resolution 2019-04, created a Committee to formulate and recommend Rules and Regulations consistent with the Declaration and Bylaws of the Association. The goal is to have reasonable, enforceable Rules that are understood, followed, and supported by our Association.

DECLARATION and BYLAWS (CCRs) - Copies of Covenants of the Association dated 2012 were given to each of us before we bought a condo here. These contain Association basic rules, which have not been amended and must be understood, followed, and enforced. Amending the Declaration requires approval of at least 75% of the ownership interest in the Association.

Upon acceptance of ownership, each owner became a member of this Association. (Declarations, 8.1)

Covenants of our Association haven't been consistently applied, understood, or enforced in the past. This has created problems of ill will and misunderstanding. For the good of our community, we must understand, follow, and enforce our covenants going forward.

No owner, tenant, property manager, or Board member (prior or current) has authority to change, ignore, or offer any exception to the covenants without approval(s) outlined in the Declaration/Bylaws. Individual exceptions that may have been granted in the past without proper authority and/or without supporting (written) documentation are contrary to the provisions of the Declaration and our common interest.

A modification process has been created by the Committee for the purpose of obtaining written approval. A form, available on the web site or from the Property Manager, needs to be prepared for each modification. Those requests will be submitted in writing to the Property Manager who will forward them to the board for approval. Copies will be maintained by the Secretary of the Association and are available for any Member, at his or her request. No modification should begin until approved by the Board.

While developing Rules and Regulations, the Committee found some unit and common element modifications, even though approved, are without documentation to support them. The Committee recommends as soon as practical after adoption of the final Rules, the Board (or its designee) contact the specific Unit Owner(s) to review modifications made and document them.

PROPOSED RULES AND REGULATIONS (Formulated and recommended to the Board)

Our Declaration and Bylaws give the Mullan Owners Association Board of Directors authority to adopt Rules and Regulations. (Declarations 8.6 & 12.7, Bylaws Article IX).

Committee-proposed Rules are being presented here for the 20-day review and comment period required by Board Resolution 2019-04. Many of these Rules are verbatim from the Declaration, not made up by the Committee. All Members are encouraged to take this opportunity to review and comment on them. We look forward to hearing from each of you.

Comments must be in writing and include your name and unit number. Anonymous comments will not be considered.

After the comment period, the Committee will incorporate any changes approved by the Board, final Rules will be adopted, and the Membership will be sent copies. New Rules replace any previous Board-adopted Rules and remain in effect unless or until amended or rescinded by the Mullan Owners Association Board of Directors.

Enforcement of Rules will begin immediately upon adoption by the Board and notification of the Membership.

It is the responsibility of each resident, whether an Owner or a Tenant, to become familiar with the Rules and then abide by them. It is the Owner's responsibility to provide a copy of Association Rules to their Tenant(s). An Owner selling or conveying his or her unit is responsible for providing the prospective buyer (new Owner) with a copy of Association Rules before transferring ownership. Owners of units with Modifications are also responsible for providing copies of the Modification forms to prospective owners before that unit sells and/or title conveys to new ownership.

Voluntary compliance with Association Rules is crucial to maintain a high standard for our property and foster good community relations.

An Enforcement Policy is necessary, but our hope is it will have to be used infrequently. Enforcement will be consistent and applied fairly. The Enforcement process is membership-driven and outlined in the Rules section on Enforcement. Complaints must be in writing with details outlined in the Rules on Enforcement. In order to be consistent, verbal and/ or anonymous complaints are not allowed.

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Many of the Rules are based on the First Amended and Restated Declarations for Mullan Heights Condominiums. When so noted, the Declarations, and therefore the rule, may only be amended by the affirmative vote or written consent, or any combination thereof, of seventy five percent (75%) of the total % of interest of the Association. (Declaration 9.2).

