

**CALDERA SPRINGS OWNERS' ASSOCIATION
RESOLUTION OF THE BOARD OF DIRECTORS
Enforcement Procedure and Schedule of Fines**

At a regular meeting of the Board of Directors ("Board") of the Caldera Springs Owners' Association ("Association"), for which Owners had notice and the opportunity to attend, held on August 18, 2022, at the time of 10:00A.M., the Board resolved as follows

RECITALS

- A. "Association" is the Caldera Springs Owners' Association, an Oregon nonprofit corporation established by Articles of Incorporation filed January 31, 2006, in the office of the Secretary of State.
- B. The Association is governed by the following documents, referred to herein as "Governing Documents":
1. The *Declaration of Protective Covenants, Conditions and Restrictions for Caldera Springs* recorded as Document No. 2006-11383 in the records of Deschutes County Oregon on February 17, 2006.
 2. The *Declaration of Annexation of Real Property to Declaration of Protective Covenants, Conditions, and Restrictions for Caldera Springs*, recorded as Document No. 2006-27330 in the records of Deschutes County, Oregon on April 20, 2006.
 3. The *Declaration of Restrictive Covenant*, recorded as Document No. 2008-04666 in the records of Deschutes County, Oregon on January 31, 2008.
 4. The *Declaration of Annexation of Real Property to Declaration of Protective Covenants, Conditions, and Restrictions for Caldera Springs*, recorded as Document No. 2008-04667 in the records of Deschutes County, Oregon on January 31, 2008.
 5. The *Supplemental Declaration of Protective Covenants, Conditions, and Restrictions for Caldera Springs (Designation of Additional Common Areas)*, recorded as Document No. 2009-4123 in the records of Deschutes County, Oregon on September 25, 2009.
 6. The *Amendment to Declaration of Protective Covenants, Conditions, and Restrictions for Caldera Springs*, recorded as Document No. 2013-041852 in the records of Deschutes County, Oregon on October 4, 2013.
 7. The *Amendment to Declaration of Protective Covenants, Conditions, and Restrictions for Caldera Springs*, recorded as Document No. 2014-43757 in Deschutes County, Oregon on December 31, 2014.
 8. The *Supplemental Declaration of Protective Covenants, Conditions, and Restrictions for Caldera Springs (Caldera Springs Annexation Phase A)*, recorded as Document No. 2022-04870 in the records of Deschutes County, Oregon on February 3, 2022. (Items No. 1 through 8 collectively referred to as "CC&Rs).

9. *Bylaws of Caldera Springs Owners' Association*, recorded as Document No. 2006-11384 in the records of Deschutes County, Oregon on February 17, 2006.

10. The various Rules, Regulations, and Policies adopted by the Board.

- C. The Association is also governed by the Oregon Planned Community Act ("Act"), ORS 94.550 *et seq.*
- D. ORS 94.630(1)(r), Section 3.4 of the CC&RS, and Section 8.1 of the Bylaws vest the Board with all of the powers and duties necessary for the administration of the affairs of the Association.
- E. ORS 94.630(1)(a), Section 3.3.4 of the CC&Rs, and Section 8.1(a) of the Bylaws empower the Board to adopt Rules and Regulations.
- F. ORS 94.630(1)(n) provides that the Board may levy reasonable fines for violations of the Governing Documents, 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. Section 13.2 of the CC&RS and Section 8.1(a) of the Bylaws empower the Board to adopt a schedule of fines and levy fines.
- G. ORS 94.550(1) and ORS 94.709(5) provide that fees, late charges, fines, and interest imposed, are enforceable as assessments.
- H. CC&Rs Article 5 and the current Design Guidelines require Owners to obtain Design Review Committee approval before commencing or installing certain improvements upon the Lot, the failure to abide by which cannot be rectified by seeking after-the-fact approval.
- I. For the benefit and protection of the Association and of the individual owners, the Board deems it necessary to establish a formal procedure for the handling of complaints and the enforcement of the Governing Documents to ensure that Owners receive notice and an opportunity to be heard in cases involving alleged violations of the Association's Governing Documents.
- 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 Governing Documents of the Association.
- K. The Association Secretary, by signing below, attests that Board members received notice of the meeting (or by their attendance waived notice), and that a quorum of Board members was present.

RESOLUTION

NOW, THEREFORE, IT IS RESOLVED that the procedure set forth below shall be the process for handling complaints and other enforcement for violations of the Governing Documents.

