

AUTUMN MEADOWS OWNERS ASSOCIATION
Resolution of the Board of Directors

ENFORCEMENT RESOLUTION

RECITALS

- A. The Association is the Autumn Meadows Owners Association, an Oregon nonprofit corporation (“Association”).
- B. The Association is governed by the *Declaration of Covenants, Conditions, and Restrictions for Autumn Meadows* (“Declaration”); the *Bylaws of the Autumn Meadows Owners Association* (“Bylaws”); and the Oregon Planned Community Act, ORS Chapter 94.550-94.783.
- C. ORS 94.630 and Article 7.1(C) of the Bylaws vest the Association’s Board of Directors (“Board”) with all of the powers and duties necessary for the administration of the affairs of the Association.
- D. ORS 94.630(1)(a) and Article 7.1(A) of the Bylaws empower the Board to adopt Rules and Regulations.
- E. ORS 94.630(1)(n) and Article 10.8 (c) of the Declaration 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.
- 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 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.
- 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* 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- I. All prior Enforcement Resolutions, Financial Penalties Resolutions, and Schedule of Fines, if any, are rescinded and are no longer effective.
- 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 regarding a violation of the Declaration, Bylaws, or Rules and Regulations by another owner, tenant or guest. The Board may also initiate a complaint on its own (Article 2).
- 1.2. **Investigation.** The Board has the discretion to investigate the complaint and decide if it is valid (Article 3).
- 1.3. **Violation and Notice.** If the Board finds a violation, the Board must send notice of the violation to the Alleged Offending Owner. The Alleged Offending Owner must also be given the opportunity for a hearing regarding the violation (Article 4).
- 1.4. **Hearing.** If the Alleged Offending Owner requests a hearing, the Alleged Offending Owner may present testimony or evidence regarding the violation at the hearing (Article 5).
- 1.5. **Fines.** The Board may impose fines pursuant to the *Schedule of Fines* if the violation is not cured or ceased within the time specified in the notice (Articles 3, 6 and 7).

ARTICLE 2 ORIGINATION / INITIATION OF COMPLAINT

- 2.1. **Board of Directors.** A complaint may be initiated by the Board based on information it receives from a community manager or other agent of the Board, an owner, or other information the Board deems reliable.
- 2.2. **Owners.** An owner (“Complaining Owner”) who desires the Board 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, activity, or condition, including the date(s) and approximate time(s) when the offending behavior or activity occurred or condition was present; 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 determines that there is a violation of the Declaration, 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 as follows:

(a) **First Notice of Violation.** Upon determining that there is a violation of the Declaration, Bylaws or Rules and Regulations of the Association, the Board shall send a “first” notice of violation to the Alleged Offending Owner. The notice required under this section must:

- (1) Describe the violation, including the date(s) and approximate time(s) when the offending behavior or activity occurred or condition was present; and
- (2) Specify a reasonable period of time in which the Alleged Offending Owner has to correct, cure, or abate the violation (“abatement period”).

(b) **Second Notice of Violation and Right to a Hearing.** If, at the expiration of the abatement period, the violation has not been corrected, cured or abated, then the Board shall cause a “second” notice of violation to be sent to the Alleged Offending Owner. The notice required under this subsection (b) must:

- (1) Describe the violation, including the date(s) and approximate time(s) when the offending behavior or activity occurred or condition was present;
- (2) Contain a statement that the Alleged Offending Owner may request a hearing regarding the violation—to be held at the next scheduled Board Meeting or at another time set by the Board—and the manner by which to request a hearing;

- (3) Contain a statement advising the Alleged Offending Owner that fines will be assessed retroactively to the day immediately following the last day of the abatement period or, if the violation is of the type that occurs sporadically and is not continuing, for the date(s) of the violation(s) pursuant to the *Schedule of Fines* adopted by the Board; and
 - (4) Contain a statement advising the Alleged Offending Owner that if a hearing is requested, fines will not be assessed until after the hearing is conducted and a post-hearing determination of violation is made by the Board.
- (c) Optional Notice Provisions. The “first” and “second” 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.
- (d) Intermittent or Non-Continuing Violations. Notwithstanding the requirements of a “first” and “second” notices of violation described in subsections (a) and (b), above, if the violation is of a nature as to occur intermittently, such as a nuisance or offensive activity like excessive noise, then the Board may cause a notice of violation to be sent to the Alleged Offending Owner with the following information:
- (1) Describing the violation, including the date(s) and approximate time(s) when the offending behavior or activity occurred or condition was present;
 - (2) Containing a statement that the Alleged Offending Owner may request a hearing regarding the violation—to be held at the next scheduled Board Meeting or at another time mutually agreeable to the Alleged Offending Owner and the Board—and the manner by which to request a hearing; and
 - (3) Containing a statement advising the Alleged Offending Owner that fines will be assessed for the date(s) of the violation(s) pursuant to the *Schedule of Fines* adopted by the Board, but that if a hearing is requested, fines will not be assessed until after the hearing is conducted and a post-hearing determination of violation is made by the Board.
- (e) Delivery or Mailing of Notice. All notices shall be delivered or mailed to the addresses 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 unit address. If mailed, all “first” notices shall be mailed by first class mail. Any mailing of a “second”

