

## SMRC Non-compliance Remedial Process

1. A SMRC Member files a complaint regarding another SMRC Member not being in compliance with the current Rules and Regulations, By-Laws or CC&Rs.
  - A. The Member submits a formal complaint to any board Member or officer, or through regular mail to SMRC, P.O. Box 24  
Winthrop, WA 98862, WA 98862
  - B. The formal complaint can use the complaint form found on the SMRC website to report the non-compliance, or the owner can write a letter or an email. The complaint must provide all the information specified in the form:
    1. Concerned Member Name, Lot #, Address
    2. Date
    3. Member not in compliance: Name, Lot #, Address
    4. Explanation of non-compliance (includes Rules and Regulations, By Law and CC&R section(s) in violation)
    5. Picture of non-compliance (optional)
2. The SMRC Board receives and reviews formal letters of complaints regarding non-compliance as follows:
  - A. The Board determines that the complaint originates from a SMRC Member
  - B. Within a reasonable amount of time (within 30-60 days of receiving the letter or at next scheduled board meeting), the Board meets in executive session to review the formal complaint.
  - C. The Board reviews the complaint for non-compliance and determines whether non-compliance exists:
    1. The Board reviews the facts presented: the violation data, the pictures and the governing documents section(s) violated
    2. The Board renders a determination regarding the submitted complaint. The determination can be:
      - a. Compliance
      - b. Non-compliance
      - c. Need more information
  - D. If the Board determination is “Compliance”, then the Board will respond as follows:
    1. The Board sends a response in writing (mail or email) to the Homeowner who submitted the complaint. The response must minimally contain the following:
      - a. SMRC Board determination of compliance
      - b. Reason for determination
    2. If the Concerned Member agrees with the HOA determination, then the complaint is dismissed and the matter is closed. If the Concerned Member believes the matter requires a more formal hearing, then (s)he may request a *formal Compliance Review* within 30 days of receiving the Board complaint determination of compliance.
  - E. If the Board determination is “Non-Compliance”, then the Board will respond as follows:

1. The Board sends a notification, via registered, mail to the Member in non-compliance. The notification will include the following:
  - a. Identify lot number, current Member at specified address
  - b. Date
  - c. Reference each violation with relevant text from Rules and Regulations, By Laws and CC&R
  - d. Describe and explain each violation
  - e. Specify date at which each non-compliance violation needs to be in compliance
  - f. Specify penalty (financial and otherwise) if non-compliance issue remains uncorrected past that date
  - g. If information is available to Board, specify remedial possibilities and alternatives
2. The Board files the non-compliance letter for 1 year, and posts an action summary in the Board Minutes. The summary shall indicate the following:
  - a. Lot number
  - b. List each violation with
    - i. Deadline to return to compliance
    - ii. Current status of the non-compliance (active, closed, past-due), here active.
3. If the Member addresses non-compliance issues within time limit, the Board then reviews each violation to determine if compliance has been established.
  - a. If yes, then Board closes the issue, includes summary status information in Board Minutes and notifies the Concerned Members that the non-compliance has been corrected.
4. If the Member does NOT address the violations within the time limit, the Board then applies stated penalties against Homeowner:
  - a. Board issues registered letter stating continued non-compliance for each violation, and penalties imposed for each violation.
  - b. If special assessment is assessed for violations, Member is invoiced for fees.
  - c. Note: the Member can request an extension for compliance (at least 7 days prior to reaching the deadline). At the Board's discretion, extension may be granted if extenuating circumstances exist.
5. If the Member does not receive the registered letter (either by refusing to sign receipt or to pick it up at the post office), the Board then the Board acts in the same way as if the Member has signed receipt of registered letter, and the deadlines still apply.
6. If the Member does not agree with the Board's findings regarding violation(s) of the governing documents, then they may request a formal *Non-Compliance Review*.
  - a. The Board then sets up a formal review to reconsider the non-compliance determination. The current Board determination stands until the formal review determines otherwise.

