

**TWENTY-ONE IRVINGTON
CONDOMINIUMS OWNERS ASSOCIATION**

Resolution of the Board of Directors

ENFORCEMENT PROCEDURES

RECITALS

WHEREAS, "Declaration" is the Declaration Submitting Twenty-One Irvington Condominiums to Condominium Ownership, "Bylaws" is the Bylaws of Twenty-One Irvington Condominiums Owners Association, and "Rules and Regulations" are the rules and regulations of the Twenty-One Irvington Condominium Owners Association (collectively referred to as "Governing Documents").

WHEREAS, "Association" is the Twenty-One Irvington Condominiums Owners Association.

WHEREAS, Section 14.2 of the Declaration provides that the affairs of the Association shall be governed by a Board of Directors ("Board").

WHEREAS, Section 7.5(m) of the Bylaws provides that the Board shall have the authority from time to time to adopt, modify, or revoke rules and regulations governing the conduct of persons and the operation and use of the units and common elements as it may deem necessary or appropriate.

WHEREAS, Section 14.3 of the Declaration and ORS 100.417 vest the Board with the power to exercise, for the Association, all of the powers and duties necessary for the administration of the affairs of the Association.

WHEREAS, Section 7.7 of the Bylaws provides some, but not exclusive, rights and remedies to the Association for enforcing violations of the Oregon Condominium Act ("OCA"), Declaration, Bylaws, and Rules and Regulations, after giving written notice of the violation and an opportunity for the unit owner to be heard.

WHEREAS, Sections 5.6 and 7.7(c) of the Bylaws and ORS 100.405(4)(k) provide that the Association may impose interest and late charges for payments of assessments, attorney fees for collection of assessments, and, after giving notice an opportunity to be heard, levy reasonable fines for violations of the Declaration, Bylaws and Rules and Regulations of the Association if the charge imposed or fine levied is based on a resolution adopted by the Board that is delivered to each unit, mailed to the mailing address of each unit or mailed to the mailing addresses designated by the owners in writing.

WHEREAS, Section 7.7(c) of the Bylaws further provides that the amount and the procedure to impose such fines shall be established by Board resolution.

WHEREAS, Section 7.7 of the Bylaws also provides that any offending unit owner shall be liable to the Association for a reasonable administrative fee as established by the Board and all costs and attorneys' fees incurred by the Association in remedying the violation.

WHEREAS, Section 7.7 of the Bylaws and ORS 100.450(5) specify that fees, late charges, fines and interest imposed pursuant to the Bylaws and ORS 100.405(4)(j), (k), and (L) and administrative fees, costs, and attorneys' fees are chargeable and enforceable as assessments against the offending unit owner.

WHEREAS, Section 7.7(d) of the Bylaws and ORS 100.405(4)(L) provide that the Board has the right to terminate the right to receive utility services paid for out of assessments until the correction of the violation of any provision of the Declaration, Bylaws, or Rules and Regulations has occurred, as well as terminating access to and use of recreational or service facilities of the Condominium.

WHEREAS, from time to time the Board receives complaints from unit 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.

WHEREAS, for the benefit and protection of the Association and the individual unit owners, the Board of Directors deems it necessary and desirable to establish a procedure which is in compliance with the OCA, Declaration, and Bylaws, and ensures that unit owners receive notice and an opportunity to be heard in cases involving alleged noncompliance by a unit owner or resident with provisions of the Declaration, Bylaws, or the Rules and Regulations.

WHEREAS, 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.

WHEREAS, no formal procedure presently exists for the handling of complaints or the enforcement of provisions of the Declaration, Bylaws, or Rules and Regulations.

RESOLUTIONS

1. NOW, THEREFORE, IT IS RESOLVED that the procedure set forth below be and is hereby adopted to provide a formal, uniform, and systematic procedure for handling complaints and enforcement of violations of the Declaration, Bylaws, and Rules and Regulations.

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ARTICLE 1

ORIGINATION/INITIATION OF COMPLAINT

- 1.1 **Board of Directors.** A complaint of an alleged violation may be initiated by the Board or the Association's property management agent based on information received from a committee, director, officer, property manager, owner, subject to Section 2.1, below, or other information the Board deems reliable.
- 1.2 **Owners.** A complaint of an alleged violation may be initiated by a unit owner against another unit owner. A unit owner ("Complaining Owner") who desires the Board of Directors to take corrective action against another unit owner ("Alleged Offending Owner") may submit a complaint in writing directed to the Board. The complaint must be signed by the Complaining Owner and must otherwise comply with Section 2.1, below.