Ownership

1. Units are to be used for lawful residential purposes only. (Declaration 7.4.1)
2. Unit Owners shall maintain and keep in good repair their own Units. (Declaration 6.2)
3. Your monthly assessment is due on the 1st of the month and is past due by the 5th. All special assessments and fines are due when indicated, and past due 5 days after the indicated date. Past due amounts are subject to interest and penalty charges. (Declaration 8.6)
4. Rentals/Leasing of Units must be for at least 6 months (no short-term rentals). (Declaration 10.1) A copy of these Rules and Regulations and other relevant Association documents must be provided to the tenant when they sign their lease. The Unit Owner is responsible for all actions taken by their tenants, and the Unit Owner shall be the prime contact for the Association.

Comment: The Declarations and the Bylaws continually refer to Unit Owners, not agents of the owners. While an agent may be listed as a point of contact and may be the person paying the monthly assessments, the Unit Owner is ultimately responsible for the actions of its tenants.

5. Nothing shall be altered, or constructed in, or removed from the Common Elements, except upon the written consent of the Board (Declaration 7.4.5). This includes any modifications to the electrical lines, pipes, or ducts themselves within your Unit (changes to fixtures are not included).

Comment: Declaration 4.5 defines the boundaries of your Unit as the interior surfaces of its perimeter walls, floors and ceilings. It also includes outlets of utility lines, but not the lines, pipes, or ducts themselves (Declaration 4.5.2). Liability for any damage caused to the building by changes to the Common Elements will reside with the Unit Owner. Future installations of water softeners will not be permitted due to lack of adequate drainage for the flushing of the water softener.

6. All changes to flooring in any Unit require written consent of the Board. In all cases, steps must be taken to mitigate the noise impact to the Unit below you. When replacing carpeting with hard surface flooring, appropriate sound dampening underlayment layers must be included. For a discussion of how to mitigate the noise, see a website such as <https://www.noisehelp.com/soundproofing-a-floor.html>.

Comment: Our research has shown that noise is the number one complaint in condominiums. If not done properly, replacing one type of flooring with another can be a noise nuisance to the floors below (Declaration 12.3). This rule helps to protect the value of all of the Units in the building.

7. No Unit Owner shall cause or permit anything to be hung or displayed or placed on the outside of windows, or placed on the outside walls or roof of the building, without the prior written consent of the

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Association. This includes, but is not limited to, decorations, pieces of art, real estate signs, “for rent” sign, air conditioning, awnings, canopies, antennas, satellite dishes, etc. (Declaration 7.4.3)

Comment: No holes shall be made in any of the exterior walls (siding) to permanently attach any item, as such holes would affect the integrity of the building. This includes mounting for flag poles.

Satellite Dishes: Per Section 7 of the Telecommunications Act of 1996 and amended in 1999 the Association cannot prohibit anyone from installing a satellite dish in an area which they have exclusive use of (a deck or patio). However, all rules pertaining to the Common Elements are still enforceable. The dish may not be permanently attached to any portion of the exterior of the building, no holes may be made through the siding for the cable runs and the dish must not protrude beyond your porch or balcony.

8. Nothing may be done inside the Units, or to the Common Elements which may impair the structural integrity of the building. (Declaration 7.4.4). Additionally, no structural modification of any Unit or Common Element may be made without the written consent of the Association (Declaration 12.2).
9. No exterior alterations may be made to any Common Element without prior written approval of the Board. (Declaration 13.2).

Comment: Common Elements include both General and Limited Common. General Common Elements mean all those Elements which are for the use of all Unit Owners. Limited Common Elements are the area reserved for your own use to the exclusion of others, for example your deck, porch or patio (Declarations 3.5, 3.5.1 & 3.5.2). The Board will determine if the alterations are consistent with the look of the building and that the changes are easily maintained. If approval is granted, the Unit Owner and subsequent Unit Owners will be responsible for maintaining the changes in an “as new” appearance or all alterations will be removed at the Unit Owner’s expense. Any plants that are added to the landscape must be maintained such that there is a distance of 4 to 6 inches from the building. The Unit Owner or their successors will be solely responsible for any and all costs related to maintenance and/or removal of exterior alterations made by the Unit Owner (Declaration 6.1.2-3).

