

EDGECLIFF HOMEOWNERS ASSOCIATION
Resolution of the Board of Directors

ENFORCEMENT RESOLUTION

RECITALS

- A. This Resolution is adopted by the Board of Directors of the Edgecliff Homeowners Association, an Oregon nonprofit corporation (“**Association**”). The Association is charged with the operation and management of Edgecliff, an Oregon planned community located in Clackamas County, Oregon (“**Community**”).
- B. The Association is governed by the following documents recorded in the records of Clackamas County, Oregon:
1. *Declaration of Covenants, Conditions and Restrictions for Edgecliff*, recorded May 12, 2011 as Document No. 2011-028511 (“**Declaration**”), including any amendments and supplements thereto;
 2. *Bylaws of Edgecliff Homeowners Association*, recorded as Exhibit B to the Declaration (“**Bylaws**”) including any amendments and supplements thereto;
 3. Plat of Edgecliff, recorded as Document No. 4322 at Book 142, Page 004 (“**Plat**”).
- C. The Association is also governed by the Oregon Planned Community Act, ORS 94.550-94.783 (“**Act**”), and is incorporated as a nonprofit corporation pursuant to the Oregon Nonprofit Corporation Act, ORS chapter 65.
- D. ORS 94.640 and ORS 94.630 provide that a homeowners association serves as the means through which the members may take action with regard to the administration, management, and operation of the Community.
- E. ORS 94.630 and Article 4, Section 4.7 of the Bylaws vest the Board of Directors (“**Board**”) with all of the powers and duties necessary for the administration of the affairs of the Association.
- F. ORS 94.630(1)(a) and Article 4, Section 4.7(1) of the Bylaws empower the Board to adopt rules and regulations.
- G. Article 4, Section 4.25 of the Declaration and ORS 94.630(1)(n) provides that the Board may levy reasonable fines for violations of the Declaration, Bylaws, Rules and Regulations of the Association or the Act 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.

- H. ORS 94.550(1) and 94.709 provide that fees, late charges, fines, and interest imposed, pursuant to ORS 94.630(1)(n), are enforceable as assessments.
- I. 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 and Rules and Regulations to ensure that Owners receive notice and an opportunity to be heard in cases involving alleged violations of the Declaration or Rules and Regulations.
- J. The Board deems it necessary and desirable to adopt a *Schedule of Fines*, attached as Exhibit A to this Resolution, 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 now be the process for handling complaints and enforcement of violations of the Declaration 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 (Article 2).
- 1.2. **Investigation.** The Board has the discretion to investigate the complaint and make a preliminary determination if it is valid (Article 3).
- 1.3. **Violation and Notice.** If the Board makes a preliminary determination the complaint is valid, the Board or its representatives may provide notice to the Alleged Offending Owner. The Board may but is not required to provide a courtesy notice to the Alleged Offending Owner. The Board must provide a fine notice to the Alleged Offending Owner prior to levying any fine. This fine notice must contain certain provisions, including giving the Alleged Offending Owner an 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). If not requested and no written materials are submitted contesting the fine, the fine may be imposed without further consideration.

- 1.5. **Fines and Remedies.** The Board may impose fines pursuant to the *Schedule of Fines* if the violation, 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. At this time, it is the policy of the Board of Directors to require the complaining owner to disclose their identity at the time of submitting a complaint. Anonymous complaints will be investigated or disregarded in the sole discretion of the Board of Directors.
- 2.2. **Members.** 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 or activity, including the date and approximate time; and
 - (c) Whether or not the Complaining Owner attempted contact with the Alleged Offending Owner regarding the alleged violation.
 - (d) The Complaining Owner's name and current contact information.

