

Fishhawk Ranch West Homeowners Association, Inc.

Enforcement and Fining Procedure

EFFECTIVE May 26th, 2022

WHEREAS, the Board of Directors of Fishhawk Ranch West Homeowners Association, Inc. deems it necessary to establish procedures for the enforcement of the Declaration of Restrictions, Rules and Regulation, and all governing documents of the Fishhawk Ranch West Homeowners Association, Inc.;

WHEREAS, the Board of Directors also deems it necessary to establish a procedure for implementing fines against owners, occupants, licensees and invitees within Fishhawk Ranch West Homeowners Association, Inc.;

WHEREAS Florida Statute 720.305 has provided the Association the power to “levy reasonable fines of up to \$100 per violation against any member or any member’s tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association”; and

WHEREAS Florida Statute 720.305 further provides that “[a] fine or suspension may not be imposed without at least 14 days’ notice to the person sought to be fined or suspended providing that person with an opportunity for a hearing before a committee of at least three 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”; and

NOW, THEREFORE, LET IT BE RESOLVED THAT a Fining Committee (“Committee”) is hereby created, consisting of at least three (3) members of the Association 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 Board of Directors of the Association shall determine, as necessary from time to time, who shall be the members of the Fining Committee;

BE IT FURTHER RESOLVED THAT the following Guidelines and Schedule of Fines will be adopted and adhered to:

1. DOCUMENTING VIOLATIONS. The Board shall receive notification of the violations of the Rules and Regulations of the Association, as well as the Declaration of Covenants, Conditions, Restrictions, and Easements and other governing documents of Fishhawk Ranch West Homeowners Association, Inc. from the following sources:

a. Community Association Manager (CAM) On-Site Inspections – The Association’s CAM shall conduct regular on-site inspections of the subdivision, the regularity of which shall be determined by the Board, to identify any, and all violations. Any violation(s) observed by the CAM shall be documented, which may include, but is not limited to, the CAM taking pictures of each violation that is occurring.

b. Owner/Resident Complaints – The Owners/Residents of the Association are encouraged to report any, and all alleged violation(s) to the attention of the CAM. Any notice of alleged violation(s) must be delivered to the CAM in writing and signed by the Owner/Resident. The CAM shall inspect the alleged violation(s) at his/her next on-site inspection and proceed in the manner described in paragraph 1(a).

c. Board of Directors Complaints – The Association's Directors shall have the authority to conduct regular on-site inspections of the subdivision, the regularity of which shall be determined by the Board of Directors, to identify any, and all violations. Any violation(s) observed by any member of the Board of Directors shall be documented, which may include, but is not limited to, documenting the violation by taking pictures of each violation occurrence.

2. VIOLATION NOTICE.

a. Within three (3) business days following the identification of a violation the CAM will, on behalf of the Board, send the Owner and/or Occupant an "Out of Compliance Notification" via regular U.S. Mail. If the mailed regular U.S. Mail letter is not returned as undeliverable, the Owner is deemed to have received notice. Said Out of Compliance Notification shall be mailed to the Owner at the address on record with the Association for the Owner and to the Occupant at the property address if the Owner does not receive mail at the property address and shall contain a description of the following:

(i) Provide the Owner and Occupant with a description of the violation and give the Owner a definite amount of time to cure the violation based upon the particular violation;

(ii) The Owner and Occupant will be advised of the deadline by which the individual must correct the violation and return a written response.

(iii) Reinspection for compliance must take place within thirty days of the initial notice of violation.

b. If the violation is not cured within the time prescribed in the Out of Compliance Notification, the CAM shall send a Fining Notice via regular U.S. Mail and Certified Mail, return receipt requested to advise the Owner and Occupant that the Board has recommended a fine, including the date the fine will commence and the amount of the fine. If the mailed regular U.S. mail letter is not returned as undeliverable, the Owner is deemed to have received notice. The matter is referred to the Fining Committee for imposition of the fine;

c. Every fine that is imposed shall be in the amount of \$100 per violation. A fine will be levied for each day of a continuing violation in the amount of \$100 per day. The maximum accumulative fine per violation is \$1,000, beginning as of 5 days from the date of the Fining Notice. If the violation is remedied prior to the fining committee hearing, the fine will be rescinded and withdrawn.

