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September 12, 2016

Dear University Square Association Owner(s),

Enclosed are the adopted University Square Owners' Association Election Rules and Resolution Regarding Imposition of Fines and Reimbursement Assessments and Other Discipline. Also, included is an Electronic Notice to Opt-In form provided by the Board. Please mail those to our P.O. Box below.

If you have any questions, feel free to contact our office.

Yours truly,

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**UNIVERSITY SQUARE OWNERS' ASSOCIATION**

**Electronic Notice Opt-in Form**

To keep homeowners informed, while operating in a more cost efficient and environmentally friendly way, the University Square Owners' HOA Board of Directors asks that homeowners agree to receive routine announcements and news from the HOA via email. Please complete the following form and return it to University Square Owners' Association.

Name:

\_\_\_\_\_

Address:

\_\_\_\_\_

\_\_\_\_\_

Emergency Contact Phone Number: \_\_\_\_\_

This is to confirm that I would like to receive all information regarding University Square Owners' Association HOA Board Meetings, the Annual Meeting, budget and all other community news and announcements electronically at the following email address. I recognize that this does not apply to any invoices or legal notices that are specific to my home/unit. Please print clearly.

Email address: \_\_\_\_\_

I understand that I will cease to receive the information from the HOA by US mail except for the documents that may not be disseminated electronically or unless I advise the Board in writing that I would like to discontinue the use of e-mail notification.

Date: \_\_\_\_\_

Signature: \_\_\_\_\_

Please return this form to:

University Square Owners' Association

**Univerity Square Owners' Association**

**Resolution Regarding Imposition of  
Fines, Reimbursement Assessments and Other Discipline**

**Authority and Statement of Purpose**

A. Section 3.2 of the Bylaws of University Square Owners' Association (the "Bylaws") provides that the governing body of University Square Owners' Association (the "Association") shall be the Board; and

B. Section 7.4 of the Declaration of Covenants, Conditions and Restrictions of University Square (the "Declaration") empowers the Board to adopt rules concerning the use of the Common Area; and

C. Section 10.2.1 of the Declaration authorizes the Board to impose monetary penalties and suspend the voting rights of members subject to the due process requirements imposed by Section 2.21 of the Declaration and Section 3.7 of the Bylaws; and

D. The Declaration provides in Section 6.4 that the Board has the authority to levy reimbursement assessments against Lot Owners for costs incurred by the Association to bring an Owner into compliance or to collect a fine or penalty; and

F. Section 10.2.1 of the Declaration provides that the Association may bring an action at law or in equity to compel compliance; and

G. For the benefit and welfare of all Association residents, the Board wishes to establish this policy regarding the imposition of fines and other penalties for violation of said Declaration, Bylaws and the Association Rules, that it may equitably and consistently enforce the governing documents.

Now, Therefore, it is resolved that the following Resolution is adopted by the Board as the policies and procedures of the Association concerning enforcement of the governing instruments and the levying of reimbursement assessments, and constitutes the notice and hearing procedure referred to in Section 2.21 of the Declaration and 3.7 of the Bylaws.

**Policies and Procedures**

1. The Secretary of the Association or the Association's management representative shall maintain in the Association's records evidence that the governing instruments including Bylaws, Declaration and Rules and Regulations promulgated by the Board have been distributed to all homeowners.

2. New rules and any amendments to the rules shall be adopted in accordance with Civil Code Section 4340 and following.

3. The Association shall mail to the homeowner violating the governing documents, (hereinafter "Respondent") by first class or return receipt mail, an initial warning letter specifically advising the homeowner of the violation(s), and the manner in which the rule was broken, including specification of dates, times and places of occurrence. The identification of witnesses shall be at the discretion of the Association. The letter also shall warn the Owner that unless the violation ceases, or if further violations occur, a hearing will be held regarding the imposition of a fine. The Association shall maintain in its files any reply correspondence from the Respondent and the signed return receipt, if any. This initial notice need not be given in the case of a reimbursement assessment or in the case of violations that are not continuing.

