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SEASIDE LANDINGS AT FLAGLER BEACH HOMEOWNERS ASSOCIATION, INC.

**RESOLUTION ESTABLISHING COMPLIANCE COMMITTEE AND PROCESS FOR IMPOSITION OF
FINES AND SUSPENSIONS**

THIS RESOLUTION is made this 23 day of December, 2020 by the Board of Directors of SEASIDE LANDINGS AT FLAGLER BEACH HOMEOWNERS ASSOCIATION, INC., a Florida Corporation not-for-profit ("**Association**").

WHEREAS, Section 720.305 of the Florida Statutes mandates that each owner, tenant, and invitee comply with Chapter 720 of the Florida Statutes, the governing documents of the community, and the rules of the association and further provides that actions at law or equity may be brought against any of the foregoing parties for failing to comply; and

WHEREAS, Section 720.305 of the Florida Statutes further provides that the Association may levy fines against, and may suspend the right to use common areas of, any member, tenant, guest, or invitee (hereinafter referred to as "**Violating Party**") for failing to comply with the Declaration of Covenants, Restrictions and Easements for Seaside Landings at Flagler Beach (f/k/a Bulow Shores) ("**Declaration**"), the Association's **Articles of Incorporation**, the **Bylaws**, and the **Rules and Regulations** (including the Architectural Guidelines) (all the foregoing collectively referred to as "**Governing Documents**"); and

WHEREAS, Article IX of the Declaration provides the Association with authority to levy fines and suspensions against a Violating Party for violations of the Governing Documents; and

WHEREAS, Article II, Section 5 of the Declaration and Article IV(C)(2) of the Articles of Incorporation provide the Association with authority to adopt rules and regulations governing the use and enjoyment of the Community, Association Property, the boat slips and docks, the Lot and Improvements, and other portions of the Property; and

WHEREAS, the Board of Directors of the Association has recognized that while some Members, tenants, guests, and invitees occasionally and apparently without intent violate the Governing Documents and quickly resolve them after notice, there are certain other Members, tenants, guests, and invitees exhibiting a continued disregard of the Governing Documents; and

WHEREAS, the Board of Directors of the Association recognizes the substantial extra management time and effort needed, volunteer time and effort needed, and the additional costs incurred for site inspections, providing multiple notices to, and holding hearings for those that exhibit a continued disregard of the Governing Documents; and

WHEREAS, the Board of Directors has established a committee of at least three (3) members (hereinafter referred to as "**Compliance Committee**") who are not officers, directors, or employees of the

Association, or the spouse, parent, child, brother, or sister of an officer, director or employee, which has the authority to confirm or reject a fine or suspension levied by the Board of Directors; and

WHEREAS, the Board of Directors desires to establish a fining and suspension policy to outline one optional, nonexclusive process for the imposition of fines and suspensions resulting from violations of the Governing Documents, other than for nonpayment of assessments (to which this policy does not apply); and

WHEREAS, the Board of Directors, at its discretion, may adopt further forms and procedures to assist the Board of Directors and Compliance Committee with the implementation of this policy.

NOW, IT IS RESOLVED that the Board of Directors, hereby adopts this Resolution to provide notice to all Members, tenants, guests, and invitees of the following fining and suspension policy and procedure:

1. **Identification of Violations.** Any Member may identify a violation of the Governing Documents and report it to the Association's Community Association Manager ("CAM") or to a member of the Board of Directors.
2. **Courtesy Notice.** Upon identification of a violation, the Association shall send the Violating Party a written Courtesy Notice describing the nature of the violation and providing a reasonable timeframe for correcting the violation. The Courtesy Notice should include a statement that a fine or suspension, or both, may be imposed if the violation continues or is repeated after ten (10) days from the date of the Courtesy Notice. The Association may, but is not obligated to, send additional courtesy notices before imposing a fine or suspension.
3. **Board Meeting to Impose Fines & Suspensions.** After one Courtesy Notice with respect to a violation, unless the violation is a continuing violation or a violation of a nature similar to a prior violation for which a Courtesy Notice has been sent within twelve (12) months preceding the violation, in which cases no Courtesy Notice shall be required, the Board shall meet and determine, by majority vote of a quorum, whether to impose a fine or suspension, or both, against the Violating Party.
4. **Hearing Notice.** If the Board has voted to impose a fine or suspension, the Association shall send a written notice ("**Hearing Notice**") to the Violating Party which shall:
 - a. Describe the nature of the conduct or issue which constitutes a violation;
 - b. Cite the specific provision(s) of the Governing Documents or Chapter 720 that has or have been violated;
 - c. Inform the Violating Party that a fine or suspension has been imposed and provide the date, time, and location of the hearing before the Compliance Committee; and
 - d. Be mailed or delivered to the Violating Party, and if the Violating Party is someone other than the Lot Owner, with a copy to the Lot Owner, at least fourteen (14) days prior to the scheduled Committee Hearing.

