

Resolution for Enforcement of Regulations and Schedule of Fines

The following resolution, developed with the Four Seasons Homeowners Association attorney, was approved by the Board on November 10, 2015, delivered to all homeowners on or before November 23, 2015, and effective as of December 23, 2015. It was amended by Board vote on April 16, 2019. The Amended Schedule of Fines was ratified September 17, 2019 following a period for owner input.

I. RECITALS

- A. "Association" is the Four Seasons Homeowners Association, an Oregon nonprofit corporation established by Articles of Incorporation filed October 10, 1969, in the office of the Secretary of State.
- B. The Association is governed by the following:
 - 1. The Amended and Restated Declaration of Protective Covenants, Conditions, and Restrictions, recorded as Document No. 2015-88676 in the records of Washington County Oregon on October 21, 2015 ("Declaration").
 - 2. The Bylaws of Four Seasons Homeowners Association ("Bylaws").
 - 3. The Oregon Planned Community Act, ORS Chapter 94.550-94.785.
 - 4. The various Rules, Regulations, and Policies adopted by the Board of Directors of the Four Seasons
- C. ORS 94.640 and Section 4.2 of the Bylaws vest the Board of Directors with all of the powers and duties necessary for the administration of the affairs of the Association.
- D. ORS 94.630(1)(a), Section 5.18 of the Declaration, and Sections 4.2 and 4.3.9 of the Bylaws empower the Board of Directors to Adopt Rules and Regulations.
- E. ORS 94.630(2)(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. Sections 4.3, 4.11, and 8.6.3 of the Declaration and Section 7.7 of the Bylaws empower the Board to adopt a schedule of fines and levy fines.
- F. ORS 94.709(5), Section 8.6.3 of the Declaration, and Article 13 of the Bylaws provide that fees, late charges, fines, and interest imposed, are enforceable as assessments.
- G. From time to time, the Board or Architectural Committee observes (or 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, Regulations and Policies.
- H. The purpose of the Declaration, Bylaws, and the Rules, Regulations, and Policies of our Association is to maintain the quality and property values of the Four Seasons neighborhood. The purpose of this resolution is to establish a schedule of fines so that the Association may more effectively support the enforcement of the regulations that each owner accepts when buying a Four Seasons property.

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II. RESOLUTION

NOW, THEREFORE, IT IS RESOLVED that:

- A. All prior Enforcement Resolutions or Financial Penalties Resolutions, including without limitation the Resolution effective as of June 26, 2015, are rescinded and are no longer of any force.
- B. The procedure set forth below shall now be the process for handling complaints and enforcement of violations of the Declaration, Bylaws, and Rules, Regulations and Policies.
- C. The Schedule of Fines set forth below is adopted to determine the fines for violations of the Declaration, Bylaws, Rules, Regulations, and Policies of the Association.

III. PROCEDURE

- A. *Raising a Complaint.* A complaint that an owner, guest, or tenant is violating the Association's Declaration, Bylaws, Rules, Regulations, or Policies may be raised by the Architectural Committee, the Board, or another owner. An owner typically should raise a complaint with the Architectural Committee, but may raise a complaint directly to the Board. Complaints raised by owners should be in writing, identifying the name and address (if known) of the offending owner and a description of the alleged violation (including date(s) and approximate time(s)).
- B. *Friendly Reminder.* Because the purpose of this resolution is to maintain quality in our neighborhood and not to collect fines, the Association will first try to correct problems without imposing fines. Homeowners may be informally contacted (typically by the Architectural Committee) to explain the complaint and the violation and to discuss the need and plans for remedy. If the informal communication does not resolve the issue or if informal communication is not utilized, an Owner will be provided with a written "friendly reminder" (typically by the Architectural Committee) explaining the violation and the expected remedy and providing a reasonable time for the homeowner to correct the violation. With communication and cooperation from the homeowner, this is typically adequate to eliminate or sufficiently reduce the concern and resolve the complaint. If not, the complaint may be escalated and a fine imposed or other action taken.
- C. *Enforcement Letter.* Before a fine may be imposed, owners will receive an Enforcement Letter delivered and/or mailed to their address of record with the following information:
 - 1. A description of the alleged violation;
 - 2. The improvements and timeline required to avoid being assessed a fine;
 - 3. The consequences for not correcting the problem as required, including the amount of fines, the date those fines will be imposed, and any ongoing accrual of fines. Any fine shall not be assessed until after the date has expired for the owner to request a hearing, but the fine may be imposed before that date and continue to accrue;
 - 4. The owner's right to have a hearing, how this may be accomplished, and a deadline for requesting this hearing.

