

## WOODBURN ESTATES & GOLF

### ENFORCEMENT RESOLUTION (“RESOLUTION”)

At a regular meeting of the Board of Directors, held on September 25, 2018 the Board unanimously made the following findings:

WHEREAS the Association Secretary, by signing below, attests that pursuant to the Association Bylaws, all Board members were provided notice of the meeting and a quorum of the Board of Directors was present in person at the meeting;

WHEREAS the Board has authority to enact rules regarding enforcement pursuant to the Boards’ powers to exercise all powers and authority vested in it per the Bylaws;

WHEREAS the Board may establish fines for violations of the Governing Documents and additional penalties for violations not corrected by date set by Board per the Bylaws;

WHEREAS the Board finds that it is in the best interest of the Association to adopt new enforcement policies in order to maintain peaceful enjoyment of the property by all residents;

NOW THEREFORE IT IS RESOLVED that the procedure set forth below shall be used for handling complaints and enforcement of violations of the Governing Documents.

#### PERSONAL CONDUCT VIOLATIONS

Personal Conduct Violations include, but are not limited to, the following types of conduct:

1. Any behavior directed at or offensive to others that goes beyond the bounds of good judgment and common sense and that a reasonable person should know would be unwelcome.
2. Inappropriate physical or verbal conduct towards others based on physical characteristics, race, gender, sexual orientation or other factors that support inclusion within a protected class as defined by the Oregon Equality Act.
3. Bullying or any aggressive, abusive, intimidating, or harassing behavior meant to influence one to act in a particular manner. This behavior may be verbal or physical.
4. Inappropriate or defamatory actions in retaliation for reporting a Violation.

Process for Personal Conduct Violations:

1. Complaint. Any resident, the Board of Directors, or the managing agent (“Complainant”) may initiate a complaint for a Personal Conduct Violation (“Complaint”). The written complaint must be signed and include:

- a. The name of the person whom the Complaint is against (“Alleged Violator”) and their address, if known.
  - b. A description of the Complaint, including the date and time.
  - c. The name, address, and contact information of the Complainant. This information will be held by the Board of Directors and manager in confidence unless the Complainant authorizes release of this information. The identity of the Alleged Violator will be disclosed if there is a hearing.
2. Investigation. The Board of Directors will review the Complaint and determine whether additional investigation or other action is warranted. If the Board determines that it is warranted, the Board will appoint an independent Investigating Committee of five members. No Board Member shall serve on the Investigative Committee.

The Investigating Committee has authority to contact witnesses and conduct other investigation that it determines is appropriate. All information compiled by the Investigating Committee shall be kept confidential. The Investigating Committee shall complete its investigation within 10 business days and shall provide a written report (“Report”) to the Board of Directors with a finding that a violation did or did not occur. The Investigating Committee’s Report shall also include recommendations for enforcement, if any.

3. Notice. The Board shall review the Report of the Investigating Committee and decide whether to send a violation notice. The Notice to the Alleged Violator shall be sent at least 15 days before any penalties are imposed or other actions commenced. Such Notice shall be delivered by first class mail and by certified mail return receipt requested to the address of record advising that the Alleged Violator may submit a written response (“Response”) and/or a written request for a hearing (“Request for Hearing”). The Response or Request for Hearing must be delivered to the Board of Directors not later than 10 days after the date of the Notice. If the Alleged Violator does not respond or does not appear at the hearing, the charges will be deemed admitted, and any penalties or actions described in the Notice shall be imposed without further notice.
4. Hearing. After reviewing the Response, the Board shall schedule a hearing if requested by the Alleged Violator, or if the Board determines that a hearing will be beneficial. Imposition of fines, penalties, and other actions will be suspended pending the outcome of the hearing. The hearing shall be conducted in executive session due to the sensitive and confidential nature of the violation.

- a. If the Alleged Violator does not appear within fifteen (15) minutes of the start time of the hearing, the Board may deem that the Complaint is admitted and impose any penalties or actions described in the Notice without further notice.
  - b. Both the Complainant and the Alleged Violator may present evidence and witnesses at the hearing. The Complainant, if present, shall present the Complaint first, then the Alleged Violator may respond. The Board may limit testimony and evidence as it determines is reasonable and necessary. Unless otherwise determined by the Board, the time limit for the hearing shall be no more than fifteen (15) minutes.
  - c. Board Determination. At the conclusion of the hearing, the Board will discuss the matter in executive session and will provide its written decision to the Alleged Violator and the Complainant within 30 days of the hearing. A finding by the Board that the Complaint did occur is a determination of a violation (“Violation”).
5. Recurring Violations. If the Personal Conduct Violation continues or recurs within 12 months of the date of the first Violation, the process will begin again. However, the fines set forth on the *Schedule of Fines* will be doubled.
6. Remedies. In addition to levying fines as set forth on the *Schedule of Fines*, the Board also has the authority to impose other remedies including suspension of membership privileges, suspension of use of amenities, and any other remedy authorized by the Governing Documents or applicable laws. In addition, the Board may refer Violations that constitute crimes to the police or other enforcement agency.

The Board may take additional enforcement action, including but not limited to:

- a. Seeking injunctive or declaratory relief against any Alleged Violator or any tenant, guest, invitee, licensee, or other occupant of the Alleged Violator;
- 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 any other Governing Document, or applicable state or federal law.