10. If the Unit Owner does not receive proper approval PRIOR to any work done on their Unit, the Board may fine the Unit Owner and/or require that the work be undone and the modifications restored to the prior condition (Declaration 8.5).
11. Storage Units located in the north side building should be used for storage of non-toxic, non-hazardous items only. Storage of flammable/volatile/toxic items (e.g., gasoline and other fuels, fireworks, any explosive substances) are prohibited.

Comment: This is a potential fire hazard as these buildings are left unattended for lengthy periods and can get very hot.

12. Each Unit Owner shall have their dryer vent professionally cleaned no less frequently than every 3 years, and provide evidence of such to the Association. (Resolution 2017-07).

Comment: This is a potential fire hazard and the general recommendation is to clean dryer vents yearly.

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13. Each Unit Owner is responsible for ensuring their Unit has both property and liability insurance in effect at all times, and all policies must name the Association as an additional named insured. In the case of a Unit which is rented, the Unit Owner shall obtain and maintain landlord insurance for their Unit, and require their tenant(s) to each obtain and maintain a renter's policy for the Unit. In the event that the Unit Owner does not ensure the renter maintains a policy, the Unit Owner acknowledges that they are solely and totally responsible for any losses suffered through the activities of their tenant. Unit Owners for non-rented Units shall obtain and maintain condominium insurance for the Unit. Proof of all insurance policies (including the named insured) must be provided to the Association by the Unit Owner within 30 days of the date this rule is adopted, and within 30 days of any change in ownership/residency. (Resolution 2023-03).

Comment: Adding the Association as a named insured is simple and free, and allows the Association to ensure each resident is maintaining their policy. Unit Owners with tenants must manage this. Failure to ensure the tenants meet the requirements will result in enforcement against the Unit Owner. Both this and the following rule are being adopted in order to try and limit the exposure of all residents to issues caused by others, pursuant to the authority granted the board by Declarations 8.2.2 and Bylaws 4.1.

14. If actions within a unit, by a resident, guest or owner of a unit, (including negligent or improper installations or modifications to a unit), result in costs to the Association, the Unit Owner is responsible for those expenses. This includes costs associated with damage, cleanup, repair, and/or replacement. Those costs shall be assessed as Limited Common Element Expenses, per Declaration 8.7.6.

Comment: While this is just common sense, we have experienced cases where it has been difficult to collect from those responsible for damage. The wording of this rule is broad intentionally, to allow for many unforeseen incidents to be covered. There is no intent to charge owners for anything which would be considered normal wear and tear of the building.

15. Each Unit Owner is responsible for providing complete and up-to-date information forms within 30 days of this rule being adopted, and within 30 days of any change of occupancy (includes change of tenants) of their unit, or upon replacing a vehicle parked on the premises. The required information forms will be available as part of the Association's welcome packet, and may be downloaded from the Association's website.

Comment: The board has been, with increasing frequency, subjected to complaints about residents, pets, and vehicles which the board has insufficient information to address. In some cases, the owners or residents have simply refused to provide the pertinent information. The information forms (one for owners, another for non-owner residents) will hopefully resolve the lack of information issue, and making the provision of data a rule allows us to penalize those who fail to comply.

Activities

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1. No unlawful activity shall be carried on in any Unit or upon the Common Elements nor shall anything be done which may become an annoyance or a nuisance to the Unit Owners of the Condominium. (Declaration 12.3)

Comment: Unlawful is self-explanatory.

*What's A Nuisance? "...a nuisance typically consists of one or more of the following issues:
--an activity that unreasonably interferes with the use or quiet enjoyment of another resident of their separate interest or exclusive use common area;
--a use that creates conditions that are hazardous, noxious or offensive; or
--a violation of a local, state or federal law..."* Source: echo-ca.org

What is an annoyance or nuisance to one person could be fine with another. We share walls, ceilings, and floors; we share common areas (also called Common Elements); we share the air we breathe. Each Unit Owner has the "undivided and inseparable right to share with other Unit Owners the Common Elements" of Mullan Heights. (See Article 1 of the Declaration). NOTE: Common Elements include General as well as Limited Common Elements.