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- D. *Opportunity for Hearing.* An owner who has received an Enforcement Letter may request a hearing on the violation by sending a **written request** to the Board at president@fourseasonshoa.net or via mail to Four Seasons HOA Hearing Request, 15005 SW Village Lane, Beaverton, OR 97007. This request must inform the Board if the owner intends to discuss health or other confidential information so that the hearing can be structured accordingly. The written request for hearing must be received by the Board within ten (10) days of the date of the Enforcement Letter. **Failure to request a hearing in a timely manner is a waiver of the owner's right to challenge the violation and imposition of all fines.** The amount ultimately fined will be determined at the hearing and may include fines accruing from the date of imposition set forth in the Enforcement Letter, including during the time the hearing was pending.
- E. *Notice of Hearing.* When the Board has received a timely request for a hearing, it will provide the affected owner with written notice of a hearing before the Board or a Board-appointed committee ("Hearing Committee"). Unless the Board and the affected owner mutually agree upon a date and time for the hearing, the hearing shall be set between 10 and 30 days after the receipt of the timely request for a hearing. The Notice of Hearing shall include:
1. A statement of the offense;
 2. The proposed action and/or fine, including fines that continue to accrue;
 3. The date, time, and place of the hearing; and
 4. Any time limits upon the presentation of evidence.
- Failure of the owner to respond to correspondence regarding the setting of the hearing or failure to attend the hearing shall constitute a waiver of the owner's right to a hearing and to challenge the action or imposition of fines as set forth in this policy.**
- F. *Attorneys.* If the owner intends to have an attorney present at the hearing, the owner must notify the Board at least seven (7) days before the hearing.
- G. *Hearing Procedures.* At the hearing, the affected owner shall have a reasonable amount of time under the circumstances to present evidence and argument. Specific time limits may be set out in the Notice of Hearing. Additional time may be granted by mutual agreement. Other owners may present evidence or argument relating to the alleged violation at the discretion of the Board or Hearing Committee and in accordance with procedures established by the Board or Hearing Committee.
- H. *Multiple Violations in One Hearing.* One or more violations may be combined and heard in one hearing, at the discretion of the Board or Hearing Committee. If additional alleged violations and fines occur by the same owner subsequent to the Enforcement Letter and before the date of hearing, at the discretion of the Board or Hearing Committee those additional alleged violations may also be heard at the scheduled hearing, provided the owner is given notice of the subsequent alleged violations and fines before the date of the hearing.
- I. *Hearing Decision.* A Hearing Committee may meet in closed session and the Board must meet in open session to make the determination of whether the violation has been

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committed and whether changes in the fines imposed should be made. The Board may issue its decision at the hearing or at a later-scheduled Board meeting if further information or consideration is required. The Board or the Hearing Committee shall endeavor to send the owner a Notice of Decision in writing within fourteen (14) days after the hearing. This Notice of Decision shall confirm any fines due, the date upon which such fines become payable, and whether fines are continuing to accrue. Any fines imposed after a hearing shall become due and payable on the first day of the month following the Notice of Decision unless the Notice of Decision states otherwise.