- F. If the Board determination is “Need More Information”, then the Board will:
1. Take action to acquire the additional information needed by requesting the Concerned Member to provide additional information
  2. Once the additional information is established, then a compliance or non-compliance determination is issued and processed as described above
  3. A Board determination cannot remain “Need More Information” for more than 60 days.
    - a. If the Board needs more time to collect such information, it can vote to do so and have it recorded in the Meeting Minutes.
    - b. If, after 60 days (or some other Board-appointed timeframe) has passed, and the Board has not yet reached a determination of “Compliance” or “Non-Compliance”, then the issue automatically reverts to a decision of “Compliance”.

#### **Formal Compliance Review – for Concerned Member**

1. If the Concerned Member is not satisfied with the Board’s determination that the Member was found in “Compliance” and without violations, (s)he may request a formal *Compliance Review* within 30 days of Board decision
  - A. A Board Meeting will be called (within 30-60 days or at the next scheduled board meeting) in which the Concerned Member will be invited to present additional facts or interpretation, or to ask for clarification, but not to repeat the same data as found on the original submitted complaint
  - B. Based on new or additional evidence, a new determination may be issued.
    1. If no new or additional evidence is provided, then the current determination stands.
  - C. If the Plaintiff asks for clarification regarding the determination, the Board will clarify as appropriate.
    1. Note, however that Executive Session deliberations are not open for review or examination.
2. The Board must have a quorum and the deliberations shall include any board Members with specific assignment involving the complaint or with critical experience with the complaint on hand.

#### **Formal HOA Non-Compliance Review – for Member**

1. If the Member is not satisfied with the Board’s determination of “Non-Compliance”, (s)he may request a formal *Non-Compliance Review* within 30 days of receiving the Board’s registered letter
  - A. The Board then will set up a Board meeting (within 30-60 days or at the next scheduled board meeting) in which the Member will be invited to present additional facts or interpretation, or to ask for clarification regarding the Non-Compliance issues
  - B. Based on new or additional evidence, a new determination may be issued following the steps prescribed above.

1. If no new or additional evidence is provided, then the current determination stands.
- C. If the Member asks for clarification regarding the determination, the Board will clarify as appropriate. Note, however that Executive Session deliberations are not open for review or examination.
- D. If the Member is requesting an extension to the deadline, then the Board will review the request in light of extenuating circumstances
  1. The Board may reach a decision to grant an extension
  2. The Board will determine what penalties still apply while the deadline is extended
2. The Board must have a quorum and the deliberations shall include any board Members with specific assignment involving the complaint or with critical experience with the complaint on hand.

*June 2011*

## Sun Mountain Ranch Club Non-Compliance Complaint Form

Name of the Person who observed the violation: \_\_\_\_\_

Observers Address and Lot #: \_\_\_\_\_

Address and Lot # where observed: \_\_\_\_\_

Date(s) of Violation: \_\_\_\_\_

Describe Violation: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Rules and Regulations, By Laws and/or CC&R sections that you feel are violated:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

Signature of Observer: \_\_\_\_\_ Date: \_\_\_\_\_

<b>Initial Compliance Review</b>	<b>Concerned Member Requested Formal Non-Compliance Review</b>	<b>Member Requested Formal Non-Compliance Review</b>
<input type="checkbox"/> Compliant <input type="checkbox"/> Non – Compliant <input type="checkbox"/> Need More Info Date: _____	<input type="checkbox"/> Compliant <input type="checkbox"/> Non – Compliant Date: _____	<input type="checkbox"/> Compliant <input type="checkbox"/> Non – Compliant Date: _____
Basis: _____ _____ _____	Basis: _____ _____ _____ _____	Basis: _____ _____ _____ _____
Board Member(s) _____ _____ _____ _____	Attendees: _____ _____ _____ _____ _____	Attendees: _____ _____ _____ _____ _____