

River Ranch Homeowners' Association, Inc.
Resolution of the Board of Governors
Resolution #1

ENFORCEMENT RESOLUTION

RECITALS

- A. River Ranch Homeowners' Association, Inc. is an Oregon non-profit corporation ("Association").
- B. Association is governed by the Declaration of Conditions and Restrictions ("Declaration"), Bylaws and the Oregon Planned Communities Act, ORS Chapter 94.550 to 94.783.
- C. ORS 94.630 vests the Board of Governors with all of the powers and duties necessary for the administration of the affairs of the Association.
- D. ORS 94.630(a) empowers the Board of Governors to adopt Rules and Regulations.
- E. ORS 94.630(n) provides that the Board of Governors 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. From time to time the Board of Governors receives complaints from owners regarding alleged nuisances; improper, offensive, or unlawful activities or use of the premises; or other alleged violations of the Declaration, Bylaws, or Rules and Regulations.
- G. As stated in the River Ranch Declaration of Conditions and Restrictions, dated March 9, 2007, Page 2, Section VI, Nuisances, "Neighbors shall first try to resolve concerns/complaints on a one-to-one basis. If a consensual agreement cannot be met, complaints regarding an issue need to be in writing and presented to the River Ranch Board for resolution."
- H. For the benefit and protection of the Association and of the individual owners, the Board of Governors 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- I. All prior Enforcement Resolutions or Financial Penalties Resolutions, if any, are rescinded and are no longer of any force.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 be the process for handling complaints and enforcement of Violations of the Declaration, Bylaws, and Rules and Regulations.

ARTICLE 1 **ORIGINATION / INITIATION OF COMPLAINT**

1.1 **Owner Initiated.** If a Complaining Owner ("Owner A") cannot resolve a complaint on his/her own with another owner, tenant or guest ("Owner B") then he/she may file a written complaint with the Board of Governors regarding the alleged violation of the Declaration of Conditions and Restrictions, Bylaws, or Rules and Regulations ("Violation"). The complaint must include:

- (a) The name, if known, and address of Owner B;
- (b) A description of the offending behavior or activity, including the date(s) and approximate time(s); and
- (c) What happened when Owner A attempted contact with Owner B regarding the Violation.

1.2 **Board Initiated.** The Board of Governors may also initiate a complaint against an owner, tenant or guest (Owner B), if a member of the Board has knowledge of a Violation.

1.3 **Conflict of Interest.** If either Owner A or Owner B is a board member, he/she must declare a conflict of interest and excuse themselves from the complaint process.

ARTICLE 2 **INVESTIGATION OF COMPLAINT**

2.1 **Investigation.** Upon receipt of a written complaint, the Board has the discretion to conduct an investigation to confirm the nature and existence of the allegations contained in the complaint.

2.2 **Determination of Violation.** If, after review of a complaint, the Board of Governors determines that there is a Violation, and the Board determines that it is in the best interest of the Association and owners to address the Violation with Owner B, the Board shall proceed to give notice to Owner B as described in Article 3.

2.3 **Immediate Threat.** Where there is an immediate threat to health, safety, or the environment, the Board may elect to rectify the situation immediately, without notice, and may charge Owner B for any and all costs incurred.

ARTICLE 3
NOTICE PROCEDURE

3.1 **Informal Action.** The Board may first attempt to resolve the Violation through informal action including, but not limited to, the following:

- (a) Telephone call
- (b) Informal meeting
- (c) Warning letter

The Board will contact Owner B informing him/her of the Violation and offering assistance and information to help resolve the matter. If the Violation cannot be resolved through informal action, a formal Written Notice of Violation will be sent.

3.2 **Written Notice of Violation.** The Board shall give Owner B Written Notice of Violation when the Violation cannot be resolved through Informal Action.

(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 Owner B has the opportunity to request a hearing at the next scheduled Board Meeting, or other specified date, and the manner by which to request a hearing;
- (3) Contain a statement advising Owner B 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 Governors 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 of Conditions and Restrictions, Bylaws or Rules and Regulations which have been violated; and
- (3) Any other information as directed by the Board of Governors.

(c) **Mailing of Notice.** The notice shall be mailed to the address on record with the Association and in the case of non-owner residents, to both the address on record with the Association for the owner, and to the non-owner tenant address.

- (1) The mailing shall be by:

- (i) Certified mail, return receipt requested; or
- (ii) First class mail with delivery confirmation.