- J. *Continuing Violations after Hearing.* An owner is entitled to one hearing per continuing violation. A request for an additional hearing may be denied if the Board or Hearing Committee determines that the violations are continuing in nature and that no evidence that could be presented by the owner would change the previous decision on the same or similar type of violation.
- K. *Appeal.* An owner may appeal a fine imposed after a hearing by submitting to the Board a **written notice of appeal** setting forth-specific objections or mitigating circumstances within ten (10) days after the fine is imposed. **Failure to request an appeal in a timely manner is a waiver of the owner's right to appeal.** The Board shall address the appeal in a Board meeting. The notice of appeal must inform the Board if the owner intends to discuss health or other confidential information so that the Board meeting can be structured accordingly. The appealing owner may, but is not required to, attend the meeting and present testimony or other evidence. The Board shall issue a final, conclusive decision within thirty (30) days after receipt of the notice of appeal. The Board's decision on appeal shall be final and binding upon the appealing owner. If the Board made the original fine determination, the appeal shall be deemed a request for reconsideration.

IV. SCHEDULE OF VIOLATIONS AND FINES

- A. *Property Maintenance/Nuisance.* For neglecting property maintenance or permitting unsightly, offensive, nuisance, or unsafe conditions to exist after notification by the Architectural Committee or the Board:
1. An initial fine of \$75 if correction is not completed per the required schedule.
 2. An additional fine of \$10 per week until the violation is corrected, unless the Board finds good cause for the delay. If, however, an owner willfully refuses to correct a violation, absent good cause, then the additional weekly fine increases by \$10 each week until the violation is corrected. The owner is responsible for notifying the Board when corrective action is complete, and the Board or Architectural Committee will determine acceptability.
 3. The initial fine and additional weekly fine double for repeat violations by the same owner, without further notices of violation and opportunity for hearing if the repeat violation occurs within one year of a previous similar violation for which full process was provided.
 4. If the correction is not completed in a timely manner, the Board may arrange for correction of the violation and assess the owner for incurred and related expenses.
- B. *Parking.* For prohibited parking without an approved exception:
1. An initial fine of \$75.
 2. An additional fine of \$10 per day until the offending vehicle is removed, unless the

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Board finds good cause for the delay. If, however, an owner willfully refuses to correct a violation, absent good cause, then the additional weekly fine increases by \$10 each week until the violation is corrected. The owner is responsible for notifying the Board when the vehicle is removed.

3. The initial fine and additional daily fine double for repeat violations by the same owner, without further notices of violation and opportunity for hearing if the repeat violation occurs within one year of a previous similar violation for which full process was provided.
4. If the offending vehicle is not removed in a timely manner, the Board may arrange for correction of the violation, including towing the offending vehicle, and assess the owner for incurred and related expenses.

C. *Signs.* For display of a prohibited sign or signs:

1. An initial fine of \$75.
2. An additional fine of \$10 per day until the offending sign(s) is removed, unless the Board finds good cause for the delay. If, however, an owner willfully refuses to correct a violation, absent good cause, then the additional weekly fine increases by \$10 each week until the violation is corrected. The owner is responsible for notifying the Board when the sign(s) is removed.
3. The initial fine and additional daily fine double for repeat violations by the same owner, without further notices of violation and opportunity for hearing if the repeat violation occurs within one year of a previous similar violation for which full process was provided.
4. In addition to assessing a fine, the Board may take action to remove the sign(s).

D. *Roof.* For intentionally replacing a roof with an unapproved material:

1. A fine of \$4,000 plus recording a Notice of Noncompliance in the Washington County Records; or
2. A fine of \$500 plus the Board arranges for correction of the unapproved roof and assesses the owner for the incurred and related expenses.
3. For roofs that are mistakenly replaced with an unapproved material, Section IV.E below shall apply.

E. *Modifications.* For making modifications without prior approval by the Board or Architectural Committee or modifications that do not conform with the approval given by the Board or Architectural Committee:

1. A fine of between \$100 to \$1500, if the modification without prior approval is retroactively deemed acceptable to the Board or Architectural Committee, depending on the circumstances of the violation. To determine the cost of the specific violation, a 20% retail value of the project will be assessed (including labor). Labor shall be based on the Board's determination of fair value for the project performed, including labor, even if the labor was self-performed.

