



The HOA Board of Directors will be reviewing, discussing, and consider adopting the draft **Violation and Fine Procedure Policy** at the Board Meeting on Thursday, April 24, 2025, 6:00 PM in Clubhouse.

The draft **Violation and Fine Procedure Policy** has been authored and recommended by our HOA Attorney.

The draft **Violation and Fine Procedure Policy** is attached so you can review before the Board Meeting.

The HOA Board of Directors intends to have a period of public discussion amongst the board members, as well as a period of time to hear feedback, support, and/or concerns from NRE owners.

**If you have questions or feedback for the BOD and are not planning to attend/participate in the Board Meeting on Thursday, April 24, 2025, 6:00 PM in Clubhouse, please send an email to [NREBoard@gmail.com](mailto:NREBoard@gmail.com) or reach out to one of the board members.**

# DRAFT FOR REVIEW & DISCUSSION

## **FINING COMMITTEE** **VIOLATION NOTIFICATION AND FINE PROCEDURE POLICY**

Adopted by the Board of Directors of the North River Estates Community Association, Inc. (the "Association") as of \_\_\_\_\_, 2025.

In accordance with Section 720.305, *Florida Statutes*, the Board adopts the Violation and Fine Procedure Policy contained herein for the imposition of fines and/or suspension of use common facilities use rights for violations of the Association's rules, regulations, or restrictions.

1. **Notice of Violation.** Upon the verification of a violation of the Association's governing documents, an initial courtesy notice will be sent ("Violation Letter") to the owner at the Owner's address of record, and/or to the occupants of the home if the owner does not reside in the home. The letter may also be sent via email to the owner in addition to the mailing. All notices described in this policy shall be deemed to have been sent when placed in the U.S. Mail. The Violation Letter shall inform the owner of the nature of the violation, cite the relevant document provisions of the rules or restrictions that have been violated, inform the Owner what needs to be done to correct the violation, and request that the violation be corrected within the time frame prescribed in the letter (i.e. immediately, 7 days, 14 days, 30 days, or the number of days as determined by the Board, depending on the type and severity of the violation).
2. **Creation of the Fining Committee.** The Board shall appoint at least three (3) members of the Association to serve as members of the Fining Committee. The Board shall appoint one of the three committee members to serve as chairperson. The members of the Fining 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. Members of the Fining Committee serve at the pleasure of the Board. The Fining Committee's role is to conduct hearings, hear from the Association and the person being fined, ask and answer questions, and to confirm or reject fines and/or suspensions proposed by the Board.
3. **Fining Committee Meetings.** The Fining Committee shall meet, as required, 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.

Notice of the Fining Committee meetings shall be posted at the office 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. Fining Committee meetings shall be open to the membership.

# DRAFT FOR REVIEW & DISCUSSION

4. **Determination of Amount of Fines and/or Length of Suspension by the Board.** If an owner fails to comply with the notice of violation, the fining/suspension process may be invoked. The Board may levy a fine or propose a suspension of common facility use rights at a duly noticed board meeting, and the amount of the fine and/or length of suspension may take into consideration the nature and severity of the violation, whether the violation is a repeated violation, or whether the violation is a severe violation. The Association shall send the required written statutory fourteen (14) day notice of a hearing to the owner as described below.
- a. **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.
- b. **Length of Suspensions:** The length of the proposed suspension of the right to use the Association's common facilities and recreational facilities shall be in the discretion of the Board. The Board may propose that the suspension be imposed upon approval by the Fining Committee is to last until the violation is permanently cured. Alternatively, the Board can propose a suspension of a reasonable length, not to exceed \_\_\_\_\_ months (regardless of whether the violation has been cured within such time period). The length of suspension may be based on the severity of the violation, and whether it is a repeat violation.
- c. **Continuing Violations:** A fine may be levied for each day of a continuing violation, with a single notice and opportunity for a hearing.
- d. **Repeat or Severe Violations:** Notwithstanding any provision to the contrary, in the event that the violation is a repeat violation, or is a violation of the type that the Board can reasonably anticipate to be repeated in the future, or if the violation is a severe violation that needs immediate attention, the Board is not required to provide the initial notice and opportunity to correct as described above, and it may immediately commence the fining/suspension hearing process described herein and otherwise demand compliance.
5. **Procedures.** If the Board approves of a fine and/or a suspension as described above, the owner will be given notice of the hearing before the Fining Committee as follows.
- a. **Notice Of Hearing:** The Notice of Hearing shall be sent via Certified U.S. Mail, Return Receipt Requested, and via regular U.S. Mail to the designated mailing address in the Association's records. In addition to the mailing, it may also be sent via electronic mail to the designated electronic mail address in the Association's records. Included in the Notice of Hearing shall be notice of the date, time, and location of a meeting of the Fining Committee at which the hearing will take place. The notice must be sent at least fourteen (14) days prior to the hearing. Said notice shall be sent to the Owner, tenant, or occupant as applicable, and shall be deemed to have been sent when placed in the U.S. Mail. The

# DRAFT FOR REVIEW & DISCUSSION

Notice of Hearing shall contain the following information:

1. A statement of the date, time, and place of the hearing;
2. A specific designation of the provisions of the Declaration, Bylaws, or Rules and Regulations that are alleged to have been violated;
3. A description of the alleged violation;
4. The specific action required to cure such violation, if applicable
5. The amount of the fine and/or length of suspension to be presented to the Fining Committee for approval.

**b. Hearing to be Conducted at the Fining Committee Meeting:** Proof of proper notices required by this policy shall be presented and recognized in the minutes of the committee meeting. The alleged non-compliance shall be presented to the Fining Committee by the Board or board representative, either personally at the hearing or through documentary evidence provided to the Fining Committee in advance. 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 should not be confirmed by the Fining Committee. If an attorney will be present on behalf of the alleged violator, 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's legal counsel to attend. If Association counsel cannot attend, the Board shall have the authority to postpone and reschedule the hearing so that its legal counsel can be present. Upon the conclusion of the presentation of both sides of the issue, the Fining Committee shall then deliberate and determine whether to confirm or reject the proposed fine and/or suspension. The alleged violator shall have the right to attend a hearing by telephone or other electronic means if the Fining Committee has such technology.

**c. Failure to Appear at Hearing:** In the event that a violator fails to attend the hearing for his or her violation, the Fining Committee may proceed without the violator being present, and failure to appear at the hearing shall not serve to nullify any suspension or fine confirmed by the Fining Committee or sought to be collected by the Board.

**d. Notice of Fine/Suspension:** Within seven (7) days after the hearing, the committee shall provide written notice via mail or to the email address contained in the association's official records regarding the committee's findings, the amount of the confirmed fines and/or suspensions, and what is necessary to cure the violation, if applicable. It shall also provide that the violator has at least thirty (30) days after delivery of the notice to pay the fine.

**e. Legal Action.** 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 for enforcement and/or collection in accordance with the Declaration and the Homeowners' Association Act.

## DRAFT FOR REVIEW & DISCUSSION

6. **Board Discretion.** Nothing in this policy shall be construed to require the Board of Directors to initiate fining/suspension 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. 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. Failure to pursue enforcement or fining/suspension procedures in one instance shall not be deemed to be a waiver of the Board's ability to pursue legal action in other cases. The Board can determine that the most effective approach to ensure compliance is requesting mediation and/or filing a lawsuit, instead of or in addition to the fining/suspension system. This decision is solely within the discretion of the Board of Directors. 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.