

HART LAKE HILLS HOMEOWNERS ASSOCIATION, INC.

**A RESOLUTION OF THE BOARD OF DIRECTORS
ADOPTING A POLICY FOR FINING AND SUSPENSION**

WHEREAS, the governing documents of the **HART LAKE HILLS HOMEOWNERS ASSOCIATION, INC.** ("Association") permit fining for violations of the Amended and Restated Declaration of Covenants and Restrictions for HART LAKE HILLS Subdivision, as recorded in Official Records Book 11234, Page 1036, in the Public Records of Polk County, Florida ("Covenants"), the By-Laws of Hart Lake Hills Homeowner's Association ("By-Laws"), the Articles of Incorporation of Hart Lake Hills Homeowner's Association ("Articles"), and the Rules and Regulations ("Rules"), if any; and

WHEREAS, Florida Statute 720.305 permits the Association to levy a fine against, and suspend the rights of, the lot owner for violations of the Covenants, the By-Laws, the Articles and the Rules and Regulations; and

WHEREAS, the Board of Directors wishes to adopt a policy regarding the fining and suspension procedures which it will utilize in such circumstances.

NOW, THEREFORE, be it resolved by the Board of Directors as following:

1. The Board of Directors, or its appointed agents, are charged with determining whether there is probable cause that any of the provisions of the Declaration of Covenants, Conditions and Restrictions, the By-Laws, the Articles of Incorporation, or the Rules and Regulations of the Association regarding the use of the Lot or the Common Areas are being, or have been, violated.
2. The Board of Directors shall appoint a Fining Review Committee ("the Committee") which shall consist entirely of three (3) Lot owners, and any alternate members the Board may designate, who must be persons *other than* officers, directors or employees of the Association, or the spouse, parent, child, brother or sister of an officer, directors or employee. The role of the Committee is limited to determining whether to confirm or reject the fine or suspension levied by the Board. Such Committee shall also be charged with conducting the hearing and rendering the decision with regard to the levy of fines and suspensions, as herein provided.
3. In the event that a complaint is received by the Association, or a violation is otherwise determined to have occurred, the Board of Directors ("the Board") or its agents will notify the alleged violator(s) with a courtesy letter, and in appropriate cases, will provide an opportunity for such violation to be corrected within a reasonable time. A "violator" as defined within this resolution, shall include the Lot owner or any tenant, guest or invitee occupying a Lot or using the Common Areas.

4. If the violation of any provision of the Covenants, the By-Laws, the Articles or Rules have not been corrected, following notice from the Board and a request for correction of the violation, then the Board, or its designated agent(s), may adopt a proposed fine, **which may not exceed \$100 per violation** against any violator or any violator's tenant, guest, or invitee. A fine may also be imposed in the case of a second violation, a continuing violation or a violation of a serious nature that the Board determines does not warrant an opportunity for the violator to correct it.
5. Following the adoption of a proposed fine, the alleged violator shall be notified by regular and certified mail, and a copy of this Resolution shall be provided (or in lieu of providing a copy of this Resolution, the Board may identify the official book and page number of this Resolution), along with a notice that the alleged violator may request a hearing before the Committee within fourteen (14) days of the date of the violation letter. Notice shall be sent to the Lot owner's address or the last known address provided to the Association, in which event service is complete upon mailing or hand delivery. The notice to the alleged violator shall also include a short and plain statement of the matters asserted by the Association, as well as a statement of the provisions of the Covenants, the By-Laws, the Articles or Rules which have allegedly been violated. **Failure to request a hearing within this fourteen (14) day time frame shall constitute a waiver of the right to a hearing.**
6. The Committee shall hold a hearing, if requested, after giving the Lot owner fourteen (14) days' written notice of the date, time and place of the hearing, unless the alleged violator waives this fourteen-day notice requirement. The Committee may overrule or modify the fine following the hearing.
7. The Committee shall appoint a Chairman and shall conduct hearings in accordance with the following rules, in addition to such other rules and procedures as may be established by the Committee, to hear any charges and defenses. The hearing may be audio or video-recorded in the same manner and under the same rules that Lot owners are permitted to audio or video-record meetings of the Board of Directors.
 - a. A representative of the Association shall be heard first, in order to summarize the basis for the proposed fine, and to present any witnesses or documents in support of the proposed fine. Written affidavits in lieu of live testimony shall be permitted, and the hearing need not be conducted according to technical rules relating to evidence and witnesses. A party or witness may also be allowed to appear by telephone conference, provided that the cost involved is paid by the party offering such evidence. Any relevant evidence shall be admitted, if it is the sort of evidence on which responsible persons are accustomed to rely on in the conduct of serious affairs, regardless of the existence of any common law or statutory rule which might make improper the admission of such evidence over objection in civil actions. The rules and privileges relating to court proceedings shall only be effective to the extent that they are required by law to be recognized at the hearing, and irrelevant and unduly repetitious evidence shall be excluded.