The Hearing Notice should be sent within twenty-one (21) days after the Board meeting at which the fine or suspension, or both, was or were imposed. The Hearing Notice may be sent by a Member of the Board of Directors or any agent of the Association, including the Association's CAM or attorney, after receiving direction to do so by the Board of Directors, and shall be sent via U.S. Mail or hand delivery to the address furnished by the Violating Party to the Association for the purposes of receiving notices from the Association. If no such address has been furnished, notice shall be deemed to be properly sent once placed in the mail and addressed to any location where the Violating Party may reasonably receive the notice given the information reasonably available to the party sending the notice, such as the address for the Owner of record indicated in the County Property Appraiser's records; provided, however, that a Violating Party shall have no right to object to the adequacy of notice if that party fails to furnish an address to the Association for receiving notices from the Association.

5. **Hearing Procedures.**

- a. **Consideration of Evidence & Argument.** At the Hearing, the Compliance Committee may consider any evidence it may deem to be reasonably reliable which establishes or refutes the alleged violation. The Violating Party may provide evidence as to why the fine or suspension should not be confirmed. The Compliance Committee may ask questions of the Violating Party or any witness as part of the hearing process, and may consider any evidence presented by a Violating Party or by the Association that it deems reasonably reliable. A Violating Party who fails to attend the Hearing or fails to present argument or evidence refuting a violation shall be deemed to have waived any defenses or arguments that the Violating Party may have otherwise had but did not make at the Hearing. If the Violating Party fails to attend the Hearing, the Compliance Committee may consider the failure to attend to constitute a default and may summarily confirm the fine or suspension, or both, without the necessity of any evidence other than the allegations of the Hearing Notice, Courtesy Notice (as applicable), and any other information provided by the Association.
- b. **Representation by Legal Counsel.** A Violating Party who desires to be represented by legal counsel at the Hearing must provide at least seventy-two (72) hours' written notice to the Association in advance of the Hearing. The purpose of this provision is to afford the Association the opportunity to have legal counsel present on behalf of the Association if desired.
- c. **Compliance Committee Decision.** After a reasonable opportunity has been given to the Association and Violating Party to present evidence at the Hearing, the Committee may adjourn to deliberate in private or may announce its decision at the conclusion of the Hearing. The Committee's decision shall include one of the following options:
 - i. Confirm the fine or suspension, or both, levied by the Board; or

- ii. Confirm the fine or suspension, or both, levied by the Board, but reduce the amount of the fine or duration of the suspension if deemed appropriate by the Committee; or
- iii. Reject the fine or suspension, or both, levied by the Board.

The Committee's decision shall be made by majority vote of the Committee, which shall be described in the minutes (or Chairperson's Written Report) of the Committee Hearing. Irrespective of whether the Committee's decision is announced at the Hearing, the Association shall send written notice of the Compliance Committee's decision to the Violating Party, and to the Lot Owner (as applicable), which shall inform the Violating Party whether a fine or suspension, or both, has or have been confirmed or rejected. If a fine has been imposed and confirmed, the notice shall state the amount of the fine, whether the fine will accrue daily for a continuing violation, and shall include a statement that the fine is payable within thirty (30) days after the date the notice was placed in the mail, postage prepaid, to the Violating Party. If a suspension has been imposed, the notice shall state that a suspension has been imposed and shall include the duration of the suspension, which shall be measured from the date of mailing or delivery (if personally delivered and not mailed) of the written notice of the Compliance Committee's decision. The notice contemplated by this Section shall constitute written notice of the Board per Art. IX, Section 1(B) of the Declaration.

6. **Hearing Committee Composition.** The Board may appoint members of the Compliance Committee, and may designate alternates, from time to time. The Committee shall be composed of at least three 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.
7. **Fining Schedule.** The Board hereby adopts the Fining Schedule attached as **Schedule I** hereto. The Fining Schedule sets forth the daily fines that may be levied based on the number of violations committed within a twelve (12) consecutive month time period.
8. **Violations Must Be Corrected.** Irrespective of whether a fine or suspension has been imposed, the Violating Party and Lot Owner(s) remain obligated to comply with the Governing Documents and must promptly correct any violations.
9. **Continuing Violations.** A fine may be imposed for each day that a violation continues from and after the date the Association delivers or mails the Hearing Notice, even if the violation is corrected prior to the Hearing. However, the Compliance Committee may consider the actions taken by the Violating Party or Lot Owner to correct the violation prior to the Hearing as part of determining whether to confirm or reject the fine.
10. **Repeated Violations.** A Violating Party with respect to a substantially similar violation which has been previously corrected, or a substantially similar violation which otherwise recurs, within twelve (12) months of the previous violation or correction date shall not be entitled to a Courtesy Notice as set forth in Section 2. In such cases, the Association may

immediately proceed with the Board Meeting to impose a fine or suspension, or both, and with the Hearing Notice and following procedures.

