

THE VILLAGE AT BENTLEY PARK HOMEOWNER'S ASSOCIATION, INC.

**RESOLUTION ADOPTING A POLICY FOR FINING AND SUSPENSION OF USE RIGHTS
FOR VIOLATIONS OF GOVERNING DOCUMENTS**

WHEREAS, the governing documents provide that the undersigned Association is responsible for the enforcement of the governing documents of the Association, including but not limited to the Declaration of Covenants and Restrictions for the Village at Bentley Park, and any Rules and Regulations;

WHEREAS, Florida Statutes permit fining and suspension of use rights to common areas and facilities for violations of the Declaration, Bylaws and Rules and Regulations (all referred to herein as "the governing documents"; and

WHEREAS, the Board of Directors wishes to adopt, and hereby does adopt, a policy regarding the procedures which it will use in connection with fining and suspension of use rights.

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

1. This Resolution replaces and supersedes all prior versions of policies and procedures relating to fining and suspension of use rights by The Village at Bentley Park Homeowner's Association, Inc. (referred to as "the Association").
2. The Board of Directors of the Association, and/or its appointed agents, are charged with determining whether there is probable cause that any of the provisions of the governing documents relating to the use of the property that is operated and managed by the Association have been violated.
3. The Board of Directors has appointed a Fining Committee, and may remove and appoint other members of such committee from time to time, which committee shall consist of at least three (3) members of the Association, and such alternate members as the Board determines, who are qualified to serve on such committee under the Florida Statutes, as amended from time to time. Such Committee shall be charged with conducting the hearings and rendering the decision with regard to the levy of fines, and suspension of use rights, as herein provided.
4. In the event the Association receives a Complaint, or a violation is otherwise determined to have occurred, the Board of Directors ("the Board") or its agents will notify the alleged violator(s), and in appropriate cases, will provide an opportunity for such violation to be corrected within a reasonable time.
5. If the violation has not been corrected, or in the case of a second violation, or if a violation is of such a serious nature that the Board determines it does not warrant an opportunity for the violator to correct it, the Board, or its designated agent(s), if proper authority and guidelines have been provided by the Board to the agent to adopt such fines, may adopt a proposed fine, or suspension of use rights, up to the maximum amount allowed by law. A fine may be imposed based upon each day that a continuing violation continues. The fine or suspension will not become final until a hearing has been held by the Fining Committee, and such committee has determined that the fines proposed by the Association are to be upheld. The Board may adopt a schedule of proposed fines, and/or suspensions of use rights, for common types of violations from time to time, and this schedule will not be recorded, but will be available to owners as part of the official records of the Association. As stated above, the Board's designated agent shall have the authority to levy the fines pursuant to such schedule without such decision taking place during a Board meeting.
6. Following the adoption of a proposed fine or suspension by the Board or its authorized agents, the alleged violator shall be notified by regular and certified mail and/or email (if an address is designated in the Association's official records), along with a notice that the alleged violator may appear before the Fining Committee ("the Committee") if they wish to contest the fine or suspension. The owner shall have the right to attend the hearing by telephone or other electronic means. The notice shall contain a description of the alleged

violation, the specific action required to cure such violation (if applicable), and date and location for the hearing. The notice to the alleged violator shall also include a short and plain statement of the violations asserted by the Association, as well as a statement of the provisions of the governing documents that have allegedly been violated.

7. The Committee shall hold a hearing on the date set forth in the notice, unless the alleged violator has requested a continuance to another date in which case the hearing will be rescheduled on a one-time basis absent exceptional circumstances justifying a further rescheduling. The Association will provide the alleged violator with at least fourteen (14) days written notice of the date, time and place of the hearing. Following the hearing, the Committee may overrule or uphold the proposed fine or suspension of use rights. In cases involving alleged violations by tenants or their guests, both the tenants and the unit owners are subject to potential fines and suspensions for the violations.
8. The Committee shall appoint a Chairman, unless one has been appointed by the Board, 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 unit 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 or suspension, and to present any witnesses or documents in support of the proposed fine or suspension. Written statements 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 party offering such evidence pays the cost involved. Any relevant evidence shall be admitted if it is the sort of evidence on which responsible persons are accustomed to rely in the conduct of serious affairs, regardless of the existence of any common law or statutory rule that 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 to testify; and to rebut the evidence against him.
 - c. Neither the accusing person nor the alleged violator must be in attendance at the hearing. The hearing shall be open to attendance by all unit owners. In rendering a decision, official notice may be taken at any time of any generally accepted matter within the Declaration, the Articles, the Bylaws, the Rules and Regulations, or the workings of the Association.
 - d. The Committee shall render a decision on the matter during the meeting and will prepare a written summary of the decision that is to be provided to the Association and the alleged violator. If the decision of the Committee, by majority vote, is to uphold the fine or suspension, any suspension will begin on such date and for such period of time as approved by the Committee. Any fine is due 5 days after written notice of the approved fine is provided by mail and/or email (if an address is designated in the Association's official records) to the parcel owner and, if applicable, to any occupant, licensee, or invitee of the parcel owner. The notice shall include the findings of the Committee, the amount due, and how the parcel owner or any occupant, licensee, or invitee of the parcel owner may cure the violation, if applicable.

9. Subsequent to the hearing, the Board of Directors may take any enforcement action it considers appropriate in regard to any fine that is not paid within thirty (30) days after the committee meeting at which the fine was approved, or any suspension of use rights that is not honored by the persons whose rights have been suspended. The ability to fine for violations of the governing documents is in addition to all other rights and remedies held by the Association. The Association's Board may decide to take enforcement action against the violator instead of, or in addition to, pursuing fines against the violator.
10. Any violator(s) will be responsible for interest, costs and attorneys' fees incurred in the enforcement of the fine or suspension of use rights, including costs and attorney's fees in connection with any correspondence or hearings, provided that the Committee upholds the fine or suspension, in whole or in part, and the person(s) who is the subject of the fine or suspension fails to honor any suspension, or pay any fine within thirty (30) days after the date of the committee meeting at which the fine was approved.
11. No suspension of rights to use Association property may apply to the property needed to provide vehicular or pedestrian access to the lot of those involved, including but not limited to the right to park in locations designated for parking. Utility services which serve the unit may also not be suspended.
12. As provided for in Section 720.305 of the Florida Statutes, if a member of the Association is more than 90 days delinquent in paying any fee, fine, or other monetary obligation due to the Association, the Association may suspend the rights of the member, or the member's tenant, guest, or invitee, to use common areas and facilities until the fee, fine, or other monetary obligation is paid in full. This subsection does not apply to that portion of common areas used to provide access or utility services to the parcel. A suspension may not prohibit an owner or tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park. The notice and hearing requirements set forth above do not apply to a suspension imposed under this subsection. All suspensions of use rights under this sub-section must be approved at a properly noticed Board meeting, and upon approval, the Board must notify the parcel owner, and if applicable any other persons whose rights have been suspended, by mail or hand-delivery.