ARTICLE 1 **OVERVIEW OF PROCESS**

- 1.1. **Complaint.** An Owner may file a written complaint with the Board regarding a violation of the Governing Documents. The Board may also initiate a complaint.
- 1.2. **Investigation.** The Board has the discretion to investigate the complaint and decide if it is valid.

- 1.3. **Violation and Notices.** If the Board finds that there is a violation, the Board must provide notice to the alleged offending Owner. The Board will first provide a Friendly Reminder (First Notice). If the violation is not remedied or ceased within the time specified in the Friendly Reminder, then the Board will provide a Notice to Correct (Second Notice). This Notice to Correct must contain certain information, including giving the alleged offending Owner an opportunity for a hearing. After the time to request a hearing has passed and if no hearing is requested, the fine will be levied without further consideration and the Board sends the Fine Notice (Third Notice).
- 1.4. **Hearing.** An alleged offending Owner can request a hearing and may present testimony or evidence regarding the violation or simply submit written information. The hearing will be held by the Board or Hearing Committee, if constituted. If the Owner fails to appear at the hearing or fails to provide written materials contesting the fine, the fine will be levied without further consideration. Failure to attend the hearing is a waiver of the Owner's right to challenge the violation and imposition of all fines.
- 1.5. **Appeal.** If the Owner is dissatisfied with the results of the hearing, the Owner may file a request for reconsideration or appeal within ten (10) days. The Owner may provide supporting documentation setting out why they should be granted an exception to the stated rule. The Board shall resolve the appeal between ten (10) and thirty (30) days from receiving a timely request for appeal. The Board's decision is final. If no written appeal is received within the 10-day deadline, the Board is not required to review their decision or schedule an appeals hearing with the Owner and the violation and/or fine will be upheld.
- 1.6. **Fines.** The Board, or its authorized management agent if given appropriate authority, may levy fines pursuant to the *Schedule of Fines*, if the violation is not remedied or ceased within the time specified in the Notice to Correct, provided the Owner has been given the opportunity for a hearing.

ARTICLE 2

ORIGINATION / INITIATION OF COMPLAINT

- 2.1. **Board.** A complaint may be initiated by the Board or based on information from a management agent, Owner, Board members, or other information the Board deems reliable.
- 2.2. **Owners.** An Owner who desires the Board to take corrective action against another Owner must submit a complaint to the Board. Written complaints may be delivered in writing by email to the management agent at cathyconsulting@outlook.com. The complaint must be in writing and must include:
 - a. The name of the alleged offending Owner, if known, and address of the alleged offending property;
 - b. The name of the complaining Owner (anonymous reports of violations of the Governing Documents are not accepted. The Board will engage in reasonable efforts to hold complaints in confidence, but may disclose them if necessary under the circumstances);
 - c. A description of the offending situation, including dates and times if appropriate;
 - d. Whether the complaining Owner attempted contact with the alleged offending Owner regarding the alleged violation.

ARTICLE 3
INVESTIGATION OF COMPLAINT

- 3.1. **Investigation.** Upon receipt of a written complaint, the Board, or a person authorized by the Board that has discretion to conduct an investigation to confirm the nature and existence of the allegations contained in the complaint, may investigate the complaint to determine its validity.
- 3.2. **Determination of Validity.** If, after reviewing a complaint, the Board determines that there is a violation of the Governing Documents and the Board determines that it is in the best interest of the Association and Owners to pursue the violation, 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 Governing Documents, the Board shall give the alleged offending Owner the following Notices of Violation:

- a. “Friendly Reminder” First Notice. The First Notice of a violation is a “Friendly Reminder” to correct the violation. This reminder will notify the Owners of the infraction and request correction. The Owner will be given a specific time from the date of the letter to comply. In a situation where there is an immediate threat to health, safety or the environment, the Association may elect to rectify the situation immediately, without notice, and charge the Owner(s) for any and all costs incurred. The Board at their discretion shall determine an immediate threat.

Owners are entitled to a Friendly Reminder only for violations of different provisions of the Governing Documents or violations that are not considered ongoing or continuing in nature. In situations where irreparable harm may occur from delay, no Friendly Reminder will be issued. The first notice will then be the Notice to Correct (Second Notice) described below, or the Association may take other enforcement action to correct the violation.

