

Southview Homeowners Association

Post Office Box 1508
Florence, Oregon 97439

Jan. 20, 2007

To: Southview Homeowners Association Member

Re: Enforcement Procedures Resolution Adopted

The enclosed Enforcement Procedures Resolution (#2007-01) was adopted by the Board of Directors at the January 20, 2007 Board Meeting. The Resolution is unchanged (except for a correction of a typo on Page 7) from the draft sent to all members on September 17, 2006.

Please include keep this document with your Southview Homeowners Association records. The procedures are now in effect.

Sincerely,



Bill Jarocyk
President

SOUTHVIEW HOMEOWNERS ASSOCIATION

Resolution of the Board of Directors

ENFORCEMENT PROCEDURES

RECITALS

A. Association is Southview Homeowners Association, an Oregon nonprofit corporation ("Association") established by Articles of Incorporation filed July 27, 1983, in the office of the Secretary of the State of Oregon.

B. Association is governed by the Declaration of Covenants and Restrictions of the Southview Homeowners Association ("Declaration") recorded on October 6, 1983, as Document No. 8335961 and re-recorded on October 19, 1983, as Documents No. 8338818, Records of Lane County, Oregon and all amendments thereto; the Oregon Planned Community Act, ORS 94.550 to 94.783, as provided under ORS 94.572; and the Bylaws of the Southview Homeowners Association ("Bylaws") and all amendments thereto.

C. ORS 94.640 and Article IV of the Bylaws vest the Board of Directors with the power to exercise, for the Association, all of the powers and duties necessary for the administration of the affairs of the Association.

D. ORS 94.630(1)(a) and Article IV of the Bylaws empower the Board of Directors to adopt rules and regulations.

E. ORS 94.630(1)(n) and Article IV of the Bylaws provide 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.

F. ORS 94.709(5) provides that fees, late charges, fines, and interest imposed, pursuant to ORS 94.630(1)(n), are enforceable as assessments.

G. 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 or otherwise becomes aware of possible violations of the Declaration, Bylaws, or rules and regulations.

H. 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 noncompliance by an owner or resident with the provisions of the Declaration, Bylaws, or rules and regulations.

I. The Board deems it necessary and desirable to adopt a *Schedule of Fines* to be used by the Board in imposing sanctions for violations of the Declaration, Bylaws, or rules and regulations of the Association.

J. No formal procedure presently exists for the handling of complaints or the enforcement of provisions of the Declaration, Bylaws, or rules and regulations.

RESOLUTION

NOW, THEREFORE, IT IS RESOLVED that:

I. The procedure set forth below be adopted to provide for a formal, uniform, and systematic procedure for handling complaints and enforcement of violations of the Declaration, Bylaws, and rules and regulations.

ARTICLE 1 **DEFINITIONS**

As used in this resolution, the following terms have the following meanings:

1.1 “**Association**” means Southview Homeowners Association, an Oregon nonprofit corporation.

1.2 “**Act**” means the Oregon Planned Community Act, ORS 94.550 to 94.783.

1.3 “**Declaration**” means Declaration of Covenants and Restrictions of the Southview Homeowners Association, recorded in the records of Lane County, Oregon.

1.4 “**Bylaws**” means the Bylaws of Southview Homeowners Association.

1.5 **Incorporation by Reference.** Except as otherwise provided in this resolution, unless the context clearly requires otherwise, the terms defined in the Declaration have the same meaning in this resolution.

ARTICLE 2 **ORIGINATION/INITIATION OF COMPLAINT**

2.1 **Board of Directors.** A complaint of an alleged violation may be initiated by the Board of Directors based on information from a committee, a management agent, owners, subject to Section 2.2 below, or other information the Board deems reliable.

