

FAIRVIEW VILLAGE HOMEOWNERS' ASSOCIATION, INC.
Resolution of the Board of Directors

ENFORCEMENT RESOLUTION

RECITALS

- A. **"Association"** is the Fairview Village Homeowners' Association, Inc., an Oregon nonprofit corporation.
- B. The Association is governed by the following documents, referred to herein as **"Governing Documents"**:
 - 1. *Declaration of Covenants, Conditions and Restrictions for Fairview Village Homeowners Association (Phase 1)*, recorded on February 25, 2003 as document number 2003-042835 in the records of Multnomah County, Oregon, including any amendments thereto (**"Declaration"**);
 - 2. *2010 Amended and Restated Bylaws of Fairview Village Homeowners' Association, Inc.*, recorded on November 16, 2010 as document number 2010-144461, including any amendments thereto (**"Bylaws"**).
- C. The Association is also governed by the Oregon Planned Community Act, ORS 94.550-94.785.
- D. ORS 94.630; Article III, Section 5.1 of the Declaration; and Sections 2.2(c) and 5.6 of the Bylaws vest the Board of Directors (**"Board"**) with all of the powers and duties necessary for the administration of the affairs of the Association.
- E. ORS 94.630(1)(a), Article III, Section 3.7 of the Declaration and Section 5.6(p) of the Bylaws empower the Board to adopt Rules and Regulations.
- F. ORS 94.630(1)(n) and Article III, Section 3.5 of the Declaration provide that the Board may levy reasonable fines for violations of the Declaration, Bylaws, and Rules and Regulations of the Association after notice and an opportunity to be heard, if the fine is based on a *Schedule of Fines* adopted by a resolution of the Board.
- G. ORS 94.709, Article VIII, Section 1 and Article X, Section 7 of the Declaration provide that fees, late charges, fines, and interest imposed, pursuant to ORS 94.630(1)(n), are enforceable as assessments.
- H. For the benefit and protection of the Association and of the individual owners, the Board deems it necessary and desirable to establish a formal procedure for the handling of complaints and the enforcement of the Declaration, Bylaws, and Rules and Regulations to

ensure that owners receive notice and an opportunity to be heard in cases involving alleged violations of the Declaration, Bylaws, or Rules and Regulations.

- I. The Board deems it necessary and desirable to adopt a *Schedule of Fines*, attached as Exhibit A to this Resolution, to be used by the Board in imposing sanctions for violations of the Declaration, Bylaws, or Rules and Regulations of the Association.

RESOLUTION

NOW, THEREFORE, IT IS RESOLVED that the procedure set forth below shall be the process for handling complaints and enforcement of violations of the Declaration, Bylaws, and Rules and Regulations.

ARTICLE 1 OVERVIEW OF PROCESS

- 1.1. **Complaint.** An owner may file a written complaint with the Board of Directors regarding a violation of the Declaration, Bylaws, or Rules and Regulations by another owner, tenant, or guest. The Board of Directors may also initiate a complaint (Article 2).
- 1.2. **Investigation.** The Board of Directors has the discretion to investigate the complaint and decide if it is valid (Article 3).
- 1.3. **Violation and Notice.** If the Board of Directors finds there is a violation, the Board or its representatives must provide notice to the Alleged Offending Owner. The Board will first provide a First Notice to the Alleged Offending Owner. If the violation is not remedied or ceased within the time specified in the notice, then the Board will provide a second notice to the Alleged Offending Owner. This second notice must contain certain provisions, including giving the Alleged Offending Owner an opportunity for a hearing (Article 4).
- 1.4. **Hearing.** If requested, the Alleged Offending Owner may present testimony or evidence regarding the violation at the next board meeting, (Article 5).
- 1.5. **Fines.** The Board may impose fines pursuant to the *Schedule of Fines* if the violation is not remedied or ceased within the time specified in the notice, provided the owner has the opportunity for a hearing (Articles 3, 6, and 7).

ARTICLE 2 ORIGINATION / INITIATION OF COMPLAINT

- 2.1. **Board of Directors.** A complaint may be initiated by the Board of Directors based on information from a management agent, owner, or other information the Board deems reliable.
- 2.2. **Owners.** An owner ("**Complaining Owner**") who desires the Board of Directors to take corrective action against another owner or tenant ("**Alleged Offending Owner**") must

submit a complaint to the Board of Directors. The complaint must be in writing and must include:

- (a) The name, if known, and address of the Alleged Offending Owner;
- (b) A description of the offending behavior or activity, including the date(s) and approximate time(s); and
- (c) Whether or not the Complaining Owner attempted contact with the Alleged Offending Owner regarding the alleged violation.