4. If the violation does not cease, or if further violations continue after the initial warning letter, or if the warning letter is not applicable, the Association shall serve on the Respondent a fifteen (15) day Notice of Hearing according to Form 1, which is attached to this Resolution. The Notice shall be completed to designate the date, time and place of the hearing regarding the violation and the imposition of a fine or other discipline including the amount of the fine and/or the nature or other discipline (such as suspension of voting rights) which will be imposed if no appearance is made at the hearing. The Notice shall state as specifically as possible the provision(s) violated and the dates, times and places of violation(s). If correction is required, the date for compliance shall be included. The designation of witnesses in the notice shall be at the discretion of the Association. The Notice shall be served by personal delivery or by first class mail. Proof of the service of the Notice shall be maintained in the Association's records. Service by mail shall be made to the last known address of the Owner as shown on the Association's records. Such proof shall either consist of a completed proof of personal service or else a return receipt signed by the party who is to attend the hearing. The Respondent shall be given at least fifteen (15) days advance notice of the hearing. If delivery is made by mail, it shall be deemed to have been delivered seventy-two (72) hours after it has been deposited in the United States Mail with first class postage prepaid, addressed to the Owner's address of record.

5. If the Respondent can show reasonable cause as to why he, she or it cannot attend the hearing, and notifies the Board at least forty-eight (48) hours prior to the originally scheduled hearing, and if cause is found by the Board, the Board will reschedule the hearing and deliver notice of the new date ten (10) days prior to the rescheduled hearing.

6. Service of the Notice of Hearing shall be accompanied by a Notice of Respondent's Rights and Options which states that the Respondent may:

a. Object to the Notice upon the ground that it does not state the acts or omissions upon which the Board may proceed;

b. Object to the form of the Notice on the ground that it is so indefinite or uncertain that the Respondent cannot identify the violating behavior or prepare his defense; or

c. Admit to the Notice in whole or in part. In such event, the Board will make

a determination as to whether it will waive hearing and simply impose penalty, if any, or if it will conduct a hearing to determine appropriate penalty.

Any objection to the form or substance of the Notice shall be considered by the Board at the hearing.

7. Unless otherwise provided in this Resolution, the hearing for the imposition of a fine, or other disciplinary action, shall be before a quorum of the Board at a regular or special meeting of the Board.

8. The hearing shall be conducted in executive session, if requested by the member. At the hearing, the presiding officer shall read the notice of hearing, and accept written and oral evidence regarding the violation by the Respondent. The Respondent shall then have the right to present evidence and arguments in opposition to the claimed violation. The hearing shall be informal. Formal rules of evidence shall not be required. However, the Board may exclude irrelevant, immaterial or unduly repetitious evidence. In addition, the Board may administer an oath or affirmation to any person upon request of either party, or upon its own initiative.

The Board may also expel any person from any hearing for improper, disorderly or contemptuous conduct. The failure of the Respondent to appear at the scheduled hearing shall not preclude the Board from receiving evidence from, and hearing arguments concerning, the violations. The Board may make a finding notwithstanding the absence of the Respondent if adequate notice has been provided to the Respondent.

9. Each party shall have the following rights:

- a. Prior to the hearing, to obtain upon written request the names and addresses of witnesses and to inspect the copies of any statements, writings and investigative reports relevant to the subject matter of the hearing;
- b. To present witnesses;
- c. To present written evidence;
- d. To examine witnesses, documents, reports and statements received by the Association;
- e. To have legal counsel present;
- f. To maintain and preserve, at the party's own expense, a record through the presence of a certified shorthand reporter or other recorder;
- g. To require the hearing to be open to attendance by any member of the Association;

- h. To receive written findings of fact by the Board regarding the violation.**
- i. To make opening and closing statements.**

**Nothing in this Section, however, shall authorize the inspection or copying of any writings or thing which is privileged from disclosure by law, or otherwise made confidential or protected including, but not limited to, the work product of the Association's attorney and the confidential communications between the Association and its attorney. Any party claiming that a request of discovery has not been complied with shall submit a written petition to compel discovery with the Board. The Board shall make a determination and issue a written order setting forth the matters or parts thereof which the Respondent is entitled.**