- b. “Notice to Correct” Second Notice. Should the violation not be remedied within the time required in the Friendly Reminder, the Owner will be notified in writing with a “Notice to Correct” Second Notice and given another fourteen (14) days to remedy the violation or such other reasonable period as set by the Board.
- i. The Notice to Correct shall include:
1. A statement describing the violation;
 2. A statement that the alleged offending Owner has an opportunity to request a hearing, and the manner by which to request a hearing;
 3. Contain a statement advising the alleged offending Owner that if no hearing is requested within ten (10) days, and if the violation is not remedied or ceased by a specific compliance deadline, fines will be assessed pursuant to the *Schedule of Fines* adopted by the Board as “Exhibit A” to this resolution.

- ii. The Notice may also provide or specify any of the following:

1. Specific action the Board is requiring to remedy the violation.
 2. The particular language or Section from the Governing Documents which have been violated.
 3. Any other information as directed by the Board.
- c. “Fine Notice” Third Notice. Should the same violation not be remedied within fourteen (14) calendar days or other deadline set out in the Notice to Correct and the Owner did not request a hearing, the Board will send a “Fine Notice” Third Notice. This notice will confirm the levying of the fine pursuant to the *Schedule of Fines* upon the Owner’s account. Unpaid fines accrue interest pursuant to the *Late Assessment Policy*.
- d. Delivery of Notice. The notice will be mailed to the address as may have been provided by the Owner, in writing, for the purposes of receiving Association-related correspondence, or if no such address has been designated, then to the Owner address as shown on the public records for Deschutes County and shall be sent by U.S. Mail, return receipt requested with charges or postage prepaid.
- e. Obligation to Notify Tenant(s). An alleged offending Owner who receives any of the foregoing Notices of Violation shall be obligated to communicate with any tenant(s) regarding the noncompliance. This shall include sharing a copy of the notice with the tenant(s).
- 4.2. **Repeat Violations.** If the violation is of a nature to occur intermittently, such as a nuisance or offensive activity like excessive noise or a parking violation, and a Friendly Letter has already been sent within the preceding twelve (12) months, a Notice to Correct will be mailed to the Owner. Owners who repeat a violation of the same type within a 12-month period of receiving a Notice to Correct are not entitled to an additional notice or hearing, regardless of whether the Owner participated in a hearing as a result of the first violation. For such repeat violations, the Board may automatically send the Fine Notice and levy progressive fines as outlined in the attached *Schedule of Fines*, and take such other reasonable action allowed under this Resolution and the Governing Documents.
- 4.3. **Informal Action.** Nothing in this Article precludes the Board or other person authorized by the Board from first attempting to resolve any matter either by an informal meeting, telephone call, or a warning letter to the alleged offending Owner.
- 4.4. **Alteration Pre-Approval.** Failure to comply with CC&Rs Article 5 and the current Design Guidelines requiring Owners to obtain Design Review Committee approval before commencing or installing certain improvements is a special case and shall result in an immediate Notice to Correct under Section 4.1(b) above. This is a special case because there is no effective means to correct the timeliness of the Owner’s application for preapproval after the Owner has already started such work or placed an improvement upon the Lot or Common Elements. Violating Owners shall be provided the right to a hearing prior to the levying of the fine(s) set out in Exhibit A, but the fine(s) shall be levied at the appropriate time absent proof of the Board’s written approval before the commencement of the project. Requiring preapproval is critically important to ensure compliance with the Governing Documents, to maintain good relationships between the Association and Owners (requiring changes to comply with Governing Documents before a project has started is much easier than requiring changes after a project is completed), and to protect Association finances should the Association be required to take corrective

action. Obtaining pre-approval but failing to complete the project consistent with that approval in a material way is considered failing to obtain pre-approval.