The Rules Committee believes most annoyance/nuisance issues can be resolved amicably between neighbors. Please think about what you are doing and how it might be affecting your neighbors. What could seem perfectly ok to you might actually be creating problems. For example: What you sweep or allow to fall from your patio/deck can end up on your neighbors' patio/deck below.

2. No unreasonably noisy activity shall occur in or on the Common Elements or in any Unit at any time. Disputes among Unit Owners which cannot be amicably resolved, shall be arbitrated by the Board. (Declaration 12.3)

Comment: Our Units are not completely sound proof. The Board is not a police force and it cannot limit individual rights to enjoy private space. It is up to each of us to be good neighbors. We live in very close proximity to one another. We need to protect quiet enjoyment for each other as much as possible and within reason. Noise cannot be completely eliminated and is often temporary. Get to know your neighbors. Ask if anything you are doing is bothersome and try to work it out.

Requests for Board assistance must be made through the property manager.

3. No Unit Owner shall do or permit anything to be done or keep or permit to be kept in his Unit or on the Common Elements anything that will increase the rate of insurance on the Condominium without written approval of the Board. Each Unit Owner who causes such an increase shall pay to the Association the increased cost of insurance premiums resulting from any such activity or the maintenance of any such condition even if approved. (Declaration 12.3)
4. Activities that are deemed offensive and are expressly prohibited include, but are not limited to the following: any activity involving the use of firearms, fireworks, air rifles, pellet guns, B-B guns, bows and arrows, or other similar dangerous weapons, projectiles, or devices. (Declaration 12.3)

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5. Owners, residents, guests, visitors, and/or tenants may not do or permit anything which would impede the safety and security of the building or its tenants. This includes but is not limited to: leaving the garage door open, leaving the elevator locked on a floor, leaving the security doors or perimeter gate open while unattended, tampering with security cameras, obstructing the garage door sensor, breaking into locked areas, giving out security codes for the garage, entryway doors, & perimeter gate, and/or other disruptive behaviors. If you are putting your condo on the market for sale or for rent, then you must contact the property manager to obtain a special access code for the entry doors. Do not give out the code reserved for owners to anyone unless you know and trust them. Examples include but are not limited to family members and caretakers.

Comment: As a community, we have taken measures and invested money to protect our property and ourselves. Circumventing security measures makes the property less safe, can damage expensive equipment (which is costly to replace/repair), and in many instances, it is unlawful.

6. Smoking/Vaping will not be permitted inside ANY common area within the buildings, including the parking garage. (Per Board Resolution 2018-09 with the addition of Vaping)

Comment: Exposure to second hand smoke is a known health hazard. Fire hazards & increased maintenance and cleaning costs are other issues commonly referenced as reasons to limit smoking areas in condo associations.

Pets

1. No animals, other than domestic household pets shall be maintained by a Resident, with no more than one domestic dog, two cats, fish in aquariums, or small birds inside bird cages. (Declaration 12.4)
2. Domestic dogs cannot exceed fifty (50) pounds. (Declaration. 12.4).
3. All permitted pets and their owners will be subject to the noise and nuisance restrictions. (Declaration 12.4)
4. No pet shall be housed outdoors. (Declaration 12.4)
5. Pets must be on a leash when outside the Unit and on Mullan Heights Property. (Declaration 12.4)
6. Pet owners will promptly clean any mess left by a pet on the Property. And will be responsible for damage and wastes caused by such animals. (Declaration 12.4)
7. Any Pet Owner who allows animals to be brought upon the Property shall indemnify and hold harmless the Association from any loss, damage, or liability which the Association may sustain as the result of the presence of such animals on the Property. (Declaration 12.4)
8. Any pet kept by a Resident must be in compliance with applicable ordinances of the City of Missoula.
Comment: This has been added to protect our Association from any liability.
9. Owners of pets shall bear full liability for all damages to persons or property resulting from actions of those pets.

