

HECETA SOUTH HOMEOWNERS ASSOCIATION, INC.

Resolution of the Board of Directors

ENFORCEMENT RESOLUTION, revised October 11, 2023

RECITALS

- A. Association” is the Heceta South 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 Heceta South Subdivision*, recorded on February 15, 2023 as Document No. 2023-003724 in the records of Lane County, Oregon, including any amendments thereto ("**Declaration**");
 - 2. *Bylaws of Heceta South Homeowners Association, Inc.*, recorded in Lane County, Oregon contemporaneously with the Declaration, including any amendments thereto ("**Bylaws**").
- C. The Association is also governed by the Oregon Planned Community Act ("**PCA**"), ORS 94.550-94.785
- D. ORS 94.630, Article VII, Section 7.3 of the Declaration, and Article IV, Section 4.8.3 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) and Article IV, Section 4.9.12 of the Bylaws empower the Board to adopt Rules and Regulations.
- F. ORS 94.630(1)(n) provides 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. The Declaration does not prohibit fines. Article VI, Section 6.13 of the Declaration permits the Association to file suit for correction or abatement of a violation or for liquidated damages of up to \$50.00 per day commencing 30 days after notice is given.
- G. ORS 94.550(1), ORS 94.709, and ORS 94.712, 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.
- J. Whereas the *Declaration of Covenants, Conditions and Restrictions and the Bylaws of Heceta South Subdivision*, referenced above, were amended and restated, as recorded on February 15, 2023, the Board deems it necessary and desirable to revise the June 25, 2019 Enforcement Resolution to bring it into conformity with the current amended and restated Governing Documents.

HECETA SOUTH HOMEOWNERS ASSOCIATION, INC.

Resolution of the Board of Directors

ENFORCEMENT RESOLUTION, revised October 11, 2023

RESOLUTIONS

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 of the Association.

**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 or its representatives 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 or its representatives 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, Architectural Review Committee (ARC), 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/or a photograph of the offending activity; and
 - (c) Whether or not the Complaining Owner attempted contact with the Alleged Offending Owner regarding the alleged violation.

HECETA SOUTH HOMEOWNERS ASSOCIATION, INC.

Resolution of the Board of Directors

ENFORCEMENT RESOLUTION, revised October 11, 2023

**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, or person authorized by the Board, determines that there is a violation of the Declaration, Bylaws, Rules and Regulations, or other Governing Documents, the Board, on its own or through its agent, 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 (the standard period shall be 10 days) 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 twenty (20) days (or such other period set by the Board, but in no case less than 30 days from the date of the First Notice), 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."

HECETA SOUTH HOMEOWNERS ASSOCIATION, INC.

Resolution of the Board of Directors

ENFORCEMENT RESOLUTION, revised October 11, 2023

- (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 has been violated; and
 - (iii) Any other information as directed by the Board.
 - (3) Delivery of Notice. The notice shall be hand delivered, mailed by first class mail or 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. Any Second Notice for a per occurrence violations shall provide the owner with 30 days to abate or correct the violation.
 - (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.

HECETA SOUTH HOMEOWNERS ASSOCIATION, INC.

Resolution of the Board of Directors

ENFORCEMENT RESOLUTION, revised October 11, 2023

- (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. For joint owners, the collective 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 the Board may include, but need not be limited to:
 - (a) Seeking injunctive or declaratory relief action against an Alleged Offending Owner and tenants, guest, or other occupants of the Alleged Offending Owner;
 - (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, and/or
 - (c) Assessing as a lien liquidated damages of fifty dollars (\$50.00) per day for each day after the expiration of thirty days from the date of notice and foreclosing said lien.
- 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.

HECETA SOUTH HOMEOWNERS ASSOCIATION, INC.

Resolution of the Board of Directors

ENFORCEMENT RESOLUTION, revised October 11, 2023


**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 timely 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.

Pursuant to a vote of the Board of Directors, this document revises the Enforcement Resolution dated June 25, 2019.

Dated: 11 Oct, 2023


Richard Woodsmith
President, Board of Directors
Heceta South Homeowners Association, Inc.


Claudia Bidwell
Secretary, Board of Directors
Heceta South Homeowners Association, Inc.

HECETA SOUTH HOMEOWNERS ASSOCIATION, INC.

Resolution of the Board of Directors

ENFORCEMENT RESOLUTION, revised October 11, 2023

**EXHIBIT A
SCHEDULE OF FINES**

1	Non-residential use (Article VI, Section 6.1 of Declaration)	\$ 25.00 /day
2	Nuisances, noxious activity or offensive activity (Article VI, Section 6.6 of the Declaration)	\$ 50.00 /occurrence
3	Outdoor lighting violations (Article VI, Section 6.6.1 of the Declaration)	\$ 25.00 /day
4	Parking violations (Article VI, Section 6.1.3 of the Declaration)	\$100.00 /occurrence
5	Improper removal or replanting of vegetation (Article VI, Sections 6.3 and 6.4.8 and 6.4.9 of the Declaration)	\$250.00 /occurrence
6	Fencing violations (Article VI, Section 6.7 of the Declaration)	\$ 25.00 /day
7	Raising, breeding, or keeping non-household pets (Article VI, Section 6.8 of the Declaration)	\$ 50.00 /day
8	Failure to immediately clean up pet waste (Article V I, Section 6.8 of the Declaration)	\$100.00 /occurrence
9	Depositing or keeping loose garbage, refuse, rubbish or other waste on a lot (Article VI. Section 6.9 of the Declaration)	\$ 25.00 /day
10	Failure to store garbage receptacle screened from view (Article VI, Section 6.9 of the Declaration)	\$ 50.00 /day
11	Continuing ARC Violations (Article VI, Section 6.4 and Article VIII of the Declaration).	\$ 50.00 /day
12	All non-continuing. per occurrence. ARC Violations (Article VI, Section 6.4 and Article V III of the Declaration)	\$300.00 /occurrence
13	Improper signs on display (Article VI, Section 6.10 of the Declaration)	\$ 50.00 /day
14	Improper location or size of antenna or satellite dish (subject to OTARD) (Article VI, Section 6.11 of the Declaration)	\$ 25.00 /day
15	Failure to inform Board of tenant's contact upon rental or lease of lot (Article X, Section10.3 of Bylaws)	\$ 50.00 /month
16	Other violations of the Declaration, Bylaws, or Rules and Regulations	\$ 50.00 /occurrence
17	Other continuing/ongoing violations of the Declaration, Bylaws, Rules and Regulations	\$ 25.00 /day