ARTICLE 5 **HEARING**

- 5.1 **Scheduling.** The hearing shall be promptly scheduled for the next scheduled Board meeting, or if held before a Hearing Committee, at a mutually convenient date.
- a. The Board must meet in open session (unless confidential information is going to be discussed) to determine whether the violation has been committed and whether changes in the fines imposed should be made. If the hearing is held before a Hearing Committee, the hearing will not be subject to the open meeting requirements, provided that a quorum of the Board is not present.
 - b. The Owner shall be notified in writing of the date, time, and place of the hearing and any time limits on the presentation of evidence.
 - c. The Owner may elect to have the hearing based solely on written materials and submit written evidence.
- 5.2 **Owner Failure to Appear.** If the alleged offending Owner fails to appear within fifteen (15) minutes of the time set for the hearing and the Owner did not previously provide written materials and indicate that the Owner intends to have a hearing based solely on the written materials, the Board may, at their sole discretion:
- a. Conduct the hearing without the presence of the Owner;
 - b. Allow the Owner additional time that day to appear;
 - c. Reset the hearing to another date and time;
 - d. Dismiss the fine challenge—in the event of dismissal, the Board or Hearing Committee shall notify the Owner in writing that the challenge to the fine was dismissed, the fine is deemed non-contested, and the fines will be assessed against the Lot as originally imposed.
- 5.3 **Confidential Information.** The written request for a hearing must inform the Board if the Owner intends to discuss health or other confidential information so the Board can structure the meeting accordingly.
- 5.4 **Attorneys.** If the Owner intends to have an attorney present at the hearing, the Owner must notify the Board or Hearing Committee at least seven (7) days before the hearing.
- 5.5 **Conduct at Hearing.**
- a. Evidence. The 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, if one is constituted, and in accordance with procedures established by the Board.

- b. Multiple Violations. 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 Notice to Correct 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.

- 5.6 **Hearing Decision**. The Board or Hearing Committee may issue its decision at the hearing or may take the matter under advisement and give the decision at a later date not to exceed fourteen (14) days after the hearing date. 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 levied 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.

ARTICLE 6

APPEAL

- 6.1 **Initiation and Timing**. An Owner may request the Board reconsider a fine levied 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 levied. **Failure to request an appeal in a timely manner is a waiver of the Owner's right to appeal.**
- 6.2 **Confidential Information**. The notice of appeal must inform the Board if the Owner intends to discuss health or other confidential information so the Board can structure the meeting accordingly.
- 6.3 **Open Meeting**. The Board shall address the appeal in an open Board meeting unless confidential information is going to be discussed.
- 6.4 **Evidence**. The appealing Owner may, but is not required to, attend the meeting and present testimony or other evidence.
- 6.5 **Board Decision**. 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.

ARTICLE 7

OTHER LEGAL ACTION

- 7.1 **Legal Actions**. In addition to levying fines, action by the Board may include, but is not limited to:
 - a. Seeking injunctive or declaratory relief against any alleged offending Owner and tenants, guest, invitees, vendors, or other occupants of the alleged offending Owner's Lot; and
 - b. Taking immediate legal action, as the Board finds reasonably necessary, to stop conduct that it determines is in violation of the Governing Documents or applicable state or federal law.

7.2 **Additional Corrective Actions.**

- a. Right of Board to Take Corrective Action. If the alleged offending Owner fails to correct the matter that is the ultimate cause of the violation, the Board may take additional corrective action without providing the opportunity for a hearing or appeal, including remedying the noncompliance.
- b. Notice of Additional Action. The Board shall give an alleged offending Owner written notice an any additional action taken under Subsection (a) of this Section, pursuant to Section 5.6 of the Bylaws or other relevant law. If the Board elects to remedy the noncompliance as corrective action, the cost of such corrective action is chargeable to the Owner as an assessment, pursuant to the CC&Rs and the *Schedule of Fines*.

ARTICLE 8
MISCELLANEOUS

- 8.1 **Tenants, Guests, and other Non-owners.** The Owner of any Lot shall be responsible for the violations of renters, tenants, guests, invitees, pets, vendors, licensees, family members, or others on the Lot who violate any of the Governing Documents. All notices and fines arising out of this Resolution will be assessed to the Owner, even if a tenant or someone else committed the violation. It is the responsibility of the Owner to notify tenants of the Association policies and procedures and ensure compliance. That includes notifying the tenants of any violations and forwarding all notices sent pursuant to Section 4.1(b), herein.
- 8.2 **Fines Pending Hearing and Appeal.** Pending resolution of a requested hearing and appeal, no fines may be charged against the account of an alleged offending Owner. The fines may, however, accrue while they are not being charged.
- 8.3 **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 Bylaws do not apply to the actions of the Association in its enforcement responsibilities, as long as no litigation has been filed. The Board, however, may require Owners in an enforcement dispute to participate in mediation to achieve reasonable conflict resolution, and any costs of mediation shall be equally assessed to the participating Owners' Lot accounts.