11. **Liability for Fines; Applicability of Suspensions.** A Member is jointly and severally liable with a Violating Party, including (without limitation) a Member's tenant, guest, or invitee, for any fines imposed as a result of a violation of the Governing Documents by any Member or his or her tenant, guest, or invitee. If a fine is not paid when due, the Association may file a lawsuit for damages to collect such fine, and the prevailing party shall be entitled to reimbursement of reasonable attorneys' fees and costs incurred from the non-prevailing party. All suspensions imposed shall apply to the Member, those residing on the Lot with the Member, and the Member's tenants, guests, and invitees.
12. **Discretion to Enforce; Non-exclusive Enforcement Option.** Nothing in this Policy obligates the Association to pursue any particular enforcement action in any particular circumstance. The Association shall have the right, but not the obligation in any particular instance, to pursue any remedy available at law or in equity to enforce the Governing Documents. This Policy sets forth one optional, non-exclusive process for enforcement of the Governing Documents, and the Association's decision to pursue fines or suspensions in any particular instance shall not constitute an election of remedies or otherwise operate to preclude the Association from pursuing any other remedy available at law or in equity in any instance.
13. **Proviso.** Article IX, Section 1 of the Declaration which describes an enforcement process was established before the date of certain amendments to Section 720.305 of the Florida Statutes clarifying the order in which the Board and Committee's meetings should occur. As such, this Policy shall control in the event of inconsistency with Article IX, Section 1 of the Declaration, to the extent that Article IX, Section 1 of the Declaration may be deemed somewhat inconsistent with Section 720.305 of the Florida Statutes (2020). This Policy is intended to be consistent with Section 720.305 of the Florida Statutes (2020).
14. **References to Days.** Any reference to days in this resolution shall be calendar days.
15. **Substantial Compliance.** Substantial, and not strict, compliance with the procedures set forth herein is required. Minor defects or errors in procedure shall not constitute a defense to enforcement or collection of any suspension or fine.
16. **Severability.** This Policy is intended to be severable. Should any portion, term, or provision of this Policy be declared or determined by a court of competent jurisdiction to be illegal, invalid, or unenforceable, the validity of the remaining portions, terms, and provisions, and the application of such portion, term, or provision in circumstances other than those as to which it is declared illegal or unenforceable, shall not be affected and shall remain enforceable.

RESOLVED by the Board of Directors on this 23 day of December, 2020.

By: [Signature]

Printed: LES ABEND
As President

By: [Signature]

Printed: Sarah Brittan
As Secretary

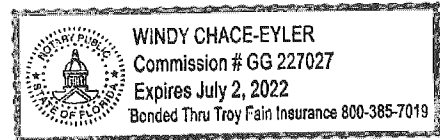
STATE OF FLORIDA
COUNTY OF Flagler

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 23rd day of December, 2020, by Les Abend, as President and by Sarah Brittan as Secretary of Seaside Landings at Flagler Beach Homeowners Association, Inc., on behalf of the corporation.

[Signature]

(Signature of Notary Public – State of Florida)
(Print, Type, or Stamp Commissioned Name of Notary Public)

Personally Known or Produced Identification
Type of Identification Produced: Driver's license.



SEASIDE LANDINGS AT FLAGLER BEACH HOMEOWNERS ASSOCIATION, INC.

SCHEDULE I – FINING SCHEDULE

(Schedule to Resolution Establishing Compliance Committee and Process for Imposition of Fines and Suspensions)

First Violation (\$25.00/day)

Violations will be subject to an initial fine of \$25.00 per day, up to and including \$5,000.00 in the aggregate, for each day that the violation continues. This amount shall only be applicable to first-time violations or a repeat violation if the first violation was previously corrected but repeated after the expiration of twelve (12) months following the correction of the first violation. Repeat violations, which are violations that recur within twelve (12) months following the previous violation of a substantially similar nature, are subject to fines in the following amounts.

Second Violation (\$50.00/day)

Any violation that is a repeat violation shall be subject to an increased fine of \$50.00 per day for each day that the violation continues, up to and including \$5,000.00 in the aggregate.

Third Violation (\$100.00/day)

Any violation of a nature that was subject to two previous enforcement proceedings within the previous twelve (12) months (and where a fine or suspension was imposed) shall be subject to a fine of \$100.00 per day for each day that the violation continues, up to and including \$5,000.00 in the aggregate.

Fines are deemed to be imposed upon the mailing (being the date that the Hearing Notice is placed in the mail, postage prepaid) or hand delivery. Any violation that continues from and after the date a Hearing Notice is provided by the Association shall be subject to a fine each day that the violation continues, up to \$5,000.00 in the aggregate.