**10. After the presentation of evidence and argument by the Association and the Respondent, the Board shall confer in executive session. Within fifteen (15) days following the hearing, the Board shall serve a written communication of its findings on the Respondent by first class or return receipt mail. The Board shall make findings by relating the evidence supporting its conclusion that a particular rule was violated. The Board shall include in the findings its determination of the fine(s) or other discipline, if any, which it imposes as a result of any violation(s) it finds occurred. The Board's decision shall be final.**

**11. Upon findings by the Board that a violation has occurred, the Respondent shall have five (5) days from the date of receipt of the written findings of the Board to comply with the Order, unless a later date is specified in the Order.**

**a. The Board shall have the power in its Order to temporarily revoke voting rights for a time period commensurate with the rule infraction by the Respondent not to exceed sixty (60) days.**

**b. A reasonable fine or fines may be imposed according to established schedules if a majority of a quorum of the Board finds that the Respondent violated the governing instruments of the Association and that a fine is warranted for the violation.**

**c. The Board shall have the power to levy a reimbursement assessment in accordance with Article VI, Section 6.5 of the Declaration. Reimbursement assessments, including monetary penalties imposed as disciplinary measures, may not become a lien against an Owner's Lot enforceable by non-judicial foreclosure proceedings under a power of sale. This restriction does not apply to late payment penalties or interest for delinquent assessments or charges imposed by the Association to reimburse it for loss of interest or collection costs, including reasonable attorney's fees in the collection of delinquent assessments.**

**12. If there has been no compliance by the Respondent, then a notice of intended collection activities concerning any fine, monetary penalty or reimbursement assessment levied pursuant to this Resolution, must be duly served upon the Respondent homeowner. Such collection**

activities can then be commenced only after five (5) days from service of the notice of intended collection activities on the homeowner.

13. The Association may alternatively or in conjunction with the other proceedings referred to herein, enforce the Bylaws, Declaration and Association Rules through internal dispute resolution pursuant to Civil Code Section 5900 and following, and alternative dispute resolution pursuant to Civil Code Section 5925 and following, or by an action at law, or in equity, independent of any proceedings for enforcement under this Resolution. The Association reserves all rights and remedies provided by law or by the governing documents.

14. This Resolution is not applicable to the levy or collection of regular or special assessments.

15. Notwithstanding the provisions of this Resolution, the Board may make emergency repairs or take any other emergency action it deems necessary and subsequently comply with the notice and hearing procedure.

**University Square Owners' Association**

**Notice of Hearing**

To: (owner name and address)

The following information sets forth the date, time and location of the meeting of the Board where a hearing will be held concerning the following violations and the disciplinary or other enforcement action that will be imposed by the Board. You have the right to request that this meeting be held in executive session.

- 1.
- 2.
- 3.

Your violation of the above rule(s)/restriction(s) is based upon your conduct as follows:

(Specify in detail conduct, including times, dates, places and witnesses)

Your violation of the above rule(s)/restriction(s) has resulted in the following disciplinary and/or corrective action and/or penalties:

(Specify disciplinary and/or corrective action and/or penalties, such as fines or the suspension of voting and other membership rights, which have been imposed by the Board and have become effective in the event the violation is found to have occurred.)

**YOU ARE HEREBY NOTIFIED** that your written request for hearing was received by the Board. The hearing concerning the above violation(s) and proposed discipline and/or corrective action will be held:

**Date:**

**Time:**

**Location:**

**University Square Owners' Association**

Dated: \_\_\_\_\_

By \_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name and Title



### **Notice of Respondent's Rights and Options**

Upon receipt of a Notice of Hearing served on the Respondent by the Board of University Square Owners' Association, the Respondent may:

- a. Object to the Notice upon the ground that it does not state the acts or omissions upon which the Board may proceed;
- b. Object to the form of the Notice on the ground that it is so indefinite or uncertain that the Respondent cannot identify the violating behavior or prepare his defense; or
- c. Admit to the violation(s) in the Notice in whole or in part. In such event, the Board will make a determination as to whether it will waive hearing and simply impose penalty, if any, or if it will conduct a hearing to determine an appropriate penalty.