2.2 **Owners.**

(a) An owner (“Complaining Owner”) who desires the Board of Directors to take corrective action against another owner (“Alleged Offending Owner”) may submit a complaint in writing directed to the Board of Directors. The complaint must be signed by the Complaining Owner and include:

(1) The name and address of the Complaining Owner;

- (2) The name and address of the Alleged Offending Owner;
- (3) A description of the offending behavior or activity, including the date and approximate time;
- (4) Whether or not the Complaining Owner contacted the Alleged Offending Owner and if contact was made:
 - (i) The date and approximate time that the Complaining Owner contacted the Alleged Offending Owner;
 - (ii) A statement that the parties have not been able to resolve the matter;
 - (iii) Why attempts to make personal contact with the Alleged Offending Owner were either not successful or otherwise ineffective; and
 - (iv) The date and approximate time that the behavior or activity continued thereafter.
- (b) A complaint which is not in writing may not be addressed as a formal complaint under the procedures set forth in this resolution;
- (c) Upon receipt of a written complaint, in the discretion of the Board, a copy may be provided to the Alleged Offending Owner. If the complaint is against a tenant, guest, visitor, or occupant of an Owner, rather than the Owner, a copy of the complaint, when the Board deems appropriate, may also be provided to the offending tenant, guest, visitor, or occupant.

ARTICLE 3

PROCESS FOR COMPLAINTS

3.1 **Preliminary Investigation; Informal Actions.** Upon receipt of a written complaint under Section 2.2 above:

(a) **Preliminary Investigation.** The Board, or a person authorized by the Board, may conduct a preliminary investigation to confirm the nature and existence of the allegations contained in the complaint.

(b) **Required Owner Contacts.** If the complaint indicates that the Complaining Owner has not contacted the Alleged Offending Owner, before the Board considers a complaint from a Complaining Owner, the Board may notify the Complaining Owner in writing that Complaining Owner must first contact the Alleged Offending Owner and request that all such conduct cease and submit an amended complaint regarding the contact.

3.2 **Determination of Violation.** If, after review of a complaint initiated as provided under Article 2 above, the Board of Directors determines that there is a violation or probable

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 proceed, the provisions of this article govern.

3.3 **Notice of Violation.** When the Board determines that there is a violation or probable violation of the Declaration, Bylaws, or rules and regulations by an owner or the guest, tenant, visitor, or occupant of an owner, the Board shall give the Alleged Offending Owner written notice of the alleged violation as provided in this section.

(a) **Notice of Violation and Right to Hearing.** The notice required under this section must:

- (1) Describe the alleged violation;
- (2) State that the Alleged Offending Owner has the right to request a hearing in accordance with Section 3.5 below and the manner to request a hearing or, if the Board has scheduled a hearing, the date, time, and place of the hearing.

(b) **Notice Provisions.** The notice required under this section may provide or specify any or all of the following:

- (1) The action required to abate the violation;
- (2) The time period during which the violation may be abated without further sanctions;
- (3) A statement advising the Alleged Offending Owner that if the alleged violation is not abated by the specified compliance deadline, fines will be automatically assessed, beginning on the compliance deadline date, pursuant to the *Schedule of Fines* adopted by the Board of Directors;
- (4) Any of the actions specified in Articles 5 or 6 below; and/or
- (5) Such other information the Board deems appropriate under the circumstances.

(c) **Delivery of Notice; Copies.** A notice given under this section must be mailed or delivered to the Alleged Offending Owner, and, for a complaint initiated under Section 2.2 above, the Complaining Owner, at the address of the owner as shown on the records of the Association. If the violation is by a tenant, guest, visitor, or occupant of the Alleged Offending Owner, when the Board deems appropriate, a copy of the notice must be given the tenant, guest, visitor, or occupant.

3.4 **Cure and Abatement of Violations.**

(a) **Certain Types of Violations.** The Board, in its discretion, may, by resolution, designate certain types of violations as exempt from a cure and abatement period and provide that the violations are not entitled to a cure and abatement period.

(b) Repeat Violations. Owners who repeat the violation within one year of the previous violation are not entitled to a cure and abatement period or the right to a hearing. For such violations, the Board shall give notice of the violation in the manner specified in Section 3.3 above.

