

## **Island Walk and Island Walk East Homeowners Association, Inc. Covenant Enforcement Guidelines and Fining Procedure**

WHEREAS, the Board of Directors (the "**Board**") of Island Walk and Island Walk East Homeowners Association, Inc. (the "**Association**") is charged with the responsibility of enforcing the Declaration of Covenants, Conditions and Restrictions of Island Walk and Island Walk East Homeowners Association, Inc. ("**Declaration**"), the Bylaws of Island Walk and Island Walk East Homeowners Association, Inc., the Articles of Incorporation for Island Walk and Island Walk East Homeowners Association, Inc., and the Association's rules and regulations, all as may be amended from time to time (collectively referred to as the Association's "**Governing Documents**"); and

WHEREAS, from time to time Owners and their guests, invitees and occupants may, either intentionally or unintentionally, violate the Association's Governing Documents; and

WHEREAS, the Board deems it to be in the best interest of the Association to adopt a uniform and systematic procedure for dealing with violations of the Association's Governing Documents in a timely manner to ensure consistent compliance with same throughout the community; and

WHEREAS, Section 720.305 of the Florida Statutes provide the Association with the power to enforce the Association's Governing Documents by levying reasonable fines and/or suspensions against an Owner, or any Owner's tenant, occupant, guest or invitee for any violation of any provision of the Declaration, the Association's Bylaws, or rules and regulations of the Association committed by such Owner or any tenant, occupant, guest or invitee; and

WHEREAS, Section 720.305 of the Florida Statutes provides that a fine or suspension may not be imposed by the Board without at least fourteen (14) days' notice to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three (3) members appointed by the Board who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee (the "Fining Review Committee" or "Committee"); and

WHEREAS, the Association has a Fining Review Committee consisting of at least three (3) Members who are not officers, directors, or employees of the Association or the spouse, parent, child, brother, or sister of an officer, director, or employee of the Association, and

WHEREAS, if the Fining Review Committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed. The role of the Committee is limited to working with the violator to remedy the violation and determining whether to confirm or reject the fine or suspension levied by the Board.

NOW, THEREFORE, BE IT RESOLVED THAT, the following Covenant Enforcement Guidelines and Fining Procedure shall be adopted and adhered to by the Association and the Fining Review Committee:

## **COVENANT ENFORCEMENT GUIDELINES AND FINING PROCEDURE**

- A. **Purpose.** The purpose of fines and suspensions imposed by the Association is to ensure compliance by the Owner\* with the Association's Governing Documents.

\*All references to Owner herein shall also refer to the Owner's tenant, occupant, guest or invitee if the fine or suspension is to be levied against such other persons.

B. **Reporting and Review of Violations.**

1. **Observing and Reporting Violations.**

- a. Property management will conduct regular inspections of the community to determine if there are any violations and to validate outstanding violations.
- b. Board/Authorized Committee Members may submit violations to the Community Association Manager collectively referred to as the "CAM").
- c. Owners may submit violations to the CAM. The CAM may review the submission and/or consult with the Board to determine if a violation exists and if proceeding is appropriate.

2. **Preliminary Review.**

- a. The CAM will verify and document all reported violations, and submit a report to the Board for review, if deemed appropriate by the CAM. The CAM may also make an independent determination of a violation or non-violation.
- b. Board will review the violation against the governing documents. This may be done by reviewing the information provided and/or by a Board member conducting an inspection in order to corroborate the violation.

C. **Association Remedies: Fine and/or Suspension of Use Rights.**

1. A fine may be levied up to \$100.00 per day, per violation, after at least fourteen (14) days' notice and an opportunity for hearing before the Fining Review Committee is provided. A fine may be levied and imposed on the basis of each day of a continuing violation, but no such fine shall exceed \$1,000.00 in the aggregate for any thirty (30) day period, per single notice and opportunity for hearing before the Fining Review Committee.
2. Pursuant to Section 720.305(2)(a) of the Florida Statutes, the Association may also suspend the right of an Owner to use common areas and facilities for the failure of the Owner to comply with any provision of the Governing Documents. The Association may not prohibit an Owner from having vehicular and pedestrian ingress to and egress from the property and the right to park.
3. If a violation remains uncorrected after issuance of a notice and an opportunity for hearing, or reoccurs after it had previously been cured, such occurrence or reoccurrence shall be considered a new, separate violation for which additional fines, up to \$1,000.00 in the aggregate, per notice and opportunity for hearing, may be imposed.