BE IT FURTHER RESOLVED that the *Schedule of Fines* attached as Exhibit A is adopted by the Board to determine the fines for violations of the Governing Documents.

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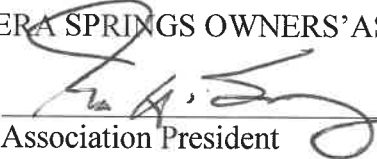
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BE IT FURTHER RESOLVED that notice of this Resolution shall be mailed to all Owners upon its adoption and shall be effective on October 1, 2022. This Resolution supersedes all previous enforcement resolutions or resolutions establishing a schedule of fines.

Dated this 18th day of August, 2022.

CALDERA SPRINGS OWNERS' ASSOCIATION

By:  _____
Association President

ATTEST: the above Resolution was properly adopted.

By:  _____
Association Secretary

**EXHIBIT A-
SCHEDULE OF FINES**

Fine Classifications	Violations	Fine Frequency
Class A Violations	County Imposed Restrictions and Major DRC Infractions	
\$500	Unauthorized change, addition or deletions of any architectural or landscape improvement	Per Occurrence
	1st Violation of Rental Registration Requirements	Per Occurrence
	2nd Violation of Rental Registration Requirements	Per Occurrence after 2nd Violation
	1st Violation of Occupancy Limits and Section 7.2 of the CC&R's	Per Occurrence
	2nd Violation of Occupancy Limits and Section 7.2 of the CC&R's	Per Occurrence after 2nd Violation
	Anything that causes immediate danger to anyone in the community- such as speeding/outdoor burning of wood /impaired or dangerous driving	Per Occurrence
	Dog off Leash involving any harassment of big game or predators.	Per Occurrence
	Use of Fireworks by owner, owner's guest or owner's renters	Per Occurrence
Class B Violations	Violations Written Policies and General CC&R Compliance	
\$250	1st Violation of Owner Card Policy or Gate Access Tag Policy- Privileges	Per Occurrence
	2nd Violation of Owner Card Policy or Gate Access Tag Policy- Privileges	Per Occurrence
	Immediate hazards on construction job sites	Per Occurrence
	Infractions of Section 8 of the Design Guidelines by an owners' contractor	Per Occurrence
	Non-compliance with general CC&R or Design Guideline requirements regarding Community Standards of Dark Sky Lighting and Landscape and Vacant Lot Maintenance (Dead Trees; Mulch, LFR requirements; prohibited signage)	Per Occurrence and then Weekly if Continuing Violation
Class C Violations	Ongoing Violations of Other Unspecified Violations of CC&RS or Board Policy	
\$75	Written Warnings or calls that escalate, including:	
	After 1 st warning further violations of more than 4 cars in driveway parking limit or Late-Night Noise in any 7-day period	Daily
	Violation of other unspecified CC&R's or Board Policy including but not limited to violation of: fishing rules; Owner's Pets off leash except on owners' property; Enforcement of no motorized vehicles on the pathways; Enforcement of underage golf cart drivers on the roads; Ignoring Age Restrictions for Fitness Center or Pool and Spas; Restrictions of Golf Carts on hard paths	Per Occurrence

**EXHIBIT A-
SCHEDULE OF FINES CONTINUED**

1. **Repeat Violations.** Violations are progressive. Each repeat violation of a similar type (to be determined by the Board) by the same Owner, whether by a tenant, guest, contractor, vendor, etc., and whether at single or multiple locations or times, within a 12-month period, shall be issued a Fine Notice. The fines for repeat violations not otherwise specified within the preceding schedule shall be increased by \$100 each time the violation repeats within a 12-month period (meaning for a \$75 fine, the first repeat would be a \$175 fine, the second repeat would be a \$275 fine, the third repeat would be a \$375 fine, and so on—progressively adding \$100 at each repeat).
2. **Payment Plan.** The Board may approve a reasonable payment schedule for enforcement assessments under this Resolution.
3. **Association Correcting Violation.** If the Association corrects the violation, the Owner is responsible for reimbursing all costs to the Association, plus a \$200 administrative charge.
4. **Fines as Assessments.** 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 foreclosure proceedings.
5. **Legal Action.** If the Board pursues legal action, the Owner in violation is responsible for all fees and costs incurred by the Association regarding enforcement.
6. **No Waiver.** Nothing in this Resolution shall be construed as a waiver of any other enforcement rights available to the Association pursuant to the Governing Documents or at law.