

VIOLATIONS AND FINING POLICY

In accordance with Section 718.303, *Florida Statutes*, and Article 8 of the Bylaws, the Board of Directors of the Association (the "Board") adopts the Violation and Fine Procedure Policy contained herein for the imposition of fines and suspensions of the right to use common facilities for violations of the Association's rules, regulations, or restrictions.

1. Purpose.

- a.** The purpose of this policy is to assure the safety, cleanliness, harmony, and order within the Palma Sola Bay Club (PSBC) Association (Association).
- b.** This policy describes how violations are identified, the consequences of a violation, and the due process prior to a penalty being imposed for a violation.

2. General Provisions.

- a.** All Unit Owners, tenants, and guests are expected to comply with the PCSB Declaration, Bylaws, and the PSBC Rules and Regulations (R&R).
- b.** The Association, through its Board of Directors, reserves the right to levy fines and take other actions in response to the failure of an owner, tenant, or guest to comply with any provision of the PSBC Declaration, Bylaws, or Rules and Regulations. (Florida Statutes 718.303) The Unit Owner is ultimately responsible for the actions of their tenants and guests.
- c.** This policy shall describe the general procedure for providing notice to owners and residents regarding violations, as well as the procedures for imposing fines and/or suspending use rights for violations, as approved by the Compliance Committee as described below.

3. Creation of the Compliance Committee.

- a.** Florida law states that the Association cannot impose a fine or suspend the rights to use the common facilities unless a proposed fine is approved by the majority of a committee created for that purpose.
- b.** If an owner fails to comply with the notices of violations described below, the Board may commence the fining and/or suspension procedures.
- c.** Prior to commencing the fining and/or suspension procedures, the Board shall appoint at least three (3) members of the Association to serve as members of the Compliance Committee.
- d.** The Board shall appoint one of the three committee members to serve as chairperson.
- e.** The members of the Compliance Committee may not be the following individuals: officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee.

f. Members of the Compliance Committee serve at the pleasure of the Board and can be removed with or without cause.

g. Unless removed by the Board, the term of membership on the Compliance Committee shall be for a term of one (1) year from the date of appointment.

h. The Compliance Committee's role is to conduct hearings and to confirm or reject fines and/or suspensions of use rights levied by the Board, as further described below.

4. Violations.

a. The Board and/or their representatives have the right to determine what is a violation of the Association's Declaration, Bylaws, and Rules and Regulations.

b. Following from the Association's Rules and Regulations, violations are categorized as: (1) architectural, appearance and maintenance; (2) use and maintenance of terraces; (3) noise, smoking, and common element use; (4) access to units, (5) absence of owner, (6) pets, (7) vehicles and parking; (8) surface water management system and conservation lands, and (9) amenities.

5. Initial Courtesy Notice.

a. Once a violation is noted and brought to the attention of the PSBC Property Manager and Board, the Property Manager shall send an initial Courtesy Notice. The violation, including the date, time, and place of the violation should be documented and confirmed by the Property Manager, with evidence such as photographs, video or sound recording, witness statements, etc.

b. A Courtesy Notice will be emailed and mailed to the Unit Owner or occupant. The Courtesy Notice shall explain the nature of the violation, cite the provisions of the governing documents pertaining to the violation, inform the owner/ occupant what needs to be done to correct the violation, and request the correction of the violation within a specified time frame (i.e. immediately, within 7 days, 14 days, 30 days, or the number of days as determined by the Board and/ or manager, depending on the type and severity of the violation).

6. Second Notice of Violation.

a. If the violation is not resolved within the time frame set forth in the Courtesy Notice, the Board shall send a Second Notice of Violation.

b. The Second Notice of Violation shall be sent by certified mail, return receipt requested and regular U.S. Mail to the Owner's address of record, and/or to the occupants of the unit if the owner does not reside in the unit. The letter may also be sent via email in addition to the mailing.

c. The Second Notice of Violation will explain the nature of the violation, cite the provisions of the governing documents pertaining to the violation, inform the owner what needs to be done to correct the violation, and request the correction of the violation within a specified time frame (i.e. immediately, within 7 days, 14 days, 30 days, or the number of days as determined by the Board and/or manager, depending on the type and severity of the violation).

- d. The Second Notice shall also provide notice that if the violation is not corrected within the time frames, the matter may be turned over to the Compliance Committee for confirmation of fines and/or suspension of use rights, and/or to the Association's attorney for further enforcement action.

7. **Notice of Hearing Before the Compliance Committee.**

- a. If the Second Notice of Violation does not result in correction of the violation, the Board shall determine whether fining and/or suspension proceedings are appropriate and determine the amount of the proposed fine and/or length of suspension as described below.
- b. Upon such determination, the Board shall send a Notice of Hearing before the Compliance Committee, which shall contain, as required by Section 8.1 of the Bylaws:
 - i. A statement of the date, time, and place of the hearing.
 - ii. A specific designation of the provisions of the Declaration, Bylaws, or Rules and Regulations that are alleged to have been violated.
 - iii. A short and plain statement of the matters asserted by the Association.
 - iv. The possible amount of any proposed fine and/or suspension.
 - v. A photograph, video or sound recording, or other evidence, if available, that documents the violation.
 - vi. A timetable for correction of the violation and to complete the remediation prior to the hearing, if applicable.
 - vii. A copy of the PSBC Violations Policy.
- c. The Notice of Hearing must be sent by email, regular U.S. Mail, and Certified Mail, return receipt requested, not less than fourteen (14) days in advance of the hearing. Notice shall be effective upon placing the Notice of Hearing in the mail.