(2) Every member of the Association is responsible for keeping the Secretary/Treasurer of the Association informed of their current contact information.

ARTICLE 4

HEARING PROCEDURE

4.1 **Hearing Procedure.** Owner B may request a hearing if he/she wishes to appeal the Written Notice of Violation by sending a written request to the Board. The Board shall utilize the following procedure for violation hearings:

(a) Appearances at the Hearing. If Owner B fails to appear within fifteen (15) minutes of the time set for the hearing, the Board may, at its sole discretion:

- (1) Conduct the hearing without the presence of Owner B;
- (2) Allow Owner B additional time that day to appear;
- (3) Reschedule the hearing to another date and time;
- (4) Dismiss the complaint.

(b) Dismissal. In the case of dismissal, the Board shall notify Owner B, in writing, that the Complaint has been dismissed.

(c) Conduct of Hearing.

(1) Testimony from Parties. If Owner A chooses to appear and Owner B appears, the Board shall proceed to hear from Owner A and then from Owner B.

(2) Evidence and Witnesses. Owner A and Owner B 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 2.1 and 2.2 above. The Board also has the discretion to evaluate 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.

(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 the next regularly scheduled Board meeting, or other specified date, **and** in writing via first class mail to all parties involved.

ARTICLE 5

OTHER LEGAL ACTION

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

- (a) Seeking injunctive or declaratory relief actions; and/or
- (b) Taking immediate action, as the Board finds reasonably necessary, to stop conduct which it determines is in violation of the Declaration of Conditions and Restrictions, Bylaws, Rules and Regulations, or applicable state or federal law.

5.2 **Notice of Additional Action.** The Board shall give Owner B written notice of any additional action taken under this Article. The Articles 1 – 4 of this resolution shall be met before any action taken under Section 5.1 above.

ARTICLE 6 **MISCELLANEOUS**

6.1 **Renters and other Non-Owner Occupied Houses 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 Declaration of Conditions and Restrictions, Bylaws, or Rules and Regulations.

6.2 **Mediation.** ORS 94.630(4) provides for dispute resolution prior to any litigation between the Association and any member of the Association. For purposes of this Enforcement Resolution, the dispute resolution requirements of the Planned Community Act do not apply to the actions of the Association in its enforcement responsibilities, as long as no litigation has been filed. Once the Association files litigation, including for the purpose of collecting fines levied as a result of action taken under this resolution, the Association shall offer dispute resolution as required by ORS 94.630(4).

BE IT FURTHER RESOLVED that:

III. The *Schedule of Fines and Collection Policy* attached as “Exhibit A” is adopted by the Board of Directors to establish the fines for violations of the Declaration of Conditions and Restrictions, Bylaws, or Rules and Regulations of the Association and the collection procedure.

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

Exhibit A

Schedule of Fines

If a violation is not remedied or ceased by the specified compliance deadline set forth in the Written Notice of Violation (Section 3.2 (a)(3) or the Hearing Determination letter (Section 4 (d)(2), fines will be assessed, beginning on the day following the specified compliance deadline and every two weeks thereafter until the violation is corrected.

First deadline: \$25 fine

Two weeks after initial fine: additional \$50 fine

Every two weeks after that until violation is corrected: additional \$100 fine

The Board shall have the right take legal action, the cost of which shall be billed to the homeowner and collected in the same manner as assessments if the owner does not remedy the violation within ninety (90) days of the compliance deadline. (Section 5.1)

Collection Policy

Assessments are defined as an amount determined as payable to the Association.

The following is adopted to provide for a uniform and systematic collection procedure for the collection of assessments:

1. A monthly late fee shall be levied against any assessments which are not paid in full within thirty (30) days of the date such assessments are due. The late fee shall be five percent (5%) of the unpaid assessment.
2. All assessments imposed by the Association upon an owner or owners which remains unpaid for 90 days shall constitute a lien on the lot and all its improvements.
3. Unpaid assessments exceeding \$500 may be turned over to a collection agency. The Association may file a formal lien with the county in order to further protect its interests. The lien amount shall include all collection costs to date, including any attorney's fees, cost of preparing and recording the lien, any notices required by law, and any other costs associated with collection of the unpaid assessments.
4. The Association may enter into an installment payment plan with the delinquent owner if deemed appropriate by the Association.
5. The Association will assess a \$25 fee for all checks returned due to insufficient funds.