

**THE LAKES AT MERCER ISLAND HOMEOWNERS' ASSOCIATION  
DAMAGE POLICY RELATING TO THE LAKES SYSTEM**

**Introduction.** The CC&Rs of The Lakes at Mercer Island provide rules governing the allocation of maintenance and financial responsibility for the care of our Common Areas, including the lakes system, between the Association and owners. Particularly relevant are Articles II, III, IV, VI and IX.

**1. Maintenance of Lakes Creeks, Weirs, and Dams.**

- Location of Lake and Creek Maintenance Easements:
  - There is a 10-foot maintenance easement along the shores of the lakes and creek banks benefitting the Association.
  - There is a 10-foot easement adjacent to all weirs, dams, lakes, and creeks for the purpose of maintenance and repair benefitting the Association.
- Location of Utility and Drainage Easement:
  - There is an easement for installation and maintenance of utilities and drainage facilities over the front seven feet, the rear five feet, and the side two-and-a-half feet of each Lot.
- Association Right of Entry:
  - The Association may go on the Maintenance Easements and on lots to maintain and improve the creeks and lakes.
  - The Association may go on the Utility and Drainage Easements to install and maintain utility and drainage facilities.
- Usual Association and Owner Maintenance and Financial Responsibilities:
  - The Association is responsible for:
    - maintaining and improving the creeks, lakes, weirs, and dams (collectively, the “Lakes”). This includes without limitation the lakebed, creek bed, rocky around lake, and the water in the lake and creek and
    - installing and maintaining utility and drainage facilities except to the extent this obligation has been delegated to the City of Mercer Island.
    - The Association pays for such work as a common expense.
  - Owners are responsible for maintaining “each lot and all improvements” in the easement areas on their lots at owner expense, except for improvements for which a public authority or utility is responsible.
- Exceptions to Usual Rules:
  - With respect to maintenance or improvement work concerning any lake, creek or pond located in a Common Area or any adjacent easement, the Board directly or by delegation to the Architectural Control Committee (“ACC”) (hereinafter the “Board” whether acting directly or by delegation to the ACC) may determine that:
    - The need for work for which the Association is typically responsible is “caused by the act or acts of any lot owner or owners,” or individuals associated with any lot owner or owners or;

- The work is in the nature of a permanent improvement beneficial to the lot owner(s).

## 2. Procedures for Establishing Owner Responsibility .

- Owner is responsible for damage to the Common Areas or Common Maintenance Areas and improvements in those areas as defined by the Declarations.
- Work that may be determined to be the financial responsibility of an owner or owners includes without limitation:
  - Maintenance, repair, or replacement of:
    - Rockery along the lakeshore;
    - Erosion along the lakeshore or creek bed;
    - Lake or creek beds;
  - Any work required because a fence, tree or shrub is located 20 feet or less from any lakeshore or bank, unless approved by the ACC.
  - Any work required due to an owner's placing or permitting to remain any structure, planting, or other materials that:
    - Damages or interferes with or changes the direction or flow of drainage channels in the utility and drainage facility easements, or;
    - May obstruct or retain the flow of water through drainage channels in the utility and drainage facility easements.
- Responsibility is triggered when damage is caused by: Owner, family members of owner, tenants, guests, and anyone else on-site in connection with the Owner.
- Owner may be responsible for damage caused by previous Owner, or for modifications to the property by a previous Owner that the current Owner has allowed to remain.
- The Board determines Owner responsibility in its reasonable discretion.
- The Board may at its option rely on the input of competent professionals, including without limitation contractors, engineers, landscapers, arborists, surveyors, and architects when making the decision about owner responsibility and scope and cost of repairs.
- The Board shall determine what repairs are required in its reasonable discretion. The Board may, in its sole discretion, prorate the cost of the work between the lot owner(s) and the Association.
- The Owner must use a licensed, bonded, and insured professional to complete any needed repair work. The Board may waive this requirement in writing in its discretion.
- The Board may, at its option, require the Owner to use a professional of its choosing to complete the repairs.
- The Owner has one week following receipt of written notice of the Board's determination regarding responsibility to complete the work. The Board may extend that deadline in writing in its discretion.
- If the repairs are not timely completed, the Board may complete the repairs and charge back the cost to the Owner. No notice will be provided after the deadline passes.
- Following completion of work, the Owner will receive notice of the cost of repair and the deadline for payment.

- The cost of repair will be placed on the owner's account and will be due within 30 days of written notice of the amount owed.
- Damage for which an owner may be responsible includes, without limitation damage of the nature described in Section 1 of this Policy.
- If an owner believes that the Board has incorrectly assigned financial responsibility, the Owner may provide written documentation that the structure or vegetation that caused damage was authorized by the ACC.

### **3. Collection of Owner Amounts Owed.**

- Amounts owed under this policy are an automatic lien on a lot.
  - Amounts owed under this policy are a personal obligation of the lot owner.
  - Amounts owed under this policy and not timely paid are subject to interest of 12 percent per annum.
  - Owners are responsible for attorneys' fees incurred by the Association in connection with recovery of amounts owed under this policy.
  - The Association may take legal action at owner expense to recover amounts owed under this policy.
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**3. Policy Not All-Inclusive. This policy is intended to provide guidance as to the allocation of maintenance and financial responsibilities of the Association and of owners and does not preclude the Board or ACC from taking other or different actions as provided in the CC&Rs, including with respect to Common Areas and Common Maintenance Areas other than the lakes system.**

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This Policy was adopted by the Board of Directors pursuant to the Resolution Adopting Damage Policy on January 17, 2023.