#### OTHER VIOLATIONS (other than Personal Conduct Violations)

All violations of the Association’s Governing Documents (other than Personal Conduct Violations as defined above) will be handled as follows:

1. Complaint. Any resident, the Board of Directors, or the managing agent (“Complainant”) may initiate a complaint of a violation of the Governing Documents (“Complaint”). The written Complaint must be signed and include:
  - a. The name of the person whom the Complaint is against (“Alleged Violator”) and their address, if known.

- b. A description of the Complaint, including the date and time.
  - c. The name, address, and contact information of the Complainant. This information will be held by the Board of Directors and manager in confidence unless the Complainant authorizes release of this information.
2. Determination of Violation. The Board will determine, in its discretion, whether the Complaint requires additional investigation by the Board, the Rules and Regulations Committee, and/or the Architectural Review Committee, and whether a Violation Notice is warranted. A finding by the Board that the Complaint did occur is a determination of a violation (“Violation”).
3. Notices of Violation. The Board of Directors or its representatives must provide a first notice of a violation (“First Notice”) to the Alleged Violator. If the Violation is not remedied or ceased within the time specified in the First Notice, then the Board will provide a second notice (“Second Notice”) to the Alleged Violator. The Second Notice to the Alleged Violator shall describe the violation and any fines or penalties to be imposed in accordance with the *Schedule of Fines*. This Second Notice shall be sent at least 15 days before any fines or other penalties are imposed, and shall be delivered personally or by first class mail to the address of record advising that the Alleged Violator may submit a written request for a hearing (“Request for Hearing”). The Alleged Violator must deliver the Request for Hearing to the Board of Directors not later than 10 days after the date of the Second Notice. If the Alleged Violator does request a hearing or does not appear at the hearing, the charges will be deemed admitted, and any fines or penalties described in the Second Notice shall be imposed without further notice.
4. Recurring Violations. Owners who repeat any Violation of the same type as determined by the Board of Directors within a 12-month period of receiving a First Notice will not receive another First Notice of Violation. The process will begin at the Second Notice of Violation. For such repeat Violations, the Board may automatically begin fines outlined in the attached *Schedule of Fines*.
5. Continuing Violations. Should the Violation continue for a period of 15 days following mailing of the Second Notice of Violation, daily fines will commence in accordance with the *Schedule of Fines*. Daily fines for the same, continuing violations will not afford the Owner with the opportunity to request additional hearings on the daily fines.
6. Alternative Dispute Resolution. Nothing in this Resolution 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 Violator. This Resolution does not preclude the Board from making offers to

participate in mediation to resolve any dispute, or from encouraging owners to resolve their disputes in mediation.

7. Hearings Procedure. In the event the Alleged Violator requests a hearing, the Board shall schedule the hearing to occur within 30 days of the request during a regular or special board meeting. Imposition of fines, penalties, and other actions will be suspended pending the outcome of the hearing. The hearing shall be conducted in open session unless the Alleged Violator makes a request for confidentiality and the Board deems there to be confidential or sensitive information that warrants consideration in executive session.
  - a. If the Alleged Violator does not appear within fifteen (15) minutes of the start time of the hearing, the Board may deem that the Complaint is admitted and impose any penalties or actions described in the First Notice without further notice.
  - b. Both the Complainant and the Alleged Violator may present evidence and witnesses at the hearing. The Complainant, if present, shall present the Complaint first, then the Alleged Violator may respond. The Board may limit testimony and evidence as it determines is reasonable and necessary. Unless otherwise determined by the Board, the time limit for the hearing shall be no more than fifteen (15) minutes.
  - c. Board Determination. At the conclusion of the hearing, the Board will discuss the matter in executive session and will provide its written decision to the Alleged Violator and the Complainant within 30 days of the Hearing. A finding by the Board that the Complaint did occur is a determination of a violation (“Violation”).
8. Remedies. In addition to levying fines as set forth on the *Schedule of Fines*, the Board also has the authority to impose other remedies including suspension of membership privileges, suspension of use of amenities, and any other remedy authorized by the Governing Documents or applicable laws. In addition, the Board may refer Violations that constitute crimes to the police or other enforcement agency.

The Board may take additional enforcement action, including but not limited to:

- a. Seeking injunctive or declaratory relief against any Alleged Violator or any tenant, guest, invitee, licensee, or other occupant of the Alleged Violator;
- 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 any other Governing Document, or applicable state or federal law.

MISCELLANEOUS

1. Renters and Other Non-Owner Occupants and Guests. The Owner of a Lot shall be responsible for the violations of any renter, tenant, guest, occupant, or family member who violates any portion of the Association's Governing Documents.
2. No Fines Pending Resolution of a Hearing. Pending resolution of a requested hearing, no fines will be charged against the account of an Alleged Violator. If no hearing is requested and the Board or its appointed Committee finds a violation has been committed, fines may be charged against the Alleged Violator.
3. The Board has the final decision-making authority relating to violations. Board decisions at hearings are final.

This Enforcement Resolution supersedes and replaces all prior resolutions covering the same subject matter. The effective date of this Resolution is September 25, 2018

ATTEST: the above resolution was properly adopted

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018

By: \_\_\_\_\_

Jim Taylor, Woodburn Estates & Golf President

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2018

By: \_\_\_\_\_

Paula Kilgore, Woodburn Estates & Golf Secretary