d. The Owner and occupant will be advised that there will be a Fining Committee meeting; the date, time, and location of the meeting where the fine will be considered will be provided to the person or people being fined;

e. The Fining Committee Meeting date set forth in the Fining Notice must be held not less than fourteen (14) days after the mailing date of the Fining Notice;

f. Should the Owner and Occupant timely correct the violations described in the Fining Notice and timely mail back the completed Notice of Corrective Action Taken, the fine will not be imposed. The completed Notice of Corrective Action Taken must be mailed to the CAM which is currently: _____ (hereinafter "CAM"). The Owner and Occupant will be excused from attendance of the Fining Committee meeting if the completed Notice of Corrective Action Taken has been timely returned to the CAM at the above address and the violation has been brought into compliance;

g. The Association must verify that the violation has been brought into compliance and that the violation no longer exists in order for the Owner and/or Occupant to be excused from attendance at the Fining Committee meeting and for the Board to no longer impose a fine;

h. If an Owner and Occupant receiving an Out of Compliance Notification intends to correct the violation but is unable to do so within the time-period provided in the Out of Compliance Notification, the Owner and Occupant must request additional time to correct the violation by timely responding in writing. If the appropriate request for extension of time is submitted by the Owner and/or Occupant, the CAM may grant such additional time as it deems reasonable to correct the violation, up to a maximum of 30 days.

i. The CAM shall timely respond to any requests for extension received from an Owner and Occupant. If the CAM deems it appropriate to grant an extension, the CAM shall notify the Owner and Occupant in writing of (1) the extended date by which the violation must be corrected; and (2) provide a date by which the Notice of Compliance with Out of Compliance Notification Form must be returned to the CAM;

j. If the Owner and Occupant is able to cure the violation within the time agreed upon with the CAM, and the CAM is notified of the correction in writing, the fine will be waived;

k. The Association shall verify that the violation has been corrected by the Owner and Occupant. The CAM shall notify the Owner and occupant if attendance at the next Fining Committee meeting will be needed after verifying whether or not the cited violation has been corrected. If the cited violation has not been corrected, the CAM shall send another Fining Notice to the Owner and Occupant.

3. FINING COMMITTEE.

a. Committee Members – The Fining Committee shall be comprised of at least three (3) Owners appointed by the Board by majority vote 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. The Board may increase the number of Committee Members by majority vote so long as the number of Committee Members is an odd number and the number of Committee Members is never less than three (3). The Board shall have the power to remove any member from the Committee without cause by a majority vote.

b. Meetings – The Fining Committee shall hold meetings as it deems it necessary to conduct such meetings. The Committee meeting shall be held no more frequently than once per month.

4. COMMITTEE HEARINGS.

a. Owner and Occupant's Opportunity to Be Heard – At the Fining Committee Meeting at which a fine or suspension will be considered, each Owner and/or Occupant will be given ten (10) minutes to discuss the facts and circumstances of the violation(s) with the Fining Committee and explain why a fine should not be approved as levied and answer any relevant questions the Committee Members may have.

b. Committee Determination – The Fining Committee must agree on what action to take by a majority vote. The Committee shall have the power to approve or reject the imposition of the proposed fine;

c. The Committee shall document its determination and forward the determination to the Board and the CAM for Association records.

5. NOTICE OF THE FINING COMMITTEE DETERMINATION TO OWNER AND OCCUPANT.: Once the Fining Committee has made a determination with regard to any imposition of a fine the CAM, on behalf of the Board, shall notify the Owner and Occupant of the fine imposed by the Association, giving the Owner and Occupant 5 days to pay the fine. Paying the fine does not relieve the Owner and/or Occupant of the responsibility to correct the violation. The Owner will be notified via U.S. Mail of the decision of the Committee. If the mailed regular U.S. Mail letter is not returned as undeliverable, the Owner is deemed to have received notice.

6. NO FINE SHALL EXCEED \$100 PER VIOLATION. A fine may be levied on the basis of each day of a continuing violation with a single notice and opportunity for hearing, except that no such fine shall exceed \$1,000 in the aggregate.

7. REFERRAL TO ASSOCIATION'S COUNSEL. The CAM shall conduct an on-site inspection of any violation(s) described above and shall notify the Board if the violation continues and/or the fine has not been paid within a specified date. The Board may take all appropriate enforcement action, including referring the matter to the Association's attorney for appropriate legal action.

8. APPEAL PROCESS. Following a personal appearance and hearing before the Fining Committee, the Owner and/or Occupant shall have the right to appeal the imposition of a fine. A written notice of appeal from the Owner and/or Occupant must be received by the CAM within thirty (30) days after the date of the Owner and/or Occupant personally appeared before the Fining

Committee. The Board shall hear the appeal and may affirm or amend the Fining Committee's imposition of a fine. The decision of the Board shall be final and shall not be subject to any further appeal.

This Resolution was adopted at a duly called meeting by the Board of Directors on May 26th, 2022 and is effective as of the date of the meeting.

Tom Krzesinski Jr
President of Homeowner's Association, Inc.

Johanan Wells
Secretary of Homeowner's Association, Inc.