

FAIRWAY SPRINGS HOMEOWNERS ASSOCIATION, INC.
RESOLUTION ESTABLISHING A FINE COMMITTEE
AND RELATED POLICIES AND PROCEDURES

WHEREAS, the Board of Directors (the “Board”) of Fairway Springs Homeowners Association, Inc. (the “Association”) is charged with the responsibility of enforcing the Declaration of Covenants, Conditions and Restrictions for Fairway Springs, the Amended Declaration of Restrictions for Fairway Springs, the Articles of Incorporation, the Bylaws, and the Association’s Rules and Regulations, including its Architectural Guidelines (collectively referred to as “Association Restrictions”); and

WHEREAS, from time to time homeowners may, either intentionally or unintentionally, violate the Association’s Restrictions; and

WHEREAS, violations of the Association’s Restrictions, whether intentional or unintentional, may impair the Association’s ability to enforce restrictions, diminish property values and interfere with other residents’ quiet enjoyment of their properties and the amenities in the Fairway Springs Development (the “Development”); and

WHEREAS, the Association’s 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 Restrictions in a timely manner to ensure consistent compliance with same throughout the Development; and

WHEREAS, the Association’s Board has retained the Association’s attorneys to protect the Association’s legal and financial interests, including those interests related to homeowners’ compliance with the Association’s Restrictions;

WHEREAS, Section 720.305, Florida Statutes provides the Association with the power to enforce the Association’s Restrictions by levying reasonable fines and/or suspensions against a Member, or any Member’s tenant, occupant, guest or invitee for any violation of any provision of the Declaration, the Association Bylaws, or Reasonable Rules of the Association committed by such Member or any occupant, tenant, guest or invitee; and

WHEREAS, Section 720.305, Florida Statutes provides that a fine or suspension may not be imposed by the Board of Administration without at least 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 “Fine Committee”); and

WHEREAS, if the Fine Committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed; and

WHEREAS, the role of the Fine Committee is limited to determining whether to confirm or reject the fine or suspension levied by the Board.

WHEREAS, if the Board of Directors of the Association levies a fine or suspension the Association must provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any tenant, licensee, or invitee of the parcel owner.

NOW, THEREFORE, BE RESOLVED THAT, a Fine Committee shall be created 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.

BE IF FURTHER RESOLVED THAT, the following Policies and Procedures shall be adopted and adhered to by the Fine Committee, which shall serve at the pleasure of the Association's Board of Directors:

GUIDELINES FOR COVENANT ENFORCEMENT

The following are procedures to be followed for the failure of a Member or Member's tenant, guest, occupant or invitee to abide by the Association's Restrictions:

Except in cases involving an emergency, which shall be cause to depart from any and all policies and procedures in this resolution, the Association, by and through its Compliance Director, shall send to the Member (and the Member's tenant, guest, occupant or invitee, if applicable) a first notice advising that a condition or behavior observed at or on the Member's property or within the Development is in violation of the Association's Restrictions. The Member or Member's tenant, guest, occupant or invitee shall have a certain period of time (i.e. 20 days) depending upon the nature of the violation, from the date of the letter within which to bring any violation into compliance.

If the first notice mentioned above does not generate total compliance by the Member or the Member's tenant, guest, occupant or invitee, a second notice granting, at a minimum, another fourteen (14) days to correct the violation of the Association's Restrictions shall be issued by the Association or its Compliance Director. Said notice shall advise the offending party that the Board of Directors may impose fines or suspensions against them at an upcoming meeting.

If the first and second notices mentioned above do not generate total compliance by the Member or the Member's tenant, guest, occupant or invitee, as the case may be, the matter shall be reviewed by the Compliance Director and a recommendation, including a fine, suspension or both may be made to the Board of Directors.

The Association's Board of Directors shall review the Compliance Director's recommendation at an open and noticed Board of Directors meeting, at which time the Board of Directors may levy a fine, suspension and/or approve other legal action to enforce the Association's Restrictions. The maximum amount of a fine shall be \$100.00 per day, up to a maximum of \$1,000 per violation.

Provided that the Association's Board of Directors finds that a particular violation warrants a fine or suspension of rights as a sanction, the Board of Directors shall advise the homeowner or

other party facing a fine or suspension, in writing, of the Board of Director's decision. That notice shall be sent to the Member or person's address of record on file with the Association, and it shall provide the party to be fined or suspended with at least fourteen (14) days' notice of the Fine Committee hearing.

When a Fine Committee meeting is scheduled, the Association shall be responsible for posting notice of the Fine Committee meeting in the Development.

The Compliance Director (and/or a member of the Board of Directors or the Association's legal counsel) may present the Association's case, in person or in writing, to the Fine Committee at the noticed meeting where a fine and/or suspension is being considered.