ARTICLE 2

PROCESS FOR HANDLING COMPLAINTS

- 2.1 **Complaint to Board from Unit Owner.**
 - (a) Whenever a Complaining Owner submits a written complaint of violation to the Board, the complaint must include:
 - (i) The name and address of the Complaining Owner;
 - (ii) The address of the Alleged Offending Owner; and name, if known;
 - (iii) A description of the offending behavior or activity, including the date and approximate time;
 - (iv) Whether or not the Complaining Owner contacted the Alleged Offending Owner and, if contact was made:
 - (A) The date and approximate time that the Complaining Owner contacted the Alleged Offending Owner;
 - (B) A statement that the parties have not been able to resolve the matter;
 - (C) Why attempts to make personal contact with the Alleged Offending Owner were either ineffective or inadvisable; and

(D) 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 a unit owner, rather than the unit owner, a copy of the complaint, when the Board deems appropriate, may also be provided to the offending tenant, guest, visitor, or occupant.

2.2 **Preliminary Investigation; Informal Actions.** Upon receipt of a complaint initiated under Sections 1.1, 1.2, and 2.1, above:

(a) **Preliminary Investigation.** The Board, the Association's property management agent, or any other person authorized by the Board may conduct a preliminary investigation to confirm the nature and existence of the allegations contained in the complaint.

(b) **Owner Contacts.** If a complaint from a unit owner indicates that the Complaining Owner has not contacted the Alleged Offending Owner, the Board, the Association's property management agent, or any other person authorized by the Board to conduct the preliminary investigation may notify the Complaining Owner in writing that the Complaining Owner must first contact the Alleged Offending Owner requesting that all such conduct cease and then submit an amended complaint regarding the contact.

2.3 **Determination and Notice of Violation.** If, after review and preliminary investigation of a complaint as provided in Section 2.2(a), above, the Board, 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 unit owners to proceed, the Board or the Association's property management agent at the direction of 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:

(i) Describe the alleged violation;

(ii) State that the Alleged Offending Owner has the right to request a hearing in accordance with Section 2.4, below, and the manner to request a hearing or, if the Board has already 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:

- (i) The action required to abate the violation;
- (ii) The time period during which the violation may be abated without further sanctions;
- (iii) 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;
- (iv) Any of the actions specified in Articles 4 or 6, below; and/or
- (v) 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 Sections 1.2 and 2.1, above, the Complaining Owner, at their addresses as shown on the records of the Association. If the violation is by a tenant, guest, visitor, or occupant of the Alleged Offending Owner, the Board may, when it deems appropriate, give a copy of the notice to the tenant, guest, visitor, or occupant.

2.4 **Right to a Hearing; Notice.** Except as provided in Section 4.4:

(a) Right to a Hearing. An Alleged Offending Owner is entitled to notice and the opportunity for a hearing. Unless the notice given under Section 2.3, above, specifies the date, time, and place for a hearing, the Alleged Offending Owner may request a hearing in the manner prescribed by the Board in the notice.

(b) Notice of Hearing. An Alleged Offending Owner shall be given not less than ten (10) days' written notice of the date, time, and place of the hearing. Delivery and copies of the notice shall be as provided in Section 2.3(c), above.

2.5 **Informal Action.** Nothing in this Article precludes the Chairperson, a designated member of the Board, or any 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 Sections 1.2 and 2.1, above, the Chairperson, designated Board member, or person authorized by the Board shall report to the Complaining Owner any informal action taken.

ARTICLE 3

HEARING PROCEDURE

- 3.1 **Complaints Initiated by Board.** Hearings based on a complaint initiated by the Board or the Association's property management agent under Section 1.1, 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 ten (10) minutes of the time set for the hearing, the Board of Directors may, at its sole discretion:
- (i) Conduct the hearing without the presence of the Alleged Offending Owner;
 - (ii) Allow the Alleged Offending Owner additional time that day to appear;
 - (iii) Reset the hearing to another date and time; or
 - (iv) 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. The Alleged Offending Owner does not have the right to have an attorney present.
- (c) **Determination and Action by the Board.** Determinations and actions by the Board shall be pursuant to Articles 4, 5, and 6, below.
- 3.2 **Complaints Initiated by a Unit Owner.** Hearings based on a complaint initiated by a unit owner under Sections 1.2 and 2.1, 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 ten (10) 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:
- (i) Allow the Complaining Owner additional time that day to appear;
 - (ii) Reset the hearing to another date and time; or
 - (iii) Proceed on the complaint as if a Board complaint initiated under Section 1.1, above.