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Examples:

<u>Project value</u>	-	<u>Fine</u>
Minimum		\$100
\$1,500		\$300
\$3,500		\$700
\$5,000		\$1,000
\$7,500 & up		\$1,500

2. A fine of \$250 if an approved modification is not completed as proposed and is unacceptable to the Board or Architectural Committee, but can be reasonably restored or acceptably corrected. The owner will also be required to restore or correct the violation as acceptable to the Board or Architectural Committee within a specified time.
 - a) The owner is responsible for notifying the Board or Architectural Committee when the correction is complete, and the Board or Architectural Committee will determine acceptability.
 - b) An additional fine of \$20 per week shall accrue if an acceptable correction is delayed beyond the specified time, unless the Board or Architectural Committee finds good cause for the delay.
 - c) If the correction is not completed in a timely manner, the Board or Architectural Committee may arrange for correction of the violation and assess the owner for the incurred and related expenses.

3. A fine of between \$250 to \$2,250, if the modification performed without prior approval and is deemed unacceptable to the Board or Architectural Committee, depending on the circumstances of the violation. To determine the cost of the specific violation, a 30% retail value of the project will be assessed (including labor). Labor shall be based on the Board’s determination of fair value for the project performed, including labor, even if the labor was self-performed.

Examples:

<u>Project value</u>	-	<u>Fine</u>
Minimum		\$250
\$1,500		\$450
\$3,500		\$1,050
\$5,000		\$1,500
\$7,500 & up		\$2,250

- a) The owner is responsible for notifying the Board or Architectural Committee when the correction is complete, and the Board or Architectural Committee will determine acceptability.
- b) An additional fine of \$20 per week shall accrue if an acceptable correction is delayed beyond the specified time, unless the Board or Architectural Committee finds good cause for the delay.
- c) If the correction is not completed in a timely manner, the Board or Architectural Committee may arrange for correction of the violation and assess the owner for the incurred and related expenses.

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4. A fine of between \$250 and \$2,250, depending on the circumstances of the violation, if the modification is not acceptable to the Board and correcting the violation is not reasonable or it cannot be acceptably corrected.
 5. If an unapproved modification involves a Common Area, an additional fine of \$700 shall be assessed.
 6. These fines double for repeat violations by the same owner, without further notices of violation and opportunity for hearing if the repeat similar violation occurs within one year of a previous violation for which full process was provided.
- F. *Other Violations.* For violations not otherwise specified herein:
1. An initial fine of \$75 if correction is not completed per the required schedule.
 2. An additional fine of \$10 per week until the violation is corrected, unless the Board finds good cause for the delay. If, however, an owner willfully refuses to correct a violation, absent good cause, then the additional weekly fine increases by \$10 each week until the violation is corrected. The owner is responsible for notifying the Board when corrective action is complete, and the Board or Architectural Committee will determine acceptability.
 3. The initial fine and additional weekly fine double for repeat violations by the same owner, without further notices of violation and opportunity for hearing if the repeat violation occurs within one year of a previous similar violation for which full process was provided.
 4. If the correction is not completed in a timely manner, the Board may arrange for correction of the violation and assess the owner for incurred and related expenses.
- G. For any fine assessed, including those with accruals until the violation is corrected, the Board or Treasurer will notify the owner of the total fine due.

V. ASSESSMENT AND COLLECTION OF FINES

- A. The Board may approve a reasonable payment schedule for payment of fines and assessments to cure violations.
- B. Fines or installments thereof not paid when due will accrue an accumulating penalty of \$10 per week.
- C. Fines and costs expended to cure violations are chargeable to the owner as an assessment and may be collected and enforced the same as any other assessment, including through a civil legal action, a lien against the property, and the initiation of foreclosure proceedings.
- D. Costs incurred in collecting fines, including legal fees and filing fees, are chargeable against the owner.

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VI. IMPLEMENTATION AND FUTURE CHANGES TO THIS RESOLUTION

This Resolution and the Schedule of Fines, if passed by the Board, will be effective 30 days after a copy has been mailed or delivered to each homeowner. Changes and revisions may be made to this Resolution with an affirmative vote of at least three directors at a Board meeting. Before changing or revising this Resolution or the Schedule of Fines, homeowners shall be provided notice of the proposed changes or amendments and given the opportunity to provide input.