ARTICLE 3 INVESTIGATION OF COMPLAINT

- 3.1 **Investigation.** Upon receipt of a written complaint, the Board, or a person authorized by the Board, has the discretion to conduct an investigation to confirm the nature and existence of the allegations contained in the complaint.
- 3.2 **Determination of Violation.** If, after review of a complaint, the Board of Directors determines that there is a violation of the Declaration, Bylaws, Rules and Regulations, or other Governing Documents and the Board determines that it is in the best interest of the Association and owners to address the violation with the Alleged Offending Owner, the Board shall proceed to give notice to the Alleged Offending Owner as described below.

ARTICLE 4 NOTICE PROCEDURE

- 4.1 **Notice of Violation.** If the Board determines that there is a violation of the Declaration, Bylaws, Rules and Regulations, or other Governing Documents, the Board shall give the Alleged Offending Owner the following Notices of Violation:
 - (a) **First Notice.** After making the determination that the Alleged Offending Owner is in violation of the Declaration, Bylaws, Rules and Regulations, or other Governing Documents, the Board shall give the Alleged Offending Owner a "First Notice." The First Notice shall either be sent to the owner by regular mail or posted on the owner's door. The notice required under this Subsection must:
 - (1) State the violation; and
 - (2) State a specific period of time to correct or abate the violation.
 - (b) **Second Notice and Right to a Hearing.** If, after the Board has provided a First Notice, the violation stated in the First Notice has not been brought into compliance by the Alleged Offending Owner, and the compliance deadline prescribed in the First Notice has expired, then the Board shall give the Alleged Offending Owner a Second Notice and Right to a Hearing.

- (1) Required Notice Provisions. The notice required under this Subsection must:
 - (i) Describe the violation;
 - (ii) Contain a statement that the Alleged Offending Owner has the opportunity to request a hearing, and the manner by which to request a hearing; and
 - (iii) Contain a statement advising the Alleged Offending Owner that if no hearing is requested within fourteen (14) days, and if the alleged violation is not remedied or ceased by a specified compliance deadline, fines will be assessed, beginning on the day following the specified compliance deadline, pursuant to the *Schedule of Fines* adopted by the Board as "Exhibit A" to this resolution.
 - (2) Optional Notice Provisions. The notice may also provide or specify any or all of the following:
 - (i) Specific action the Board is requiring to remedy the violation;
 - (ii) The particular language or Section from the Declaration, Bylaws, or Rules and Regulations which have been violated; and
 - (iii) Any other information as directed by the Board.
 - (3) Delivery of Notice. The notice shall be mailed by certified mail, return receipt requested, to the addresses on record with the Association. In the case of non-owner residents, the notice may be mailed to both the address on record with the Association for the owner and to the lot address.
- (c) For per occurrence violations (i.e., violations that are not continuing violations), the Board may proceed immediately to sending the Alleged Offending Owner a second notice as provided in Subsection (b) above without sending a first notice.
 - (d) A sample Second Notice is attached to this Resolution as Exhibit B. This sample notice is for illustrative purposes only.

4.2 **Repeat Violations.** Owners who repeat any violation within a 12-month period of receiving a Second Notice are not entitled to an additional notice or hearing, regardless of whether or not the owner participated in a hearing as a result of the first violation. For such repeat violations, the Board may automatically begin fines as outlined in the attached *Schedule of Fines*.

- 4.3 **Informal Action.** Nothing in this article precludes the President, a designated Board member, or other person authorized by the Board from first attempting to resolve the matter either by an informal meeting, telephone call, or a warning letter to the Alleged Offending Owner.

ARTICLE 5 HEARING PROCEDURE

- 5.1 **Hearings Procedure.** In the event that an owner requests a hearing, the Board shall utilize the following procedure for violation hearings to be held during a regular open Board Meeting:

- (a) Appearances at the Hearing. If the Alleged Offending Owner fails to appear within *fifteen minutes (15)* of the time set for the hearing, the Board may, at its sole discretion:
- (1) Conduct the hearing without the presence of the Alleged Offending Owner;
 - (2) Allow the Alleged Offending Owner additional time that day to appear;
 - (3) Reset the hearing to another date and time; or
 - (4) Dismiss the complaint.
- (b) Dismissal. In the case of dismissal, the Board shall notify the Alleged Offending Owner, in writing, that the Complaint has been dismissed.
- (c) Conduct of Hearing.
- (1) Testimony from Parties. If the Complaining Owner chooses to appear and the Alleged Offending Owner appears, the Board shall proceed to hear from the Complaining Owner and then from the Alleged Offending Owner.
 - (2) Evidence and Witnesses. The Complaining Owner and the Alleged Offending Owner may present evidence and witnesses at the hearing. The Board may limit testimony and evidence as it determines is reasonable and necessary. An owner's testimony shall not exceed 15 minutes.
- (d) Board Determination. Following the testimony and any evidence presented by the parties, the Board has the discretion to re-evaluate its prior determination of violation under Sections 3.1 and 3.2 above. The Board also has the discretion to reevaluate the fine, any required or appropriate resolution for the violation, and any other matter which may result in the resolution of the violation.
- (1) The discussions must be in open session as directed by ORS 94.640.

- (2) The Board shall either give its decision at the conclusion of the hearing or take the matter under advisement and give the decision a later date not to exceed ten (10) days after the hearing date.

ARTICLE 6 OTHER LEGAL ACTION

6.1 **Board Actions.** In addition to levying fines, action by the Board may include, but need not be limited to:

- ✓ (a) Seeking injunctive or declaratory relief action against any Alleged Offending Owner and tenants, guest, or other occupants of the Alleged Offending Owner; and/or
- (b) Taking immediate legal action, as the Board finds reasonably necessary, to stop conduct which it determines is in violation of the Governing Documents, Bylaws, Rules and Regulations, or applicable state or federal law.

6.2 **Additional Corrective Action by Board.**


- (a) Right of Board to Take Additional Corrective Action. If the Alleged Offending Owner fails to correct the matter, which is the ultimate cause of the violation, the Board may take additional corrective action without prior notice to the Offending Owner or opportunity for a hearing.
- (b) Notice of Additional Action. The Board shall give an Alleged Offending Owner written notice of any additional action taken under Subsection (a) of this Section.

ARTICLE 7 MISCELLANEOUS

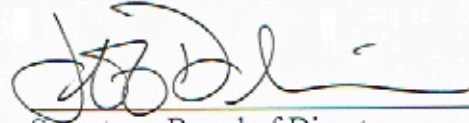
- 7.1 **Renters and Other Non-Owner Occupied Lots and Guests.** The owner of any lot shall be responsible for the violations of any renter, tenant, guest, or family member who violates any portion of the Declaration, Bylaws, or Rules and Regulations.
- 7.2 **No Fines Pending Resolution of a Hearing.** Pending resolution of a requested hearing, no fines may be charged against the account of an Alleged Offending Owner.
- 7.3 **Mediation.** ORS 94.630(4)(a) provides for dispute resolution prior to any litigation being initiated between the Association and any member of the Association. For purposes of this Enforcement Resolution, the dispute resolution requirements of the PCA and the Bylaws do not apply to the actions of the Association in its enforcement responsibilities, as long as no litigation has been filed.

BE IT FURTHER RESOLVED that the *Schedule of Fines* attached as **Exhibit A** is adopted by the Board of Directors to determine the fines for violations of the Declaration, Bylaws, and Rules and Regulations of the Association. A copy of this Resolution and amendments will be sent to each owner at the address shown in the records of the Association.

DATED: August 26, 2018



President, Board of Directors,
Fairview Village Homeowners' Association,
Inc.



Secretary, Board of Directors,
Fairview Village Homeowners' Association,
Inc.

EXHIBIT A

SCHEDULE OF FINES

1. Unauthorized alterations or structures without ARB approval
(Article VI, Section 3)..... **\$50/occurrence**
2. Failure to remove unauthorized structures or alterations to lot
(Article VI, Section 3)..... **\$100/week**
3. Failure to maintain lot and landscaping in good conditions
(Article VI, Section 6)..... **\$100/week**
4. Unauthorized display of signs (Article VII, Section 2) **\$25/day**
5. Unauthorized raising or keeping of pets (Article VII, Section 3)..... **\$100/week**
6. Dumping of trash or other waste on lots or common areas
(Article VII, Section 4) **\$100/occurrence**
7. Noxious or offensive activities (Article VII, Section 5)..... **\$100/occurrence**
8. Unauthorized parking of vehicles (Article VII, Section 10)..... **\$25/day**
9. Unauthorized display of holiday decorations **\$100/week**
10. Other violations of the Declaration, Bylaws, or Rules and Regulations
(**per occurrence**) **\$50/occurrence**
11. Other continuing violations of the Declaration, Bylaws, Rules and Regulations
(**Per Day**)..... **\$25/day**