

A vibrant residential street with colorful houses in shades of yellow, orange, and red. The houses are arranged in a row, and a paved road with a yellow dashed center line and white lane markings runs through the middle. The sky is bright blue with scattered white clouds. The overall scene is bright and cheerful.

Rules & Regulations

BE IT FURTHER RESOLVED, if proof of insurance is not provided within thirty (30) days as required above, the Association shall notify the Unit Owners they are in violation of this Resolution and, after a hearing and an opportunity to be heard, will be subject to a fine in the amount of Fifty Dollars (\$50.00) per month which will increase to \$75.00 for sixty (60) days and \$100.00 for ninety (90) days and continuing to increase an additional \$25.00 thereafter for each additional thirty (30) days proof of insurance has not been provided to the Association pursuant to Article 8(f) of the Code of Regulations and Section 3302(a)(1) of the Act[.]

1. Owners must provide proof of insurance within 30 days. After notice of the violation and an opportunity for a hearing, the Association may fine Owners who do not provide proof of insurance. The initial fine is \$50. After every 30 day period the fine will increase by \$25 until proof of insurance is provided.

What We'll Cover

- Governing Documents
- Types of Rules
- Enforcement of Rules
- Samples (Good & Bad)

Hierarchy

- Federal/State Law
- Declaration/CC&Rs
- Plat
- Bylaws
- Rules/Regulations
/Resolutions

Characteristics of Rules

- Generally adopted by board w/o owner vote
- May not conflict with other governing documents
- NOT recorded

Categories of Rules

- Use (common areas, lots, units)
- Architectural/Aesthetics
- Behavior

Criteria

- Consistent
- Relate to Operation/Purpose of Community
- Reasonable
- Fair
- Capable of Uniform Enforcement

RCW 64.38.020

Association powers.

Unless otherwise provided in the governing documents, an association may:

(1) Adopt and amend bylaws, rules, and regulations;

(2) Adopt and amend budgets for revenues, expenditures, and reserves, and impose and collect assessments for common expenses from owners;

(3) Hire and discharge or contract with managing agents and other employees, agents, and independent contractors;

(4) Institute, defend, or intervene in litigation or administrative proceedings in its own name on behalf of itself or two or more owners on matters affecting the homeowners' association, but not on behalf of owners involved in disputes that are not the responsibility of the association;

(5) Make contracts and incur liabilities;

(6) Regulate the use, maintenance, repair, replacement, and modification of common areas;

(7) Cause additional improvements to be made as a part of the common areas;

(8) Acquire, hold, encumber, and convey in its own name any right, title, or interest to real or personal property;

(9) Grant easements, leases, licenses, and concessions through or over the common areas and petition for or consent to the vacation of streets and alleys;

(10) Impose and collect any payments, fees, or charges for the use, rental, or operation of the common areas;

(11) Impose and collect charges for late payments of assessments and, after notice and an opportunity to be heard by the board of directors or by the representative designated by the board of directors and in accordance with the procedures as provided in the bylaws or rules and regulations adopted by the board of directors, levy reasonable fines in accordance with a previously established schedule adopted by the board of directors and furnished to the owners for violation of the bylaws, rules, and regulations of the association;

(12) Exercise any other powers conferred by the bylaws;

(13) Exercise all other powers that may be exercised in this state by the same type of corporation as the association; and

(14) Exercise any other powers necessary and proper for the governance and operation of the association.

[1995 c 283 § 4.]

ORS 94.630¹

Powers of association

Text

News

Annotations

Related Statutes

- (1) Subject to subsection (2) of this section and ORS **94.779 (Unenforceability of certain irrigation requirements and restrictions on family child care)**, and except as otherwise provided in its declaration or bylaws, a homeowners association may:
- (a) Adopt and amend bylaws, rules and regulations for the planned community;
 - (b) Adopt and amend budgets for revenues, expenditures and reserves, and collect assessments from owners for common expenses and the reserve account established under ORS **94.595 (Reserve account for maintaining, repairing and replacing common property)**;
 - (c) Hire and terminate managing agents and other employees, agents and independent contractors;

ORS 94.580¹

Declaration

- [recording](#)
- [contents](#)

Text

[News](#)

[Annotations](#)

[Related Statutes](#)

(1) A declarant shall record, in accordance with ORS [94.565 \(Planned community to be created under ORS 94.550 to 94.783\)](#), the declaration for a planned community in the office of the recording officer of each county in which the planned community is located.