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Comment: Each Resident is required to carry liability insurance which protects in such a case. This is an additional reminder for Residents to make certain this is being done.

Aesthetics

1. Common Elements shall not be used for storage, materials, personal property or trash or refuse of any kind. (Declaration 12.5)
2. No unsightly conditions shall be maintained in Limited Common Elements, and only appropriate furniture and equipment consistent with normal seasonal use may be permitted to remain there. (Declaration 12.5)

Comment: Bikes are not to be considered “seasonal equipment”. They can be stored in your storage Unit, in the bike rack, or in the garage in front of your vehicle.

3. Barbeque grills are expressly prohibited in any Unit, or any Common Element with the exception of exterior decks and patios. (Declaration 12.5 with the added word “patios”)
4. Drying, shaking, or airing of clothing or other fabrics is expressly prohibited on the Common Elements. (Declaration 12.5)
5. Any activity which is detrimental to the appearance of the Condominium is prohibited. (Declaration 12.5)
6. No signs or advertising shall be displayed which are visible from the exterior of a Unit without prior written permission from the Board. (Declaration 12.5)
7. Postings of signs to the lobby bulletin board. No political or religious signs are allowed. Signs should be of general interest, must be dated, signed, and must be removed after 14 days. Any sign is subject to removal at the Board’s discretion. (This was a rule effective 10/1/2017)

Garage and Parking Areas

1. No cars that are not regularly used by a Unit Owner may be stored anywhere on the property. The Board may establish such other reasonable rules and regulations concerning parking as it deems reasonable. (Declaration 12.8).

2. All vehicles must be currently licensed and maintained in good operating condition.

Comment: This rule is consistent with the “declaration” that all cars must be regularly used by the Unit Owner.

3. In order to keep parking areas from deteriorating and in deference to all the members of the Association, owners are responsible for cleaning up oil, anti-freeze or other fluid leaks from their vehicles in all parking areas, including the basement. Vehicles with chronic leaks shall be repaired. Upon complaint of violation, the enforcement provisions of these rules will be enforced up to and including removal from the property, at the Unit Owner’s expense.

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Comment: This rule proposed by the Rules Committee is to both preserve as long as possible the concrete in the parking garage and the asphalt in the outside parking area. It is also to help prevent anyone slipping and falling, to protect our pets and to keep our common areas safe and attractive.

4. Only minor mechanical or maintenance work on any vehicle, RVs, trailer, ATV or boat is allowed on Mullan Heights property. All other mechanical or maintenance work must be accomplished off the property, including all oil and fluid changes.

Comment: Again, we are making rules that affect all of the Association's members and cannot make exceptions for one or two people. Hence a hard and fast rule.

5. No RVs, trailers, ATVs or boats may be parked in the parking garage. No RVs, trailers, ATV or boat may be parked in the parking lot for more than 48 hours or on a routine basis. Camping is not permitted on Mullan Heights property.

Comment: All RVs, trailers, ATVs and boats must fit in one parking space. Because there is extremely limited parking, you cannot take up two spaces. This may be an inconvenience for the owner of the travel trailer, but when a member is looking for a space, what is appropriate for the whole has to prevail.

6. All vehicles parked in the garage or in the parking lot must fit within the confines of the parking space. Under no circumstances can any vehicle be allowed to protrude into the driving lane so as to impede traffic, nor should any vehicle impede access to any neighboring vehicles. The Board reserves the right to re-assign garage parking spaces at any time to meet the needs of the Association and its members.

Comment: No reassignment will be arbitrarily made by the Board. Reassignments may be necessary to accommodate a members' disability as an example. In all circumstances, the Board will discuss the reason for reassignment with any member who the Board would like to reassign, in hopes of accommodating also the member being reassigned.

7. Each Unit is assigned one (1) parking space in the garage with the exception of Unit 111 (which has no spot in the garage). Except for Unit 111, each Unit also is allowed the use of one (1) unassigned parking space in the parking lot. The parking spaces in the lot are for the common use of all residents and visitors. Due to the limited number of spaces available in both the garage and outside lot, each Unit is allowed ONLY two (2) spots.