(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 ten (10) 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 6, below, unless the Board determines at that time that there is just cause to:

- (i) Allow the Alleged Offending Owner additional time that day to appear; or
- (ii) 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. After the dismissal of a complaint, 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.

- (i) 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, make a determination if there has been a violation of the Declaration, Bylaws, or Rules and Regulations, and take action in accordance with Articles 4 and 6, below.
- (ii) Evidence and Witnesses. The Complaining Owner and the Alleged Offending Owner may present evidence and witnesses at the hearing. The Board of Directors may limit testimony and evidence as it determines is reasonable and necessary. Neither the Complaining Owner nor Alleged Offending Owner has the right to have an attorney present.

ARTICLE 4

ACTION BY BOARD OF DIRECTORS

Conduct and actions by the Board at hearings conducted under Article 3, above, are governed by this Article.

4.1 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 100.420, unless otherwise permitted under ORS 100.420, 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.

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

(a) Impose one-time fines and/or continuing fines until the Offending Owner takes corrective action satisfactory to the Board, pursuant to the *Schedule of Fines* attached 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 in the Act, the Declaration, the Bylaws, the Rules and Regulations, or by resolution adopted by the Board.

4.3 **Additional Corrective Action by Board of Directors.**

(a) **Right of Board to Take Additional Corrective Action.** If, after the Board has made a determination under Section 4.1, 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 2.3 and 2.4, above.

(b) **Notice of Additional Action.** The Board may, but is not required to, give an Offending Owner written notice of any additional action taken under Subsection (a) of this Section.

4.4 **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.** Unit owners who repeat the violation within one (1) 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 2.3.

ARTICLE 5

IMMEDIATE BOARD ACTION

Notwithstanding any other provision in Articles 1 through 5, above, the Board may take immediate emergency action, without notice or a hearing to the alleged offender, as the Board deems reasonably necessary, to prevent conduct that would cause imminent injury to person or property or to prevent or deal with criminal behavior and which conduct is in violation of the Declaration, Bylaws, Rules and Regulations or applicable state or federal law.

ARTICLE 6

IMMEDIATE LEGAL ACTION

Notwithstanding any other provision in Articles 1 through 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.

2. NOW, THEREFORE, IT IS ALSO RESOLVED that the *Schedule of Fines*, attached hereto as **Exhibit A**, is adopted by the Board in determining fines for violations of the Declaration, Bylaws, and Rules and Regulations of the Association.
3. NOW, THEREFORE, IT IS ALSO RESOLVED that the Board reserves the right to amend, revise, or add to this Resolution and/or the *Schedule of Fines* from time to time as the Board deems necessary.
4. NOW, THEREFORE, IT IS ALSO RESOLVED that a copy of this resolution, and amendments, shall be sent to all owners at their address as shown in the records of the Association.

DATED this 19 day of SEPTEMBER, 2006.

ATTEST:



Chairperson, Board of Directors
Twenty-One Irvington
Condominiums Owners Association



Secretary, Board of Directors
Twenty-One Irvington
Condominiums Owners Association

SCHEDULE OF FINES

Use of Condominium Property

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| 1. Use of unit for non-residential purposes | \$100 |
| 2. Installation of satellite dish(es) or telephone antennae(s) on common elements not in the exclusive use and control of the unit owner without Board approval | \$100 |
| 3. Installation of electrical or telephone wiring, machines, air conditioning units, or similar devices on or protruding through the common elements without Board approval | \$100 |
| 4. Installation of window guards, awnings, or shades without Board approval | \$100 |
| 5. Unsightly appearance of unit visible from exterior | \$ 25 |
| 6. Unsightly exterior items and/or appearance | \$ 25 |
| 7. Installation of exterior lighting or noisemaking devices without Board approval | \$100 |
| 8. Failure to timely remove seasonal holiday lighting and decorations | \$100 |
| 9. Hanging garments, rugs, laundry, sheets, reflective surfaces, and other similar items from windows, facades, patios, or decks | \$ 50 |
| 10. Unauthorized display of signs | \$ 25 |
| 11. Any other addition or damage to or alteration, obstruction, or change of appearance of the common elements | \$100 |
| 12. Violations of the Association's rules and regulations relating to use of the common elements | \$ 50 |

Noise and Nuisance

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| 1. Noise violations | \$ 50 |
| 2. Non-noise nuisance violations, including intimidation and threats | \$ 50 |