8. **Determination of Amount of Fines and/or Length of Suspensions by Board.**

- a. **Board Action to Determine Penalty.** As some point prior to sending a Notice of Hearing, the Board shall approve of the amount of the fine and/or the length of suspension against a violating owner, tenant, or guest at a duly noticed board meeting.
- b. **Fining Authority.** Section 718.303, *Florida Statutes*, allows the Association to levy fines in the amounts described below, and to suspend, for a reasonable amount of time, the right of a unit owner, tenant, or guest to use the common elements, common facilities or any other association property (except for limited common elements intended for use only for that unit, common element needed to access the unit parking spaces, and elevators). The amount of the fine or length of the suspension levied by the Board may take into consideration the nature of the violation, whether the violation is a repeated violation, or whether the violation is a severe violation.
- c. **Amounts of Fines.** The fines may be up to \$100.00 per day for each day of a continuing violation, up to \$1,000.00 per violation in the aggregate, unless a

higher amount is permitted by law and approved by the Board.

- d. **Length of Suspensions.** The suspensions shall be for a reasonable length of time, which may include a suspension until the violation is completely resolved. The suspension length shall be at the Board's reasonable discretion.
- e. **Continuing Violations.** A fine may be levied for each day of a continuing violation, with a single notice and opportunity for a hearing.
- f. **Repeat or Severe Violations.** Notwithstanding any provision to the contrary, for violations that are reoccurring, frequent, or severe, or for violations where there are unique compelling circumstances creating unreasonable conditions that threaten damage to condominium property or creating unreasonable nuisances that adversely impact the quiet enjoyment of the condominium property, the President, the property manager, or designated committee or Board member shall have the discretion to bypass the first and/or second notice of violation requirements and immediately institute the fining/suspension procedures and/or formal legal action after notification of a violation to the fullest extent allowed by law

9. **Compliance Committee Meetings and Hearings.**

- a. The Compliance Committee shall meet at a time and place determined by the chairperson of the committee or as otherwise directed by the Board. In order to conduct business and any hearings, a majority of the members of the committee must be present.
- b. Notice of the Compliance Committee meetings shall be posted in a conspicuous place in the community not less than forty-eight (48) hours in advance of the meeting, and shall set forth the date, time, and place of such meeting. Compliance Committee meetings shall be open to the membership.
- c. Proof of proper notices required by this policy shall be presented and recognized in the minutes of the Compliance Committee meeting.
- d. The alleged non-compliance shall be presented to the Compliance Committee by the Board or board representative, either personally at the hearing or through documentary evidence provided to the Compliance Committee in advance.
- e. The alleged violator shall have a right to be represented by an attorney, present evidence and witnesses, provide written or oral arguments, ask questions, and otherwise present a case regarding why the fine and/or suspension should not be confirmed by the Compliance Committee. If an attorney will be present, the alleged violator shall notify the Association not less than three (3) business days in advance of the hearing so that the Association can make arrangements for Association legal counsel to attend, if desired by the Board. If Association counsel cannot attend, the Board shall have the authority to require the hearing be postponed and rescheduled.
- f. Upon the conclusion of the presentation of both sides of the issue, the Compliance Committee shall then deliberate and determine whether to confirm or meeting by the Committee. If a majority of the Compliance Committee does not approve of the fine or suspension, they may not be imposed.
- g. Compliance Committee cannot alter the fine or place conditions regarding resolution of the violation. Its sole purpose is to either confirm or reject the penalty proposed by the Board.

- h.** The Compliance Committee must keep records consistent with the documentation requirements of the Association of all alleged violations, proceedings of hearings and minutes, and the findings of hearings.
- i.** The Compliance Committee members must remain impartial, and no Committee member can have any direct involvement in a reported violation nor a vested interest in the outcome of a hearing.
- j.** In the event that a violator fails to attend the hearing for his or her violation, the Compliance Committee may proceed without the violator being present, and failure to appear at the hearing shall not serve to nullify any fine or suspension confirmed by the Compliance Committee or sought to be collected by the Board.

10. Notice of Fine:

- a.** The Compliance Committee shall notify the Board in writing regarding the results of the hearings.
- b.** The property manager shall provide written notice to the violator regarding the amount of the fine and the due date, as well as the length of any suspension.
- c.** Fines shall be paid no later than five (5) days after written notice of the approval of the fine by the Compliance Committee, or unless otherwise provided by law. If the fine is not paid and/or the violation is not corrected within the compliance time frames, the Board or its Association manager may turn the file over to legal counsel for collections and/or formal legal action.

11. Board Discretion.

- a.** Nothing in this policy shall be construed to require the Board of Directors to initiate fining or other enforcement proceedings against a violator. The Board has the authority to determine the most effective enforcement approach on a case-by-case basis.
- b.** Deviation from this policy shall not restrict or nullify the Association's ability to seek legal action to enforce its documents in other cases and by other methods.
- c.** Failure to pursue enforcement or fining procedures in one instance shall not be deemed to be a waiver of the Board's ability to pursue legal action in other cases.
- d.** The decision not to fine or suspend use rights against an owner does not preclude the Association from pursuing legal action and damages.

- e.** Even if the Compliance Committee does not confirm a fine or suspension, the Board may determine that formal legal action is appropriate to compel compliance.
- d.** The board can determine that the most effective approach to ensure compliance is the filing of arbitration, requesting mediation, and/or filing a lawsuit, instead of or in addition to the fining system.
- e.** This decision is solely within the discretion of the Board of Directors.
- f.** Consideration may be given regarding the severity and frequency of the infraction in determining the appropriate level of enforcement action to be taken against members in violation of the community's restrictions.
- g.** For violations that are not reoccurring, frequent, or severe, the Board shall have the discretion to cancel the fining procedures if the violation is cured to its satisfaction prior to the Compliance Committee hearing.