4. **Due Date.** If a fine is confirmed by the Fining Review Committee, the fine is due thirty (30) days following the date of the Notice of Committee's Findings.
5. If a fine is confirmed by the Fining Review Committee, payment of the fine/specific assessment does not absolve the Owner or tenant from remedying the violation. Whether or not a fine and/or suspension is imposed, the Board may proceed, in its discretion, with any other remedy it deems appropriate.
6. A fine may be imposed based upon each day that a continuing violation continues. A continuing violation is defined as a violation that begins and continues uninterrupted until cured or abated.

**D. Notice of Violation by the Association.** The Association will generally follow the following notice procedures the failure of an Owner to abide by the Association's Governing Documents.

The Association is not obligated to follow this process or procedure in every case, and it may alter the process, deadlines, number of letters, or procedure on a case-by-case basis depending on the facts and circumstances. Therefore, the following should only be used as a general guide.

1. **Warning Letter(s):** After inspection, the CAM may send a Notice of Violation in writing to the Owner to the property address and/or e-mail address on record with the Association, requesting compliance.
2. **Notice and Opportunity for Hearing:** If the violation has not been corrected, or in the case of repeat violations, the Board may vote to levy a fine, impose a suspension, or both. If the Board has levied a fine or imposed a suspension, or both, the CAM shall send a Notice in writing to the Owner's designated mailing address and/or designated e-mail address in the Association's official records. The Notice shall provide at least a fourteen (14) day notice and opportunity for hearing before the Fining Review Committee and shall include the following information:
  - a. A description of the violation,
  - b. The specific action required to cure the violation (if applicable),
  - c. The date and location of the hearing, and
  - d. That the owner has the right to attend the hearing by telephone or other electronic means.
3. **Notice of Committee's Findings:** Following the hearing before the Fining Review Committee, the CAM shall send written notice to the Owner of the Committee's findings, stating if the fine and/or suspension has been imposed, and how the violation may be cured (if applicable). If the Committee voted in favor of confirming a fine or suspension, or

both, the letter shall notify the Owner of the approval and that the fine is due and payable within thirty (30) days.

**E. Fining Review Committee Hearing Guidelines.**

**1. Procedure.**

- a. The Owner sought to be fined or sought to receive a suspension shall be given the opportunity for a hearing before the Fining Review Committee to contest the fine or suspension that may be imposed.
- b. Pursuant to Section 720.305 of the Florida Statutes, a hearing may not take place unless three (3) Fining Review Committee members are present, in person, via video conference, or by phone conference. The hearing will proceed whether or not the Owner elects to appear before the Fining Review Committee.
- c. At the hearing, the Owner shall have the right to be represented by legal counsel and have an opportunity to produce any statement and evidence on his or her behalf. The role of the Fining Review Committee is limited to determining whether to confirm or reject the fine and/or suspension imposed by the Board.
- d. The Owner sought to be fined or sought to receive a suspension shall have the right to attend the hearing by telephone or other electronic means.
- e. At the hearing there may be presented to the Fining Review Committee a description of the violation, the notices that were sent to the Owner and a description of other attempts of gaining compliance, if any.
- f. An Owner will be given up to ten (10) minutes to discuss the pending violation matter with the Fining Review Committee. The Fining Review Committee shall have the authority to terminate a hearing if the Owner becomes verbally abusive or threatening toward the committee members, the CAM, or if he or she does not display appropriate and professional behavior.
- g. By a majority vote of the Fining Review Committee when a quorum is present, the Fining Review Committee may:
  - i. Confirm the fine.
  - ii. Reject the fine levied by the Board.
  - iii. Confirm the fine, but suspend the fine bearing compliance in a certain time period.
  - iv. Confirm the fine, but recommend a reduced fine amount to the Board.

**2. Members and Officers.**

Members of the Fining Review Committee (the "Committee") shall be appointed by the Association's Board. The Committee shall consist of no less than three (3) persons, but in all events shall be an odd number, who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. Committee members may be removed and/or replaced as determined by the Board.