Comment: Much to all of our chagrin, the builder was allowed to build with limited spaces for parking. Because of the winters we have, each Unit is allowed one space in the basement. Because of the limited space, if you have two vehicles, we ask that one always be parked in the basement. The basement is short one space for each Unit to be assigned one. Therefore, Unit 111 is allowed to park two vehicles in the parking lot. All Units are allowed only two vehicles otherwise it would not be fair to the rest of the owners, when sometimes the lot is full and those with only one car allows us to accommodate visitors. Parking will always present some challenges, but hopefully as good neighbors we will accommodate each other.

8. Each resident is responsible for keeping their assigned garage space swept and clean of dirt and debris. Shovels and buckets are provided at each end of the garage. Please empty the bucket into the outside

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dumpster when finished and return all tools to their place. These tools are provided for this purpose only and should not be removed for any other individual use.

Comment: Self-explanatory

9. Speed limit in garage and parking lot is 5 mph.

Comment: Self-explanatory

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Enforcement

Believing it is the desire of the Association, it is the intent of the Rules Committee that our Rules and Regulations be primarily a matter of common sense, safety and those required by the Declarations and By Laws. Because we are living extremely close to each other and we each have a common interest in continuing to keep each of our ownership interests as a great investment being good neighbors should always be the starting point of any enforcement policy. It is with that in mind these rules on enforcement were drafted.

1. If you personally become aware of an infraction of a rule, in a neighborly way please advise your neighbor of the infraction.

Comment: because ownership interests always change, everyone may not be as aware of the rules as you and may not realize that this association enforces our Rules and Regulations. A “friendly” reminder may be all that is necessary.

2. If it becomes necessary to file a complaint to the Board (or Complaint Review Committee) the following will apply:
 - The complaint (on a form provided on our website or requesting it from our property manager) needs to state the rule # being violated, explain the exact nature of the infraction, the unit # causing the infraction and the number of times you are aware the infraction has occurred if more than once. The Complaint Form must be signed by the complainant and identify the complainant’s unit number. The complaint should then be emailed, as an attachment to rules@mullanheights.org, or placed in the mail to our property manager.
 - Regardless of the nature of the complaint or the rule allegedly violated, a copy of it will be provided to the unit of the alleged violation with an indication of the remedies allowed for future violations.
 - Any Unit Owner who receives a complaint should respond on the complaint form and should email the signed and dated response to rules@mullanheights.org or mail it to our property manager. Any response must be received by the Board (or Complaint Review Committee) within 10 days of the Unit Owner receiving the complaint. If a response is not received, it is assumed you agree with the complaint and will accept the violation.
3. Procedure for violation of rules that are disputed and remedies.
 - The Complaint Review Committee, appointed by the Board, will consider all disputes as to rules violations. The majority decision of the committee shall prevail, and there is no appeal.
 - The Complaint Review Committee shall provide a written decision to the complainant and to the alleged unit in violation and will file the determination in the Association records for review and to enable consistency for any future violation of the rule by any unit.
4. Remedies of the Complaint Review Committee.
 - First violation by a Unit, you will be provided a copy of the complaint from the Complaint Review Committee to which you can respond so it is a matter of record.

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- Second violation by a Unit of the same rule, or another rule, if there has been a determination of violation a fifty dollar (\$50) fine.
- Third violation by a Unit of a violation of the same rule, or another rule, if there has been a determination of violation, a one hundred dollar (\$100) fine.
- A fourth violation by a Unit of a violation of the same rule or another rule, and there has been a determination of violation, a two hundred fifty (\$250) fine, and shall be turned over to the Board and its attorney. Any violation beyond the fourth violation, The Board has authority, in its discretion, to direct additional remedies consistent with the law.

The above rules will be enforced ONLY by a complaint being filed as set forth above. All complaints of rules and responses thereto are available to all unit owners.