- b. Each party shall have these rights: to be represented by counsel; to call and examine witnesses; to introduce exhibits; to cross-examine opposing witnesses on any matter relevant to the issues even though that matter was not covered in the direct examination; to impeach any witness regardless of which party first called him/her to testify; and to rebut the evidence against him/her.
 - c. Neither the accusing person nor the alleged violator are required to be in attendance at the hearing, in order for the Committee to render a decision for an alleged violation. The hearing shall be open to attendance by all Lot owners. If requested, a hearing must be held at a location that is accessible to a physically handicapped person, by a physically handicapped person who has the right to attend the meeting. In rendering a decision, official notice may be taken at any time, as generally accepted within the Covenants, the By-Laws, the Articles or Rules or the workings of the Association.
 - d. Either immediately following the conclusion of the hearing, or within ten (10) days, the Committee shall render a decision on the matter, and will prepare a written summary of the decision, which is to be provided to the Board and the alleged violator. If the decision of the Committee, by majority vote, is to uphold the fine, or to impose a reduced fine, then the fine shall be payable to the Association no less than five (5) days from the date that written notice of the decision is sent to the alleged violator(s).
8. A compounded fine for a single violation may be imposed, based upon each day that a continuing violation continues. The Board of Directors may levy a fine for each day of a continuing violation, which may exceed \$1,000.00 in the aggregate, but no more than \$2,500.00 in the aggregate, if the violator does not pay the fine within five (5) days from the date that a written notice is sent to the alleged violator(s). A fine for a continuing violation more than \$1,000.00 in the aggregate may become a lien against a parcel. No fine will not become final until a hearing has been held, or the right to a hearing is waived by the alleged violator.
9. Subsequent to the requested hearing, or if no hearing is requested within fourteen (14) days from the date of the letter notifying the alleged violator of the fine, any further enforcement action will be taken by the Board of Directors only.
10. The Board of Directors has the authority to impose a fine and simultaneously suspend the rights of a violator, a Lot owner, or an owner's tenant, guest, or invitee, to use the Common Areas and facilities for a reasonable time, for failure to comply with any provision of the Covenants, the By-Laws, the Articles or any reasonable rules imposed by the Association.
- a. A dual fine and suspension may not be imposed unless the Board provides at least 14 days' written notice, to request a hearing or waive the right to a hearing by failing to request a hearing, to the Lot owner. All of the same procedures, outlined above for imposing monetary fines, shall be followed for a suspension hearing.
 - b. If the Fining Committee does not confirm the suspension proposed by the Board, then a suspension shall not be levied by the Board against the alleged violator.

- c. If the Fining Committee approves a suspension proposed by the Board, then the fine and suspension shall be levied by the Board, and the fine payment is due five (5) days after the committee meeting approved the fine and suspension.
 - d. The Board must provide written notice of any suspension, by mailing or hand-delivering to the owner of the Lot, and if applicable, to any tenant, licensee, or invitee of the Lot owner.
 - e. A suspension may not prohibit a Lot owner, or tenant, from having any vehicular or pedestrian ingress to and egress from their Lot, including, but not limited to, the right to park.
 - f. Any suspension imposed under this subsection shall be for a reasonable time only.
11. If an owner is more than ninety (90) days delinquent in paying any fee, fine, or other monetary obligation to the Association, the Board may suspend the rights of the violating owner, or the owner's tenant, guest, or invitee, to use the common areas and facilities until the fee, fine, or other monetary obligation is paid in full. However, the Board shall not prohibit access to, or restrict utility services from, being provided to the Lot. The suspension also shall not prohibit an owner or tenant from having vehicular or pedestrian ingress to and egress from their Lot, including, but not limited to, the right to park. **The notice and hearing requirements for a delinquent fee, fine, or monetary obligation over ninety (90) days do not apply to a subsequent suspension of the common areas and facilities, provided the procedures were correctly followed to impose the initial fine.**
12. If an owner is more than ninety (90) days delinquent in paying any fee, fine or other monetary obligation to the Association, the Board may also suspend the voting rights of the Lot owner or any violating member of the Association. The voting interest of the suspended Lot owner shall be subtracted from the total number of voting interest(s) in the Association, and the suspended voting interest(s) shall not be considered for the percentage or number of voting interests necessary to constitute quorum, the percentage or number of voting interests required to conduct an election, or the percentage or number of voting interests to conduct an election, or the percentage or number of voting interests required to approve an action pursuant to the governing documents. **The notice and hearing requirements under this section do not apply to a subsequent suspension of voting rights, provided the procedures were correctly followed to impose the initial fine.**
13. All suspensions imposed pursuant to Paragraph (11) and Paragraph (12) must be approved at a properly noticed Board meeting. The agenda for the Board meeting shall contain an item to vote for a proposed suspension of the Lot owner or its tenants, guests or invitees. All procedures, as defined in the Covenants or this Resolution shall be followed, prior to the imposition of the suspension. Upon approval, the Board must notify the Lot owner, or if applicable, the Lot's tenant, guest or invitee, by mail or hand-delivery.
14. Any suspension shall immediately terminate upon full payment of all obligations then due or overdue to the Association.

15. In the event legal action is taken for the enforcement or defense of this resolution, the prevailing party in any such litigation is entitled to recover reasonable attorney fees and costs at both the trial and appellate levels of the Court.

IN WITNESS WHEREOF, the Board of Directors has adopted this Resolution on this 16th day of January, 2022.

HART LAKE HILLS HOMEOWNERS ASSOCIATION, INC.

By: Herbert Gillis 01/16/2022
Herbert Gillis, as its President Date