**F. Violation Inspections and Responses.**

1. The CAM shall inspect the property to determine if the violation(s) have been timely resolved.
2. Responses by the Owner shall be in writing.
3. The Owner may request an extension in writing and the CAM shall have the discretion to provide reasonable time for correcting the violation, upon good cause shown by the Owner in writing.
4. It is the responsibility of an Owner to immediately notify the CAM and/or Association, in writing, of any address change. Accordingly, the Owner is obligated and responsible for providing accurate, current, and updated contact information to the CAM and/or Association.
5. Notices to Owners of their opportunity for a hearing before the Fining Review Committee shall be sent via regular U.S. Mail or hand delivery to the owner's designated mailing address or via e-mail to the designated e-mail address in the Association's official records.
6. The Owner is responsible for notifying the CAM in writing that the violation(s) have been corrected and failure to do so implies the violation still exists.
7. It is the responsibility of every Owner to notify their tenants, occupants, guests, or invitees of the Association's policies and procedures. Additionally, Owners are responsible for any noncompliance and actions of their tenants, occupants, guests or invitees.

**G. Appeal Process.**

1. Any Owner aggrieved by the decision of the Fining Review Committee as to noncompliance may appeal such decision to the Board. A written notice of appeal must be received by the CAM within thirty (30) days from the date of the Notice of Committee's Findings.
2. The Board shall hear the appeal or challenge from the Owner at a Board Meeting.
3. The Board may affirm or amend the Fining Review Committee's confirmation of a fine, suspension, or other sanction, if compliance is achieved.
4. The decision of the Board shall be final and shall not be subject to any further appeal.



## **H. Other Remedies for Non Compliance.**

### **1. Legal Action for Injunction. (Article VI, Section 1 of the Declaration).**

- a. The Association may refer the compliance matter to its counsel to pursue relief at any time.
- b. If the matter is referred to the Association's attorney, the attorney may send a violation letter to the Owner.
- c. If, after the violation letter is sent, there remains a violation, the Board may itself or through its CAM, by majority vote, direct the attorney to serve upon the Owner a statutory demand for pre-suit mediation in accordance with Section 720.311 of the Florida Statutes, which allows twenty (20) days for compliance. The Board will choose a Board member or the CAM of the Association to attend the mediation with full settlement authority of the Association.
- d. In the event the Owner does not respond to the pre-suit mediation notice or mediation occurs and ends in an impasse, the Board may, by majority vote, direct the attorney to file a lawsuit.

### **2. Right to Abatement. (Article VI, Section 15 of the Declaration).**

- a. After reasonable notice and opportunity to cure a violation of the Declaration, the Association may, after approval by two thirds (2/3) vote of the Board, enter upon a Lot for the purpose of curing an outstanding violation.
- b. The CAM will send a Notice of Violation, including notice that the Association may proceed with correction of the violation should the violation not be corrected within a minimum of fifteen (15) days, unless an emergency exists.
- c. The Notice(s) of Violation shall be sent via certified mail, return receipt requested or hand delivery, and regular U.S. Mail, advising the Owner that:
  - i. If they fail to comply by a date certain, the Association may proceed upon his/her Lot and remedy the violation;
  - ii. All costs associated with remedying the violation shall be the responsibility of the Owner and, if applicable, tenant, and shall be assessed against his/her lot as an assessment.
  - iii. The Association may reduce or eliminate the time for notice if it believes the conditions create a hazard or an emergency.

The above remedies may be imposed simultaneously, or in any sequence that the Board may determine in its discretion.

- I. **Attorneys' Fees and Costs.** The Owner shall be responsible for all attorney's fees and costs incurred by the Association in pursuing the violation and collecting any fine imposed. The Association may use all means provided by the Association's Governing Documents and Florida Statutes to collect the fines and attorney's fees and costs.

IN WITNESS WHEREOF, the Board has approved the provisions hereof on \_\_\_\_\_, at a duly called meeting of the Board at which a quorum was present.

By: *Steven M. Blawieich* - President

Date *1/15/25*

By: *Hilary Balensiefen* - Secretary

Date *1/16/2025*