Each party shall have the following rights concerning the hearing:

- a. Prior to the hearing, to obtain upon written request the names and addresses of witnesses and to inspect the copies of any statements, writings and investigative reports relevant to the subject matter of the hearing;
- b. To present witnesses;
- c. To present written evidence;
- d. To examine witnesses, documents, reports and statements received by the Association;
- e. To have legal counsel present;
- f. To maintain and preserve, at the party's own expense, a record through the presence of a certified shorthand reporter or other recorder;
- g. To require the hearing to be open to attendance by any member of the Association. The meeting shall ordinarily be held in executive session;
- h. To receive written findings of fact by the Board regarding the violation.
- i. To make an opening statement and closing argument.

### **Schedule of Fines and Reimbursement Assessment**

**The Board adopts the following schedule of fines pursuant to its authority under Sections 7.4 and 10.2.1 of the Declaration of Covenants, Conditions and Restrictions and Section 6.4 of the Bylaws:**

<b>First Violation</b>	<b>\$100</b>
<b>Repeated Violations</b>	<b>\$200 per occurrence</b>
<b>Continuing violations</b>	<b>\$100 per day to a maximum of \$1,000</b>
<b>Violations with damage</b>	<b>Fine per this Schedule and cost of repair</b>
<b>Enhanced violations e.g. those causing or threatening personal injury or significant property damage</b>	<b>Reasonable enhanced fines proportionate to the violation.</b>
<b>Damage to common area or action resulting in expense to Association</b>	<b>A reimbursement assessment may be imposed for all costs, expenses, fees, fines incurred for enforcement, damage repair, attorney's fees and charges incurred in securing owner compliance or repairing damage.</b>

**UNIVERSITY SQUARE OWNERS' ASSOCIATION  
ELECTION RULES**

Whereas, California Civil Code Section 5105(a), with effective date of January 1, 2014, requires the adoption of rules regarding election procedures; appointment of election inspectors; voting by secret ballot; proxy and ballot instructions; publication of election results; and retention of ballots.

Now, therefore, be it resolved that University Square Owners' Association does hereby adopt the following rules:

**A. Effective Date**

These rules shall become effective upon adoption at the noticed board meeting.

**B. Vote by Secret Ballot for Specified Matters**

1. The following matters require a vote by secret ballot in accordance with the procedures set forth herein:

- Assessments, where a vote is required by law;
- Election and removal of members of the Board of Directors;
- Amendments to the governing documents; or
- The grant of exclusive use of common area property pursuant to California Civil Code Section 4600.

2. These rules do not limit the authority of the Board of Directors to impose assessments sufficient to perform its obligations in accordance with the provisions of the governing documents and California Civil Code Section 4510.

3. These rules do not limit the Board of Directors from making such recommendations to the membership in regard to all matters, including those matters covered under this Section B, with the sole exception of advocating the election or defeat of any candidate that is on the election ballot, to the extent deemed necessary to comply with duties of the Association as imposed by the governing documents and the law.

**C. Fairness in Elections**

1. The Association shall ensure that if any candidate or member advocating a point of view is provided access to Association media, newsletters, or Internet websites during a campaign, for purposes that are reasonably related to that election, equal access shall be provided to all candidates and members advocating a point of view, including those not endorsed by the Board, for purposes that are reasonably related to the election. The Association shall not edit or redact any content from these communications, but may include a statement specifying that the candidate or member, and not the Association, is responsible for that content. The Board may adopt a reasonable deadline for the

submission of all opposition communications reasonably related to the election to facilitate the timely and efficient dissemination of election materials to the members in accordance with this Paragraph.

2. There are no qualifications for candidates for the Board of Directors. The nomination procedure in Article V, Section 5.2.1 of the Bylaws (the "Bylaws") is incorporated herein. Any member may nominate himself or herself for election to the Board of Directors as a candidate in the ballot by giving timely notice to the Board.

