

GOOSE HOLLOW HOMEOWNERS ASSOCIATION
Resolution of the Board of Directors

ENFORCEMENT RESOLUTION

RECITALS

A. The Association is the Goose Hollow Homeowners Association ("Association"), an Oregon nonprofit corporation.

B. The Association is governed by the *Declaration of Covenants, Conditions and Restrictions of Goose Hollow Subdivision*, recorded October 20, 2003 as Reel 2219, Page 255 in the records of Marion County, Oregon ("Declaration") as amended and supplemented; the *Bylaws of Goose Hollow Homeowners Association, Inc.* recorded October 20, 2003 as Reel 2219, Page 256 ("Bylaws") as amended and supplemented (collectively the "Governing Documents"). The Association is also governed by the Oregon Planned Community Act, ORS Chapter 94.550-94.783.

C. ORS 94.630 and Article III, Section 6 of the Bylaws vest the Board of Directors with all of the powers and duties necessary for the administration of the affairs of the Association.

D. ORS 94.630(1)(a), Article V, Section 9 of the Declaration, and Article III, Section 6 (g) of the Bylaws empower the Board of Directors to adopt Rules and Regulations.

E. ORS 94.630(1)(n) provides that the Board of Directors 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.

F. ORS 94.709 provides that fees, late charges, fines and interest imposed, pursuant to ORS 94.630(1)(n), are enforceable as assessments.

G. From time to time the Board of Directors receives complaints from owners regarding alleged nuisances; improper, offensive or unlawful activities, misuse of the premises; or other alleged violations of the Governing Documents, Rules or Regulations.

H. For the benefit and protection of the Association and of the individual owners, the Board of Directors 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* 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:

I. All prior Enforcement Resolutions or Financial Penalties Resolutions, if any, are rescinded and are no longer of any force.

II. The procedure set forth below shall now 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 must send notice to the Alleged Offending Owner. The notice must contain certain provisions. The Alleged Offending Owner must be given the 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. At this time, it is the policy of the Board of Directors to require the complaining owner to disclose their identity at the time of submitting a complaint. Anonymous complaints will either be investigated or disregarded in the sole discretion of the Board of Directors.

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.
- (d) The Complaining Owner's name and current contact information.

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 Governing Documents, Bylaws or Rules and Regulations, 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.** The Board shall give the Alleged Offending Owner written notice of the violation either by hand-delivery or mail. Either one shall be deemed effective to put the owner on notice of the alleged violation.

(a) **Notice of Violation and Right to a Hearing.** The notice required under this section must:

- (1) Describe the violation;
- (2) Contain a statement that the Alleged Offending Owner has the opportunity to request a hearing at the next scheduled Board Meeting, and the manner by which to request a hearing; and
- (3) Contain a statement advising the Alleged Offending Owner that if no hearing is requested, 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 of Directors as "Exhibit A" to this resolution.

(b) Optional Notice Provisions. The notice may also provide or specify any or all the following:

- (1) Specific action the Board is requiring to remedy the violation;
- (2) The particular language or section from the Declaration, Bylaws or Rules and Regulations which have been violated; and
- (3) Any other information as directed by the Board of Directors.

(c) Delivery of Notice. The notice may be hand-delivered to the home. In the event no individual is at the unit to receive the hand-delivery, the notice shall be affixed to the door of the unit.

(d) Mailing of Notice. The notice may be mailed to the addresses on record with the Association. In the case of non-owner residents, mailed to both the address on record with the Association for the owner and to the lot address.

- (1) The mailing shall be by:
 - (i) Certified mail, return receipt requested; or
 - (ii) First-class mail with delivery confirmation.

4.2 Repeat Violations. Owners who repeat any violation within a 12 month period of receiving a Notice of Violation 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 fine schedule.

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 an owner requests a hearing, the Board shall utilize the following procedure for violation hearings:

(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 Section 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 at a later Board meeting.

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 unit 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.**

(a) Pending resolution of a requested hearing, no fines may be charged against the account of an Alleged Offending Owner.

(b) **"Affirmative" Violations:** Notwithstanding Section (a) above, certain violations will be treated as separate occurrences for each distinct time the violations occurs, including during the time pending resolution of a hearing. These certain violations shall be so considered because of the "affirmative" steps required to recreate or further the initial violation. These "affirmative" violations include but are not limited to the following examples:

- (1) Poorly maintained landscaping;
- (2) Poorly maintained home; and
- (3) Installation of roofing material other than those roofing materials approved by the board.

Each time "affirmative" violations occur, the violation will be treated as a separate, distinct occurrence, regardless of whether or not the hearing has occurred. Upon resolution of the hearing, the Alleged Offending Owner may be fined the amount on the *Schedule of Fines* for each occurrence.

(c) **"Continuing" Violations:** Those violations which are more "continuing" by nature shall not accrue separate occurrences pending the resolution of a hearing. These continuing violations include but are not limited to the following examples:

- (1) Failure to remove landscaping that encroaches on a neighboring home or on the common areas;
- (2) Failure to fix landscaping problems, or structural problems in fencing, home and sidewalks; and
- (3) Failure to pay association dues in a timely manner.

Once the hearing has been resolved, these "continuing" violations may be subject to fines which renew periodically if the violation is not remedied or ceased.

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 Planned Community Act 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:

III. 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.


VI. A copy of this Resolution and amendments will be sent to each owner at the address shown in the records of the Association.

Date: June 7, 2011

ATTEST:



President, Board of Directors,
Goose Hollow Homeowners Association



Secretary, Board of Directors,
Goose Hollow Homeowners Association