

**ASSOCIATION OF UNIT OWNERS OF FLANDERS LOFTS,
A CONDOMINIUM
Resolution of the Board of Directors**

ENFORCEMENT RESOLUTION

RECITALS

- A. “Association” is the “Association of Unit Owners of Flanders Lofts, a Condominium,” which is also an Oregon nonprofit corporation.
- B. The Association is governed by the following documents, recorded in the records of Multnomah County, Oregon, referred to herein as “**Governing Documents**”:
 1. *Declaration Submitting Flanders Lofts, A Condominium to Condominium Ownership*, recorded on August 15, 1997 as document number 97123846, including any amendments thereto (“**Declaration**”);
 2. *Bylaws of the Association of Unit Owners of Flanders Lofts, a Condominium*, recorded as Exhibit C to the Declaration with the same document number;
 3. *First Amendment to the Bylaws of the Association of Unit Owners of Flanders Lofts, a Condominium*, recorded on March 16, 2005 as document number 2005-044825;
 4. *Second Amendment to the Bylaws of the Association of Unit Owners of Flanders Lofts, a Condominium*, recorded on February 11, 2013 as document number 2013-020001 (items B2 – B4 shall be referred to herein as the “**Bylaws**”).
- C. The Association is also governed by the Oregon Condominium Act, ORS Chapter 100.
- D. ORS 100.405(3), Article 14.3 of the Declaration and Article 3.7 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.
- E. ORS 100.405(3) and Article 7.5(l) of the Bylaws empower the Board to adopt Rules and Regulations.
- F. ORS 100.405(4)(k) and Article 7.6(c) of the Bylaws provide 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.
- G. ORS 100.450(4)(c) and Article 5.6 of the Bylaws provide that fees, late charges, fines, and interest imposed are enforceable as assessments.

- 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*, 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 the procedure set forth below shall 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 of Directors regarding a violation of the Declaration, Bylaws, or Rules and Regulations by another owner, tenant, or guest. The Board of Directors may also initiate a complaint (Article 2).
- 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 or its representatives must provide notice to the Alleged Offending Owner. The Board will first provide a First Notice to the Alleged Offending Owner. If the violation is not remedied or ceased within the time specified in the notice, then the Board will provide a second notice to the Alleged Offending Owner. An example of a second notice is provided herein in Exhibit B. This second 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).
- 1.5. **Fines.** The Board may impose fines pursuant to the *Schedule of Fines* 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.** An owner (“**Complaining Owner**”) who desires the Board of Directors 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) The name of the Complaining Owner;
 - (c) A statement indicating that, to the extent required by the Board of Directors, the Complaining Owner is willing to cooperate by testifying in a rules violation hearing or court proceeding initiated by the Association;
 - (d) A description of the offending behavior or activity, including the date(s) and approximate time(s); and
 - (e) Whether or not the Complaining Owner attempted contact with the Alleged Offending Owner in good faith regarding the alleged violation and what the outcome was of that discussion.
- 2.3 **Anonymous Rules Violations Complaints.** It is the policy of the Board of Directors not to investigate or take any action if a Complaining Owner is unwilling to disclose their name in conjunction with initiating a rules violation complaint against their neighbor. The Board retains limited discretion to accept an anonymous rules violation complaint or keep the identity of the Complaining Owner confidential if their personal safety has been reasonably threatened.

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 determines that there is a violation of the Declaration, Bylaws, Rules and Regulations, or other Governing Documents 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.** If the Board determines that there is a violation of the Declaration, Bylaws, Rules and Regulations, or other Governing Documents, the Board shall give the Alleged Offending Owner the following Notices of Violation:
- (a) **First Notice.** After making the determination that the Alleged Offending Owner is in violation of the Declaration, Bylaws, Rules and Regulations, or other Governing Documents, the Board shall give the Alleged Offending Owner a “**First Notice.**” The First Notice shall either be sent to the owner by regular mail or posted on the owner’s door. The notice required under this subsection must:
- (1) State the violation; and
- (2) State a specific period of time to correct or abate the violation.
- (b) **Second Notice and Right to a Hearing.** If, after the Board has provided a First Notice, the violation stated in the First Notice has not been brought into compliance by the Alleged Offending Owner, and the compliance deadline prescribed in the First Notice has expired, then the Board shall give the Alleged Offending Owner a Second Notice and Right to a Hearing.
- (1) **Required Notice Provisions.** The notice required under this subsection must:
- (i) Describe the violation;
- (ii) Contain a statement that the Alleged Offending Owner has the opportunity to request a hearing, and the manner by which to request a hearing; and
- (iii) Contain a statement advising the Alleged Offending Owner that if no hearing is requested within fourteen (14) days, 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 as “Exhibit A” to this Resolution.
- (2) **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 has been violated; and

- (iii) Any other information as directed by the Board.
- (3) **Delivery of Notice.** The notice shall be mailed by certified mail, return receipt requested, to the addresses on record with the Association. In the case of non-owner residents, the notice may be mailed to both the address on record with the Association for the owner and to the unit address.
- (c) For per occurrence violations (i.e., violations that are not continuing violations), the Board may proceed immediately to sending the Alleged Offending Owner a second notice as provided in Subsection (b) above without sending a first notice.
- (d) A sample Second Notice is attached to this Resolution as Exhibit B. This sample notice is for illustrative purposes only.
- 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*. Fines for any repeat violations may be increased to up to \$500 for the second violation and \$1000 for all subsequent violations.
- 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 to be held during a regular open Board Meeting:
- (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. For joint owners, the collective 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 reevaluate its prior determination of violation under Sections 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 100.415(1)(f).
 - (2) The Board shall either give its decision at the conclusion of the hearing or take the matter under advisement and give the decision a later date not to exceed ten (10) days after the hearing date.