(2) The declaration shall include:

(a) The name and classification of the planned community;

(m) A statement of the use, residential or otherwise, for which each lot is intended;

(n) A statement as to whether or not the association pursuant to ORS [94.665 \(Authority of association to sell, transfer, convey or encumber common property\)](#) may sell, convey or subject to a security interest any portion of the common property and any limitation on such authority;

(o) A statement of any restriction on the use, maintenance or occupancy of lots or units;

(p) The method of amending the declaration and a statement of the percentage of votes required to approve an amendment of the declaration in accordance with ORS [94.590 \(Amendment of declaration by owners\)](#);

(q) A description of any contemplated improvements which the declarant agrees to build, or a statement that the declarant does not agree to build any improvement or does not choose to limit declarants rights to add improvements not described in the declaration;

Authority

- Implied
- Specific
- General

Implied Authority

- Rules governing common property
- Rules governing lots or units to protect common property or common elements
- May be restricted by statute or governing docs
- Likely extends to rules ensuring Association can carry out its functions

General Authority

- Statutory rule making authority
- Limitations

Nuisance

- Unreasonable interference
- Incapable of exact definition
- Odors, noises, but usually **NOT** aesthetics
- Local ordinances

Specific Authority

- CC&RS: "BOD may adopt reasonable parking rules"
- RULE: "No vehicles more than 6000 lbs"

A close-up photograph of a person's hands writing on a piece of paper. The person is wearing a dark red, ribbed sweater. The left hand is resting on the paper, and the right hand is holding a yellow pen, writing on the paper. The background is slightly blurred, showing more of the person's hands and the paper.

Process

1. Identify Need

2. Identify Authority

3. Use Committes

4. Solicit Owner Feedback

5. Adopte and Distribute

Format

- Cite Authority
- Explain Purpose
- Discuss Scope & Intent
- Don't use "Whereas"!

Enforcement of Rules

- Fines
- Injunctive Relief
- Self-help



Common Defenses

- **Unequal Enforcement**
- **Waiver**
- **Improper Adoption**
- **Lack of Authority**

Tips

- Keep Rules Simple
- Tailor to Community
- Convey the Benefit or Need
- Provide Flexibility When Possible
- Make Sure Owners Have Notice of Rules

WHEREAS, "assessments," as used in this Resolution, includes all amounts validly assessed against a Unit Owner ("Owner") pursuant to the Declaration, the Association's Bylaws, Rules and Regulations, and any Board of Directors ("Board") Resolution, including, but not limited to common expenses, interest, fees, fines, attorney fees and all collection costs;

WHEREAS, Article 7, Section 7.5(p) of the Bylaws allows the Association to adopt rules and enforce compliance with the Declaration, Bylaws, and Administrative Rules and Regulations;

WHEREAS, Article 3, Section 3.7(m) of the Bylaws authorizes the Board to enforce provisions of the Declaration, Bylaws and Rules and Regulations, including action to collect unpaid assessments;

WHEREAS, Article 7, Section 7.6(c) of the Bylaws and the Oregon Condominium Act authorize the Board to establish late charges and fines;

WHEREAS, Chapter 100, Section 100.450 of the Oregon Condominium Act provides that all assessments, together with interest, attorney fees and costs of collection shall be a continuing lien upon the unit against which each such assessment is made;

COMPONENT	ASSOCIATION OBLIGATION	UNIT OWNER OBLIGATION
Floor Slabs	■	
Boiler Rooms	■	
Janitor's Rooms	■	
Electrical Rooms	■	
Storage Rooms	■	
Foundations	■	
Exterior Windows (not within Units)	■	
Exterior Windows (within Units)	■	■
Exterior Balcony or Patio Doors (adjacent to a Unit)	■	■
Unit Access Doors	■	■
All Other Doors not Adjacent to Units	■	
Crawl Spaces	■	
Roofs	■	

Construction Access Resolution

1. The Association is obligated to oversee the affairs, operations, and maintenance of the Condominium. In accordance with Article 7 of the Declaration, the Association is authorized to adopt administrative rules and regulations governing the operation, maintenance, and use of the Condominium.
2. The Association will soon undertake significant and substantial repairs to the Condominium, including repairs to the siding, decks, stairways, and stair landings.
3. The Association has or will hire a licensed and bonded contractor to oversee the work performed on the Condominium.
4. The contractor's work will require access to common elements, and in some cases, access to individual units.
5. Article 7, Section 10 of the Bylaws grants the Association a "right of entry." The right of entry authorizes the Association to access individual units for the purpose of making repairs or alterations at reasonable times after reasonable notice.

B. Article 3, Section 3.3.8 of the Bylaws empowers the Board of Directors to adopt and publish rules and regulations governing the details of operation and use of the Common Property.

C. Article 6, Section 6.2 of the Bylaws empowers the Board of Directors to make and amend rules and regulations concerning the use of the Property or Lots located within XXXXXXXXXXXXXXXXXXXX.

D. ORS 94.630(1)(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;

E. ORS 94.630(1)(m) provides that the Board of Directors may:

(1) Adopt rules regarding termination of utility services paid for out of assessments of the Association and access to and use of recreational and service facilities available to Owners; and

(2) Terminate the rights of any Owners to receive such benefits or services until the correction of any violation covered by such rule has occurred;



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