notice or a violation notice for an intermittent or non-continuing violation shall be by certified mail, return receipt requested, or 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;
- (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, unless litigation is threatened by the Alleged Offending Owner prior to or during the hearing.

(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 date, not to exceed 10 days after the hearing.

(3) If, after a hearing, the Board decides against the homeowner, the homeowner will be granted 10 days from the date of the hearing, or such additional time established by the Board, to correct or permanently abate the violation before the fines begin.

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

7.3 **Alternative Dispute Resolution.** 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 do not apply to the actions of the Association in its enforcement responsibilities, as long as no litigation has been filed.

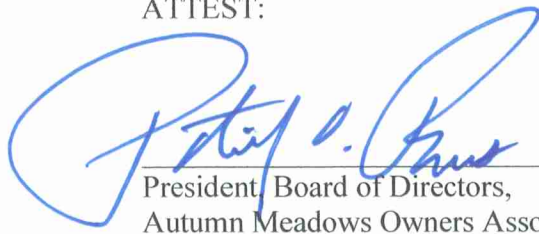
BE IT FURTHER RESOLVED that:

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: 4/14/15

ATTEST:



President, Board of Directors,
Autumn Meadows Owners Association



Secretary, Board of Directors,
Autumn Meadows Owners Association

EXHIBIT A

AUTUMN MEADOWS OWNERS ASSOCIATION

Schedule of Fines

In the event a violation is continuing in nature, the fine will renew either daily, weekly, or monthly, as specified below, until the violation is remedied or ceased.

1. Installation of landscaping on a Lot or in the Common Areas without prior Board or Architectural Review Committee approval.

\$250.00/month

2. Failure to maintain landscaping on a Lot in a good condition.

\$25/day or Association's cost to have maintenance performed.

3. Installation of any fence, wall, hedge, structure, improvement, obstruction, exterior lighting, or noisemaking device on a Lot or in the Common Areas without prior Board or Architectural Review Committee approval.

\$250.00/month

4. Impermissible or unauthorized sign placement or display.

\$10/day

5. Raising, breeding or keeping animals, livestock or poultry other than a reasonable number of dogs, cats, or other household pets.

\$25/day

6. Raising, breeding or keeping dogs, cats, or other household pets for a commercial purpose.

\$1,000/month

7. Permitting any noxious, offensive or unsightly conditions on any Lot or in the Common Areas.

\$50/day

8. Building any detached accessory buildings, including garages, storage buildings, greenhouses, and children's playhouses without prior Board or Architectural Review Committee approval.

\$250/month

9. Installation of any heating and air conditioning units or heat pumps without prior Board or Architectural Review Committee approval.

\$250/month

10. Failure to screen service facilities, including garbage cans, recycling bins, clotheslines, heat pumps, and air conditioning compressors so that they are not visible from the street or a neighboring property.

First violation = warning

Second violation in same calendar year = \$50/occurrence

Third or subsequent violation in same calendar year = \$100/occurrence

11. Parking of boats, trailers, commercial vehicles, mobile homes, campers, other recreational vehicles or equipment on any Lot or Common Area.

\$50/per occurrence

12. Parking of a vehicle such that a portion of the vehicle overhangs the street, sidewalks, or pathways.

\$50/per occurrence

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13. Abandonment or parking of any vehicle which is not currently licensed or is in an extreme state of disrepair on any Common Area for any period of time or on any Lot for a period of more than forty-eight (48) hours.

\$100/day

14. Failure to maintain home exteriors in good repair.

\$300/month

15. Any other violations of the Declaration, Bylaws or Rules and Regulations of the Association not covered above.

\$50/per occurrence