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 Governing Documents, Bylaws, Rules and Regulations, or applicable state or federal law.

6.2 Additional Corrective Action by Board.

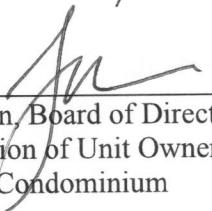
- (a) Right of Board to Take Additional Corrective Action. If the Alleged Offending Owner fails to correct the matter which is the ultimate cause of the violation, the Board may take additional corrective action without prior notice to the Offending Owner or opportunity for a hearing.
- (b) Notice of 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 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 **Mediation.** ORS 100.415(1)(f) 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 Oregon Condominium 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 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. A copy of this Resolution and amendments will be sent to each owner at the address shown in the records of the Association.

DATED: 10/29/19



Chairman, Board of Directors,
Association of Unit Owners of Flanders
Lofts, a Condominium



Secretary, Board of Directors,
Association of Unit Owners of Flanders
Lofts, a Condominium

EXHIBIT A

SCHEDULE OF FINES

Tenant Violations: All fines listed below that are associated with a tenant shall be assessed against the Owner/Landlord of the unit being occupied by that tenant. It is the Landlord's own and sole responsibility to ensure that tenants are familiar with the Association Declaration, Bylaws, Rules and Regulations as well as to ensure their tenant's ongoing compliance.

Type of Violation	Amount	Frequency
Maintenance and Exterior Alterations		
Failure to maintain unit in good repair (Section 13.2 of the Declaration, Article 7.1(a) of the Bylaws)	\$100	Weekly
Alterations to unit which jeopardize soundness of condominium (Article 7.2 of the Bylaws)	\$100	Weekly
Unauthorized exterior alterations to unit or common elements (Article 7.2(d) of the Bylaws)	\$100	Weekly
Commencing alterations to the unit which affect the common elements without prior written approval from the Board of Directors (Article 7.2 of the Bylaws)	\$100	Weekly
Insurance		
Failure to maintain required insurance (Article 8.1.6 of Bylaws)	\$250	Per Occurrence
Tendering claims to Association's insurance without Board approval (Insurance Resolution)	\$250	Per Occurrence
Conditions that cause increase in rate of insurance (Article 7.5(j) of the Bylaws)	\$250	Per Occurrence
Businesses		
Operation of unauthorized business in a residential unit (Article 10.1 of the Declaration; Article 7.5(a) of the Bylaws)	\$250	Weekly
Rentals		
Leasing out a unit for "Hotel or Transient Purposes" for a period of less than 7 days (Article 7.5(g) of the Bylaws)	\$100	Per Day

Failure to include required terms in rental or lease agreement Article 7.5(g) of the Bylaws)	\$250	Per Occurrence
Failure to provide tenant with copies of governing documents (Article 7.5(g) of the Bylaws)	\$100	Per Occurrence
Failure to provide statement of occupancy information form (Tenant Occupancy Resolution)	\$250	Per Occurrence
Nuisances		
Noxious, offensive or unlawful activities in unit or on common elements (Article 7.5(c) of the Bylaws)	\$250	Per Occurrence
Noise violations, including abnormally loud noises at any hour or excessive noise during quiet hours (10pm - 7am)	\$250	Per Occurrence
Unauthorized parking, including parking a vehicle in another homeowner's assigned space (Article 7.5(c) of the Bylaws)	\$250	Per Occurrence
Animals		
Keeping prohibited types of animals in unit (Article 7.5(d) of the Bylaws)	\$100	Weekly
Failure to keep animals on leash (Article 7.5(d) of the Bylaws)	\$100	Per Occurrence
Failure to pick up animal waste (Article 7.5(d) of the Bylaws)	\$250	Per Occurrence
Trash		
Dumping trash or waste on common elements (Article 7.5(i) of the Bylaws)	\$250	Per Occurrence
Signs		
Unauthorized display of signs visible from exterior of unit or without prior approval (Article 7.5(h) of the Bylaws)	\$100	Per Week
Miscellaneous Violations		
Other per occurrence violations of the Declaration, Bylaws or Rules and Regulations not specifically listed herein	\$100	Per Occurrence
Other continuing/ongoing violations of the Declaration, Bylaws or Rules and Regulations not specifically listed herein	\$100	Per Week

EXHIBIT B

SAMPLE SECOND NOTICE

Association of Unit Owners of Flanders Lofts, a Condominium

Attn: [Association Representative], [Title]
[Address]

[Date]

John Doe
[Address]

RE: Notice of Violation and Opportunity for a Hearing

Dear Mr. Doe:

This letter is to inform you that a condition or occurrence on your property is in violation of the Association's Declaration, Bylaws and rules and regulations. Owning a home in the community comes with many advantages, but also imposes some restrictions that are necessary to maintain harmony and consistency within the community and help enhance property values.

Specifically, the following violation has been noted:

[Description of Violation with citation to specific rule]

You have the opportunity to request a hearing to discuss this violation with the Board of Directors. You must request a hearing or correct the violation within fourteen (14) days of this letter. If you do not request a hearing or correct the violation within that time, the Board may exercise any or all of its remedies related to the violation, including but not limited to fines in the amount of [amount of fine] beginning on [date] according to the Association of Unit Owners of Flanders Lofts, A Condominium Schedule of Fines.

Thank you for your prompt attention in this matter.

Sincerely,

Association Representative: _____

Title: _____