3. California Civil Code Section 5105(a) requires that the Association shall specify the qualifications for voting, the voting power of each membership, the authenticity, validity, and effect of proxies, and the voting period for elections, including the times at which polls will open and close.

a). The qualifications for voting are as follows: (1) all members are entitled to vote, Article IV, Sections 4.1 and 4.2 of the Bylaws and Article VII, Sections 7.2 and 7.3 of the "CC&Rs"; (2) the voting power of each membership is equal; and (3) each member shall be entitled to one vote for each lot owned by the member except for cumulative voting for the election of directors and votes to remove less than all of the directors. See Article IV, Sections 4.2.1 and 4.5, and Article V, Sections 5.2.2. and 5.3 of the Bylaws. The effect of proxies is as stated in Article IV, Section 4.4 of the Bylaws.

b). All ballots and voting materials shall be provided to members not less than thirty (30) days prior to the time of the meeting of members or Board of Directors at which the votes will be tabulated. Written ballots and proxies must be returned to and received by the inspector(s) no later than the commencement of the meeting at which the votes will be tabulated.

4. Each ballot received by the inspector(s) of election shall be treated as a member present at a meeting for purposes of establishing a quorum. Ballots may provide a space for abstentions from voting. Ballots including one or more abstentions shall nevertheless be treated as a member present at a meeting for purposes of establishing a quorum.

#### **D. Use of Association Funds for Campaign Purposes**

1. Association funds shall not be used for campaign purposes in connection with any Association Board election. Association funds shall not be used for campaign purposes in connection with any other Association election, except to the extent necessary to comply with duties of the Association imposed by law.

2. For the purposes of this Section, the term "campaign purposes" includes, but is not limited to, the following:

a). Expressly advocating the election or defeat of any candidate that is on the Association election ballot.

b). Including the photograph or prominently featuring the name of any candidate on a communication from the Association or the Board, excepting the ballot and ballot materials, within thirty (30) days of an election, provided that this is not a campaign purpose if the communication is one for which subdivision (a) of Section 5105 requires that equal access be provided to another candidate or advocate.

3. The inspector of elections may set a limit on the length of the statements of candidates for the Board of Directors.

#### **E. Inspector of Election**

1. The Association's Board of Directors shall, for each matter to be voted on falling under Section B, select one or three independent persons to act as inspector(s) of election. The inspector(s) of election selected by the Board of Directors may include, but shall not be limited to:

a). The Association manager, as allowed by California Civil Code Section 5110(b);

b). A volunteer poll worker with the County Registrar of Voters;

c). A licensee of the California Board of Accountancy;

d). A notary public;

e). A member of the Association, who may not be a member of the Board of Directors or a candidate for the Board of Directors, or related to a director or to a candidate for director.

2. The inspector(s) may not be a person who is currently employed or under contract to the Association for any compensable services unless such person, like the Association manager, is expressly authorized by these Rules adopted pursuant to California Civil Code Section 5105(a).

3. The inspector(s) of election shall do all of the following:

a). Determine the number of memberships entitled to vote and the voting power of each, in accordance with the governing documents, including these Election Rules.

- b). Determine the authenticity, validity, and effect of proxies, if any.
- c). Receive ballots directly from members by hand delivery or by mail.
- d). Hear and determine all challenges and questions in any way arising out of or in connection with the right to vote.
- e). Count and tabulate all votes.
- f). Determine when the polls shall close, including a reasonable extension of the ballot return date as set forth in the Board approved Ballot.
- g). Determine the tabulated results of the election.
- h). Perform any acts as may be proper to conduct the election with fairness to all members in accordance with Civil Code Section 5105(a) and following, the Corporations Code and the governing documents of the Association regarding the conduct of the election that are not in conflict with Civil Code Section 5105(a) and following. Without limitation, the inspector or inspectors may appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector or inspectors deem appropriate, provided that the persons are independent third parties.

4. The inspector(s) of election shall perform his or her duties impartially, in good faith, to the best of his or her ability, and as expeditiously as is practical. If there are three inspectors of election, the decision or act of a majority shall be effective in all respects as the decision or act of all. Any report made by the inspector(s) of election is prima facie evidence of the facts stated in the report.

5. The inspector(s) may appoint and oversee additional persons to verify signatures and to count and tabulate votes as the inspector(s) deems appropriate, provided that the persons are independent third parties.

#### **F. Proxies**

In secret ballot elections, proxy holders must be members. Any instruction given in a proxy issued for an election that directs the manner in which the proxy holder is to cast the vote shall be set forth on a separate page of the proxy that can be detached and given to the proxy holder to retain. The proxy holder shall cast the member's vote by secret ballot.

