

**BELLA BEACH HOMEOWNERS' ASSOCIATION**  
**Resolution for Enforcement of Regulations**

**RECITALS**

1. "Association" is the Bella Beach Homeowners' Association, an Oregon nonprofit corporation established by Articles of Incorporation, filed September 21, 2000, in the office of the Secretary of State.
2. The Association is governed by the following:
  - A. Bella Beach Declaration of Protective Covenants, Conditions, Restrictions and Easements for Lots 1 through 555, recorded November 2, 2000 as Document No. 6235084 in Book 410, Page 1360 (the "Declaration").;
  - B. Bylaws of Bella Beach Homeowner's Association, recorded on December 7, 2001 as Document 6253221 in Book 436, Pages 1938 as well as any subsequent Amendments (the "Bylaws");
  - C. Plat of Bella Beach, Phase 1, recorded August 29, 2000 in Book 16, Page 44, Plat Records;
  - D. Plat of Bella Beach, Phase 2, recorded November 2, 2000 in Book 16, Page 46, Plat Records;
  - E. Any subsequent recorded Plats for Bella Beach;
  - F. As of January 1, 2002, the Association is subject to the provisions of the Oregon Planned Community Act, ORS 94.550 to 94.783 (the "Act"), as provided in ORS 94.572.
3. ORS 94.640 and Article 3 the Bylaws vest the Board of Directors with all of the powers and duties necessary for the administration of the affairs of the Association.
4. ORS 94.630(1)(a) empowers the Board of Directors to adopt Rules and Regulations.
5. 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 of Directors.
6. ORS 94.709(5) provides that fees, late charges, fines, and interest, imposed pursuant to ORS 94.630(1)(n), are enforceable as assessments.
7. From time to time, the Board of Directors 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.
8. 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.

9. The Board of Directors deems it necessary and desirable to adopt, in accordance with ORS 94.630(1)(n), a *Schedule of Fines* to be used by the Board of Directors when imposing sanctions for violations of the Declaration, Bylaws, or Rules and Regulations.

## **RESOLUTION**

**NOW, THEREFORE, IT IS RESOLVED** that:

1. All prior Enforcement Resolutions or Financial Penalties Resolutions, if any, are rescinded and are no longer of any force including but not limited to the “Process for handling rules violations and fines”, “Rule violation-Notice and Opportunity to be Heard with Fine Schedules”, -
2. 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 (“Complaining 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 (“Alleged Offending Owner”), tenant, or guest. The Board of Directors may also initiate a complaint (Article 2). Any complaint may be filed by mail or use of electronic mail sent to [tellyourboard@bellabeach.org](mailto:tellyourboard@bellabeach.org).
- 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 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 (Exhibit A) and/or take additional action to ensure the violation is remedied (if curable) 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.
- 2.2. **Owners Duty to Attempt to Resolve Issue.** If a Complaining Owner alleges that an Alleged Offending Owner, or the tenant, guest, visitor, or occupant of the Alleged Offending Owner, is creating a nuisance or participating in offensive or unlawful conduct in violation of the Declaration, Bylaws, or the Rules and Regulations, the Complaining Owner may first consider shall first attempting to contact the Alleged Offending Owner or the responsible management company (if the property is a

rental, management company contact information should be posted outside the unit) and request that all such activities cease before submitting a complaint to the Board of Directors. The procedure for handling a complaint by a Complaining Owner about an Alleged Offending Owner, or their guest, tenant, visitor, or occupant, shall be governed by Article 3, below. Nothing in this resolution should be considered a prohibition or recommendation that a Complaining Owner cannot or should not contact law enforcement agencies if deemed necessary in the event there is a violation of County, State, Federal law.

2.3 **Submitting Complaint to the Board.** A Complaining Owner who has made a good faith attempt to comply~~complied~~ with Section 2.2, above, and who desires the Board of Directors to take corrective action against an Alleged Offending Owner or their guest, tenant, visitor, or occupant, must submit a complaint to the Board of Directors. Said complaint should be made no later than 21 days of the alleged violation. The complaint must be in writing and must include:

- (a) The name, if known, and address of the Alleged Offending Owner/Property;
- (b) A description of the offending behavior or activity, including the date(s), approximate time(s), and person(s) involved; and
- (c) Whether or not the Complaining Owner attempted contact with the Alleged Offending Owner regarding the alleged violation and the outcome.
- (d) Any evidence of the violation such as photos, witness statements, or other documents.
- (e) A statement certifying that the complaint is true and correct to the best of Complainant Owner's knowledge. It should be noted that bringing a complaint under these enforcement policies in bad faith or for the purpose of harassment of any Homeowner, tenant, guest, visitor, or and on-site worker shall constitute a violation of the Associations regulations.

Nothing in this provision shall restrict the Board from independently submitting a Complaint for a potential violation of the Declaration, Bylaws, and Rules and Regulations.