After the imposition of a fine in accordance with the procedure above, the Association shall issue a letter to the person who is subject to the fine or suspension stating the results of the meeting. Depending on the outcome of the meeting, the party to be fined and/or suspended shall have ten (10) days from the date of the meeting to remit the total amount due for any fine imposed. If the payment of the fine is not received during that timeframe, the fine and any outstanding violation may be referred to the Association's attorney for further review and possible legal action. If a fine is not paid after ninety (90) days from the date it is due, suspensions of the Owner's voting rights shall occur.

Non-payment of a fine may result in legal action being taken to collect the fine from the responsible party, if the fine and any associated attorneys' fees and costs to the Association are not paid within applicable timeframes, whether a violation is corrected or not. Recovery of a fine imposed by the Association shall not excuse an offending party from future compliance with the Association's Restrictions.

If the foregoing does not result in total compliance by the Member, the violation may be referred to the Association's legal counsel to issue a violation letter demanding compliance.

If the Association's legal counsel's violation demand letter does not result in total compliance by the Member or the Member's tenant, guest, occupant, or invitee, the Association's legal counsel may issue a pre-suit mediation notice and demand, as provided for in Chapter 720, Florida Statutes, as amended from time to time.

Litigation enforcing the Association's Restrictions may also be filed in the event any of the foregoing does not result in complete compliance with the Association's Restrictions.

FINE COMMITTEE MEETING GUIDELINES

The purpose of fines and suspensions imposed by the Association is to gain compliance by the Member or the Member's tenant, guest, occupant or invitee with the Association's Restrictions.

The purpose of the Fine Committee is to review and assess fines and suspensions levied by the Board of Directors.

The Fine Committee shall elect a Chairperson and may elect a Recording Secretary from among its members. Members of the Fine Committee shall be appointed by the Association's Board of Directors, and they may be removed and/or replaced as determined by the Association's Board of Directors from time to time.

The Chairperson of the Fine Committee shall administer each meeting, assure that respect and proper decorum are observed at all times, and ensure that the policies and procedures for the Committee are followed in a fair and impartial manner.

The Recording Secretary shall document decisions made by the Fine Committee within twenty-four (24) hours after any meeting of the meeting is adjourned.

The Member or the Member's tenant, guest, occupant, or invitee shall have the opportunity to state why he or she is not in compliance with the Association's Restrictions and may offer defenses or mitigating information for the Fine Committee's consideration. The Member or the Member's tenant, guest, occupant or invitee has the right to have legal counsel and/or witnesses present at any hearing. The Fine Committee shall listen to the case presented by the Member or the Member's tenant, guest, occupant or invitee, or their legal representative. Fine Committee members may also question the Member or the Member's tenant, guest, occupant or invitee, as well as any witnesses who may be present.

The Fine Committee shall review all of the information that has been presented by an approved Association representative, as well as statements of any witnesses or complainants who may be invited to attend the hearing or the offending party in order to produce evidence to substantiate the complaint, defenses or mitigating factors. Fine Committee members may also independently visit the property prior to any hearing to view conditions, if appropriate in the Committee member's discretion. Committee members shall not, however, engage in any other investigation about an alleged violation, including discussions with a Member or the Member's tenant, guest, occupant, or invitee, outside of the Committee meeting.

After reviewing all evidence and listening to information presented at the hearing the Committee shall deliberate and render a final decision in an open forum. Committee members shall make each decision based upon the Association's Restrictions and reasonable inferences that may be made based upon the Association's Restrictions. If the 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 determining whether to confirm or reject the fine or suspension levied by the board.

APPLICATION OF THESE POLICIES AND PROCEDURES

These policies and procedures are intended to guide both the Members of the Association and the Fine Committee. The failure of the Association, including the Association's Board of Directors, the Compliance Director or the Fine Committee to strictly follow the policies and procedures herein or as otherwise practiced by the Association in its normal course of business, shall not be a defense to the imposition of any fine or a suspension for a violation of the Association's Restrictions, provided that the imposition of the fine or suspension is consistent with Florida law and the documents governing the Association.

Deviation from these policies and procedures should only occur when there is a reasonable basis to do so, which reasonable basis can be identified and justified by the party making that deviation or such that it is not material or relevant to the outcome of the decision-making process. These policies and procedures are intended to ensure a fair covenant enforcement process that benefits all Members and allows the parties to resolve violations of the Association's Restrictions without legal action, including mediation, arbitration and/or litigation. These policies and procedures shall not apply to sanctions imposed due to the non-payment of any fee, fine, or monetary obligation owed to the Association, as provided for in Section 720.305, Florida Statutes.

Duly adopted on this 20th day of February, 2020

Print Name: Dan Helphrey
President