### **G. Secret Voting Procedure**

Ballots and two preaddressed envelopes with instructions on how to return ballots shall be mailed by first-class mail or delivered by the Association to every member not less than 30 days prior to the deadline for voting. In order to preserve confidentiality, a voter may not be identified by name, address, or lot number on the ballot. The Association shall use as a model those procedures used by California counties for ensuring confidentiality of voter absentee ballots, including all of the following:

- a). The ballot itself is not signed by the voter, but is inserted into an envelope that is sealed. This envelope is inserted into a second envelope that is sealed. In the upper left hand corner of the second envelope, the voter prints and signs his or her name and indicate the address or separate interest identifier that entitles him or her to vote.
- b). The second envelope is addressed to the inspector of election, who will be tallying the votes. The envelope may be mailed or delivered by hand to a location specified by the inspector of election. The member may request a receipt for delivery.
- c). Only official election materials may be used in the election process. These include the Official Ballot, the "Ballot Enclosed" envelope, and the pre-addressed return envelope. Therefore, any unofficial election material will be rejected by the election inspector(s).

### **H. Election by Acclamation**

The members shall be provided a reasonable opportunity to nominate themselves or another member as a candidate for election to the Board of Directors, as provided in these Election Rules. If, following that reasonable period, there are no more candidates for election to the Board than there are vacancies to be filled on the Board, the inspector(s) shall provide a report of such fact to the Board of Directors who may deem the nominees to the vacancies on the Board to be elected and who shall then be deemed elected by acclamation.

### **I. Director Removal Proceeding**

Removal proceedings may not be started against the Board of Directors as a whole or any individual director if: (a) the Board or director has held office during the current term of less than ninety (90) days; (b) a removal election has been determined in the Board's or director's favor within the last six (6) months; or (c) an annual meeting will be held in six (6) months or less. Additionally, if the removal of the entire Board fails, a six-month

waiting period must be observed before removal petitions may be filed against individual directors.

#### **J. Determining the Voting Outcome**

1. All ballots must be received by the inspector(s) no later than the commencement of the meeting at which the votes will be tabulated.

2. All votes shall be counted and tabulated by the inspector of election in public at a properly noticed open meeting of the Board of Directors or the members. Any candidate or other member of the Association may witness the counting and tabulation of the votes. No person, including a member of the Association, a member of the Board of Directors, or an employee of the management company, shall open or otherwise review any ballot prior to the time and place at which the ballots are counted and tabulated. However, the inspector of election, or his or her designee, may verify the member's information and signature on the outer envelope prior to the meeting at which the ballots are tabulated.

3. The tabulated results of the election shall be promptly reported to the Board of Directors of the Association and shall be recorded in the minutes of the next meeting of the Board of Directors and shall be available for review by members of the Association.

4. Within fifteen (15) days of the election, the Board shall publicize the results of the election in a communication directed to all members.

#### **K. Custody of Election Materials**

1. The sealed ballots at all times shall be in the custody of the inspector(s) of election or at a location designated by the inspector(s) until after the tabulation of the vote, and until one year after the election, at which time custody shall be transferred to the Association. In the event of a recount or other challenge to the election process, the inspector(s) shall, upon written request, make the ballots available for inspection and review by Association members or their authorized representatives. Any recount shall be conducted in a manner that shall preserve the confidentiality of the vote.

2. After transfer of the election ballots to the Association, election ballots shall be stored by the Association in a secure place for no less than one year after the date of the election.

#### **L. Conflict**

Pursuant to Civil Code Section 4205, to the extent of any inconsistency between the governing documents and the law, the law controls; to the extent of any inconsistency between the Articles of Incorporation and the Declaration, the Declaration controls; to the extent of any inconsistency between the Bylaws and the Articles of Incorporation or



**Declaration, the Articles of Incorporation or Declaration control; to the extent of any inconsistency between the operating rules and the Bylaws, Articles of Incorporation, or Declaration, the Bylaws, Articles of Incorporation, or Declaration control. These Election Rules are based on California Civil Code Section 5105, and control in the event of any inconsistency with the governing documents.**