



ENFORCEMENT RESOLUTION

2017

AUTUMN MEADOWS HOMEOWNERS ASSOCIATION



Enforcement Resolution

Recitals

- A. Autumn Meadows Homeowners Association is a nonprofit corporation.
- B. The Autumn Meadows Homeowners Association is governed by the Declaration of Covenants, Conditions and Restrictions, Bylaws and the Oregon Planned Community Act.
- C. The Bylaws of the Association's Board of Director 's has the necessary power and duty for the administration of the affairs of the Association.
- D. The Bylaws empower the Board to adopt Rules and Regulations.
- E. The Board of Director's may levy fines for violations of the Declaration, Bylaws, Rules and Regulations of the Association.
- F. Complaints from homeowners regarding nuisances, offensive, or unlawful activities or use of the premises; or alleged violations of the Declaration, Bylaws, or Rules and Regulations.
- G. The Board of Director's established a formal procedure for the handling of complaints and the enforcement of the Declaration, Bylaws, Rules and Regulations to ensure that owners receive notice and an opportunity to be heard regarding alleged violations.
- H. The adoption of a schedule for fines used by the Board to impose sanctions for violations of the Declaration, Bylaws, or Rules and Regulations of the Association.

Resolution

1. Enforcement Resolutions, Financial Penalties Resolutions, and Schedule of Fines are rescinded and are no longer effective.
2. The procedure set forth shall be the process for handling complaints and the enforcement of violations of the Declaration, Bylaws, and Rules and Regulations.

Article 1

Overview of Process

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. *(See Article 2)*

Investigation: The Board has the discretion to investigate the complaint and decide if it is valid. *(See Article 3)*

Violation and Notice: The Board must send notice of the violation to the alleged offending homeowner. The Alleged Offending Owner must also be given the opportunity for a hearing regarding the violation. *(See Article 4)*

Hearing: If the Alleged Offending Owner requests a hearing said individual may present testimony or evidence regarding the violation at the hearing. *(See Article 5)*

Fines: The Board may impose fines if the violation is not cured or ceased within the specified time in the notice. *(Articles 3, 6 and 7)*

Article 2

Origination of Initiation of Complaint

Board of Directors: A complaint may be initiated by the Board based on information it received from a community manager or other agent of the Board, an owner, or other information the Board deems reliable.

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) Name and address of the alleged offending owner;
- (b) A description of the offending behavior, activity, or condition, which includes the date(s) and time(s) when the activity occurred;
- (c) Whether or not the complaining owner attempted to contact with the alleged offending owner regarding the alleged violation.

Article 3

Investigation of Complaint

Investigation: A written complaint to the Board, or a person authorized by the Board, has the discretion to investigate to confirm the allegations contained in the complaint.

Determination of Violation: If after the review of a complaint the Board determines there is a violation of the Declaration, Bylaws, or Rules and Regulations, the Board will determine in the best interest of the Association and owners to address the violation with the alleged offender.

Article 4

Notice of Procedure

Notice of Violation: The Board will give the alleged offending owner written notice of the violation as follows:

First Notice of Violation: Upon determination of the violation of the Declaration, Bylaws or Rules and Regulations of the Association, the Board will send a "first" notice of violation to the alleged offending owner. *(See Full Version of Enforcement Resolution)*

Second Notice of Violation and Right to a Hearing: If 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. *(See Full Version of Enforcement Resolution)*

Optional Notice Provisions: The "first" and "second" notice may also provide or specify any or all the following

- Action required by the Board to remedy the violation;
- Specific language or section from the Declaration, Bylaws or Rules and Regulations, which have been violated; and
- Any other information as directed by the Board of Directors.

(See Full Version of Enforcement Resolution)

Intermittent or Non-Continuing Violations: Notwithstanding the requirements of a "first" and "second" notices of violation; 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

(See Full Version of Enforcement Resolution)

Delivery or Mailing of Notice: Notices shall be delivered or mailed to the address on record with the Association.

(See Full Version of Enforcement Resolution)

Repeat Violations: Owners who repeat any violation within a 12-month period 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. *(See Full Version of Enforcement Resolution)*

Informal Action: This article shall not preclude the President, a Board member, or other person authorized by the Board from attempting to resolve the matter. *(See Full Version of Enforcement Resolution)*

Article 5

Hearing Procedure

Hearings Procedure: If owner requests a hearing, the Board shall utilize the following procedure for violation hearings;

Appearances at the Hearing

- (1) Conduct the hearing without 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.

(See Full Version of Enforcement Resolution)

Dismissal: The Board shall notify the Alleged Offending Owner in writing the complaint has been dismissed. *(See Full Version of Enforcement Resolution)*

Conduct of Hearing:

- Testimony from Parties: If the Complaining Owner and Alleged Offending Owner appear, the Board shall proceed to hearing of the complaint from both parties. *(See Full Version of Enforcement Resolution)*
- Evidence and Witnesses. The parties may present evidence and witnesses at the hearing. *(See Full Version of Enforcement Resolution)*

Board of Determination: Following the Testimony and 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. *(See Full Version of Enforcement Resolution)*

Article 6

Other Legal Action

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

1. Seeking injunctive or declaratory relief against any Alleged Offending Owner, tenants, guest, or other occupants. *(See Full Version of Enforcement Resolution)*
2. Taking immediate legal action to stop the conduct, which is in violation of the Declaration, Bylaws, Rules and Regulations or applicable state or federal law. *(See Full Version of Enforcement Resolution)*

Additional Corrective Action by Board.

1. Right of Board to Take Additional Corrective Action. If the Alleged Offending Owner fails to correct the matter the Board may take additional action without prior notice to the Offending Owner or opportunity for a hearing. *(See Full Version of Enforcement Resolution)*
2. Notice of Additional Action. The Board shall give an Alleged Offending Owner written notice of any additional action taken. *(See Full Version of Enforcement Resolution)*

Article 7

Miscellaneous

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.

Alternative Dispute Resolution. ORS 94.630(4)(a): Provides for dispute resolution prior to litigation between the Association and any member of the Association. For the purposes of the 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

(See Full Version of Enforcement Resolution)