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 of Directors makes a preliminary determination that there is a violation of the Governing Documents, 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 either by hand-delivery or mail. Either one shall be deemed effective to put the owner on notice of the alleged 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; and;
 - (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 may 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:
- (i) Specific action the Board is requiring to remedy the violation;
 - (ii) The particular language or section from the Declaration, Bylaws, or Rules and Regulations which have been violated; and
 - (iii) Any other information as directed by the Board of Directors.
- (c) Delivery of Notice. The notice may be hand-delivered to the home. In the event no individual is at the house to receive the hand-delivery, the notice shall be affixed to the door of the house.
- (d) Mailing of Notice. The notice may be mailed to the addresses on record with the Association. In the case of non-owner residents, mailed to both the address on record with the Association for the Owner and to the lot address.
- (1) The mailing shall be by:
 - (i) Certified mail, return receipt requested; or
 - (ii) First-class mail.

4.2 **Repeat Violations.** Owners who repeat any violation within a 12-month period of receiving a second notice 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 *Schedule of Fines*.

- 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 **Hearing Procedure.** In the event that 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 (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.
- (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 preliminary determination of violation under Sections 3.1 and 3.2 above. The Board also has the discretion to re-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 additional time to make the decision at a later Board meeting.

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; or
 - (b) Taking immediate legal action, as the Board finds reasonably necessary, to stop conduct which it determines is in violation of the Governing Documents, 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 Lots 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 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 **Mediation.** 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 Act and the Bylaws 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.

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

DATED: _____

President, Board of Directors,
Edgecliff Homeowners Association

Secretary, Board of Directors,
Edgecliff Homeowners Association

NOTE: The Board may, at its discretion, provide additional verbal or written warnings, in addition to those set forth below, prior to imposing a fine for any violation described herein. The board may levy the full fine allocated to a time period even if the violation lasts less than the full time.

Violation Type	Declaration Provision	Notes
Use of Property for Other than Residential Purposes	Article 4, Section 4.1	Up to \$150.00 daily
Unauthorized Construction	Article 4, Section 4.2	Up to \$150.00 daily
Violation of Construction Standards	Article 4, Section 4.3	Up to \$150.00 daily
Failure to Timely Complete Construction	Article 4, Section 4.4	Up to \$150.00 daily
Unauthorized Landscaping	Article 4, Section 4.5	Up to \$150.00 daily
Failure to Maintain Landscaping	Article 4, Section 4.5	Up to \$150.00 daily
Violation of Rental Provisions	Article 4, Section 4.6	Up to \$150.00 daily
Violation of Animal Restrictions	Article 4, Section 4.7	Up to the greater of \$200.00 daily or \$200.00 per occurrence
Animal and Leash Violations	Article 4, Section 4.7	Up to the greater of \$200.00 per day or occurrence
Nuisance, Harmful or Offensive Activities	Article 4, Section 4.8	Up to \$250.00 per occurrence
Parking Violations	Article 4, Section 4.9	Up to \$100.00 daily
Vehicles in Disrepair	Article 4, Section 4.10	Up to \$100.00 daily
Sign Violations	Article 4, Section 4.11	Up to \$100.00 daily
Rubbish and Trash Violations	Article 4, Section 4.12	The greater of \$200.00 per violation or \$200.00 daily
Unauthorized or Unmaintained Fence or Hedge Violations	Article 4, Section 4.13	Up to \$150.00 daily
Service Facilities; Utilities Violations	Article 4, Section 4.14	Up to \$100.00 daily
Antennae, Satellite Dishes and Solar Collectors Violations	Article 4, Section 4.15	Up to \$100.00 daily
Exterior Lighting and Noisemaking Device Violations	Article 4, Section 4.16	Up to the greater of \$100.00 per violation or \$100.00 daily
Unauthorized Grading or Slope Modifications	Article 4, Section 4.17	Up to \$150.00 daily
Failure to Remove or Repair Damage or Destruction to Home or Lot	Article 4, Section 4.18	Up to \$150.00 daily and any cost of repair

Unauthorized Detached Buildings	Article 4, Section 4.10	Up to \$150.00 daily
Failure to Maintain Lot and Improvements	Article 4, Section 4.20	Up to \$150.00 daily
Other Affirmative Violations of the Declaration or Rules and Regulations		Up to \$250.00 per occurrence
Other Continuing Violations of the Declaration or Rules and Regulations		Up to \$150.00 per occurrence