3.5 **Right to a Hearing; Notice**. Except as provided in Section 3.4 above:

(a) Right to a Hearing. An Alleged Offending Owner is entitled to notice and the opportunity for a hearing. Unless a hearing is specified in the notice given under Section 3.3 above, the Alleged Offending Owner may request a hearing in the manner prescribed by the Board in the notice given under Section 3.3 above.

(b) Notice of Hearing. An Alleged Offending Owner shall be given not less than fourteen (14) days' notice in writing of the date, time, and place of the hearing. Delivery and copies of the notice shall be as provided in Section 3.3(c), above.

3.6 **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 with, telephone call to, or a letter to the Alleged Offending Owner. For a complaint initiated under Section 2.2, above, the president, designated Board member, or person authorized by the Board shall report to the Complaining Owner any informal action taken.

ARTICLE 4 **HEARING PROCEDURE**

4.1 **Complaints Initiated Under Section 2.1 Above**. Hearings based on a complaint initiated under Section 2.1 above are governed by this section.

(a) Appearances at the Hearing. If a hearing has been set by the Board, but 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) Take action as provided in Article 4 below.

(b) Conduct of Hearing. The Board may limit testimony and evidence as it determines is reasonable and necessary.

(c) Determination and Action by the Board. Determinations and actions by the Board shall be pursuant to Articles 5 and 6 below.

4.2 Complaints Initiated Under Section 2.2 Above. Hearings based on a complaint initiated under Section 2.2 above are governed by this section.

(a) Appearances at the Hearing. All parties, including the Alleged Offending Owner and Complaining Owner, are required to appear at the hearing.

(b) Procedure if Complaining Owner Fails to Appear. If the Complaining Owner fails to appear at the hearing within fifteen (15) minutes of the time set for the hearing, the Board shall dismiss the Complaint, unless the Board determines at that time that there is just cause to:

(1) Allow the Complaining Owner additional time that day to appear;
or

(2) Reset the hearing to another date and time.

(c) Procedure if Alleged Offending Owner Fails to Appear. If the Complaining Owner appears at the hearing, but the Alleged Offending Owner fails to appear within fifteen (15) minutes of the time set for the hearing, the Board shall proceed to hear from the Complaining Owner. The Board shall make a determination if there has been a violation of the Declaration, Bylaws, or rules and regulations and shall take action in accordance with Articles 4 and 5 below, unless the Board determines at that time that there is just cause to:

(1) Allow the Alleged Offending Owner additional time that day to appear; or

(2) Reset the hearing to another date and time.

(d) Dismissal. In the case of dismissal, the Board shall notify the Complaining Owner and the Alleged Offending Owner, in writing, that the Complaint has been dismissed. Any further or later complaint in writing by the same Complaining Owner relating to the same, or substantially the same, conduct or alleged violation must be treated as a first Complaint.

(e) Conduct of Hearing.

(1) Testimony from Parties. If both the Complaining Owner and the Alleged Offending Owner appear, the Board shall proceed to hear from the Complaining Owner and from the Alleged Offending Owner and make a determination if there has been a violation of the Declaration, Bylaws, or rules and regulations and shall take action in accordance with Articles 5 and 6 below.

(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.

ARTICLE 5
ACTION BY BOARD

Conduct and actions by the Board of Directors at hearings conducted under Article 4 above are governed by this article.

5.1 Board Determination.

(a) The Board shall make a determination of what action, if any, is appropriate under the circumstances.

(b) Deliberations by the Board shall be in an open meeting of the Board in accordance with ORS 94.640, unless otherwise permitted under ORS 94.640, as it may be amended from time to time.

(c) The Board shall either render its decision at the conclusion of the hearing, or take the matter under advisement and render the decision at a later Board meeting.

(d) All decisions of the Board must be in writing. The Board shall provide the alleged Offending Owner a copy of the decision within seven (7) calendar days of the determination.

5.2 Board Actions. Action by the Board may include, but need not be limited to:

(a) Imposition of assessments of one-time fines and continuing fines until the Offending Owner takes corrective action satisfactory to the Board pursuant to the *Schedule of Fines* set forth in as **Exhibit A**.

(b) Legal action against the Offending Owner and tenants, guest, or other occupants of the Offending Owner.