### **ARTICLE 3** **INVESTIGATION OF COMPLAINT**

3.1 **Investigation.** Upon receipt of a written ~~complaint, and complaint and~~ provided the Complaining Owner has made a good faith attempt to ~~complied~~ with Section 2.2, the Board, or a person authorized and designated 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 and investigation, the Board of Directors 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.

- (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;
  - (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 of 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 has been violated; and
  - (3) Any other information as directed by the Board of Directors.
- (c) Mailing of Notice. The notice shall be 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 Alleged Offending 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.

The notice shall also be sent via electronic mail to the email address on record with the Association.

- 4.2 **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 **Hearing Procedure.** In the event an Alleged Offending Owner requests a hearing, the Board shall utilize the following procedure for a violation hearing:

- (a) The hearing may be held in person, telephonically, or through use of a video conferencing platform such as Zoom or Microsoft Teams.

- (b) The hearing shall be held at the next regular Board meeting. However, the Board, at its own option may request that a special meeting be called for the purpose of conducting handling a Hearing.
- (c) Appearances at the Hearing. If the Alleged Offending Owner 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 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.
- (d) Dismissal. In the case of dismissal, the Board shall notify the Alleged Offending Owner, in writing, that the Complaint has been dismissed.
- (e) 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. Witnesses and Parties may appear via telephone or video platform.
  - (3) Documentation. The Alleged Offending Owner and the Complaining Owner must provide the Board Secretary with a copy of any documentary evidence at least 48 hours before the hearing.
  - (4) Attorneys. If the Alleged Offending Owner and the Complaining Owner intend to have an attorney present at the hearing, the owner must notify the Board at least ten (10) days prior to the hearing.
  - (5) Evidentiary Standard. The Board shall not be required to follow any formal rules regarding the submission of evidence.
- (f) 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(7)
  - (2) The Board shall utilize a "preponderance of evidence" standard to determine if a violation has occurred.

- (3) 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.
- (4) The Board Determination shall also be put in writing and served on the Offending Owner through mailing, hand delivery, and/or electronic mail. The Board Determination shall provide specific findings and, if it determined that a violation under Section 3.1 and 3.2 occurred, a determination of what the Offending Party needs to do to rectify the violation as well as any fine set forth in Exhibit A.

## **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 a tenant, guest, or other occupant 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 within the time set by the Board for correction, which is the ultimate cause of the violation, the Board may take additional corrective action including the levying of additional fines without prior notice to the Alleged 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 and request a review of any additional corrective actions.

## **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 **Mediation.** ORS 94.630(4) 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:

1. 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.
2. A copy of this Resolution, and amendments, will be sent to each Owner at the address shown in the records of the Association as well as through electronic mail.

Date: \_\_\_\_\_, 2022

ATTEST:

\_\_\_\_\_  
President, Board of Directors  
Bella Beach Homeowners Association

\_\_\_\_\_  
Secretary, Board of Directors  
Bella Beach Homeowners Association

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## EXHIBIT A

### BELLA BEACH HOA SCHEDULE OF FEES AND FINES

The following are fees and fines for violation of Bella Beach Rules and Regulations. In the event there are repeat finable violations of the Bella Beach Rules and Regulations, the Board may in its discretion double the fines listed herein. The Board may also in its discretion provide warnings in lieu of fines for minor or first-time offenses or in circumstances where violations were promptly remedied.

1. Noise violation for making a disturbance during quiet time hours (10:00 p.m.-8:00 a.m.) - \$250.00 .
2. Using a hot tub during quiet hours - \$250.00.
3. Violation for making a disturbance at any time that disturbs the peace and quiet of Bella Beach - \$250.00.
4. Not picking pet waste from public or common areas - \$75.00 each violation.
5. Leaving a barking dog in a home or vehicle - \$125.00.
6. Not having your dog on a leash in the common areas - \$100.00.
7. Having more guests than the designated maximum for the home you are renting per County regulations - \$500 per person per day or night.
8. Parking in front of a fire hydrant, blocking a Bella Beach designated fire lane, parking in front of walkway entrances - \$250.00 per day or night. Failure to timely place and retrieve garbage cans- up to \$150.00 fine after two written warnings.
9. Parking an RV, trailer, camper, boat, and any vehicle that is not an automobile in the Bella Beach neighborhood overnight - \$250.00.
10. Each violation of the rules concerning Cannabis growth or cultivation - \$250.00.
11. Failure to seek and receive approval from the Architectural Review Committee for any changes that require Committee approval as set forth in Article 6 of the Declaration- up to \$1,000 per violation in addition to any remedies available in Article 6 of the Declaration.
12. Failure to maintain property landscaping--\$250 after receipt of two written warnings.
13. Repeatedly bBringing a complaints under these enforcement policies in bad faith or for the purpose of harassment of any Homeowner, tenant, guest, or visitor--up to \$500 per violation.
14. Violation of any other Bella Beach Rules and Regulations, Bylaws or Declarations not specifically designated herein-up to \$250 per violation.