(c) Any other action specifically provided for under the Act, the Declaration, the Bylaws, the rules and regulations, or by resolution adopted by the Board of Directors.

5.3 Additional Corrective Action by Board.

(a) Right of Board to Take Additional Corrective Action. If, after the Board has made a determination under Section 5.1 above, the Offending Owner fails to correct the matter, the Board may take additional corrective action without prior notice to the Offending Owner or opportunity for hearing required under Section 3.5 above.

(b) Notice of Additional Action. The Board shall give an Offending Owner written notice of any additional action taken under Subsection (a) of this section.

ARTICLE 6
IMMEDIATE LEGAL ACTION

Notwithstanding any other provision in Article 2 through Article 5 above, the Board may take immediate legal action, as it deems reasonably necessary, to enjoin conduct which it determines is in violation of the Declaration, Bylaws, rules and regulations or applicable state or federal law.

II. The *Schedule of Fines* attached hereto as **Exhibit A** be adopted by the Board of Directors in determining fines for violations of the Declaration, Bylaws, and rules and regulations of the Association.

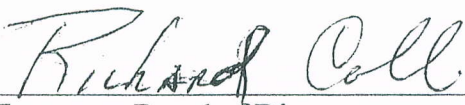
III. A copy of this resolution, and amendments, be sent to all owners at their address as shown in the records of the Association.

DATED this 20th day of January 2007.

ATTEST:



President, Board of Directors
Southview Homeowners Association



Treasurer, Board of Directors
Southview Homeowners Association

SCHEDULE OF FINES

Rule #2002-01

Effective Date: September 26, 2002

Purpose: To clarify Article VIII, Section 1., part (j) of the Southview Homeowners Association, and to set a fine structure for non-compliance.

Article VIII, Section 1, part (j) of the Southview Homeowners Association Declaration shall be clarified, interpreted, and enforced as follows:

Any outdoor storage or parking of travel trailers, campers, boats/boat trailers, motor homes or similar vehicles or commercial vehicles shall not be allowed within the planned community for more than any portion of two (2) consecutive days, with a maximum of any portion of four (4) days during any thirty (30) day period, without prior written approval by the Association. A "day" shall be defined as any calendar day beginning at 12:01 a.m. and ending at 11:59 p.m. that same calendar day.

Fines shall be assessed after giving written notice and an opportunity to be heard to the offending lot owner according to the following schedule:

\$50 per day from the first (1st) day of violation through the seventh (7th) day;

\$100 per day for the eighth (8th) day of violation through the fourteenth (14th) day; and

\$250 per day for each day beyond the fourteenth (14th) day of violation.

Fines assessed by the Association shall be immediately due and payable and if not so paid shall be collectable by the Association under all collection remedies available to the Association under the Declaration and applicable Oregon law, including interest, costs and reasonable attorney fees incurred therein.

This rule supersedes and replaces Rule #2000-01.

Unanimously approved and adopted by the Southview Homeowners Association Board of Directors at its special meeting held September 26, 2002, effective immediately.

Rule #2000-02

Date: November 8, 2000

Purpose: To set a fine structure for non-compliance with Southview CC&Rs and By-Laws

When a complaint is brought before the Board of Directors regarding a violation of the Southview CC&Rs or the Southview By-Laws, the Board, after discussion of the alleged violation and its severity, may, at its sole discretion, impose a fine of up to \$100 per calendar day for said violation(s).

Said fine(s) shall be due and payable immediately to the Southview Homeowner's Association. If said fines are not paid when presented as due, such fines shall become delinquent and shall, together with such interest thereon and cost of collection thereof as hereinafter provided, thereupon become a continuing lien on the property which shall bind such property in the hands of the then Owner, his/her heirs, devisees, personal representatives and assigns. The personal obligation of the then Owner to pay such assessment, however, shall remain his/her personal obligation for the statutory period and shall not pass to his/her successors in title unless expressly assumed by them.

Duly passed and unanimously approved by the Southview Board of Directors at its regular meeting held on Wednesday, November 8, 2000.