

Prepared by/Return to:
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IBIS POINT OWNERS' ASSOCIATION, INC.

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

THIS RESOLUTION is made this 26 day of May, 2021 by the Board of Directors of Ibis Point Owners 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, Conditions and Restrictions for Ibis Point ("**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 II, Section 1(a) of the Declaration provides the Association with authority to suspend an Owner for any infraction of its published Governing Documents for a period not to exceed sixty (60) days; 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 follow the current language of Section 720.305, Florida Statutes as of the date of this Resolution, and 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; the Board may at any given time delegate authority to its Community Association Manager ("CAM") to impose fines on the Board's behalf.
4. **Hearing Notice.** If the Board has voted to impose a fine or suspension, or the CAM has been provided authority to impose a fine or suspension on the Board's behalf, the Association shall send a written notice to the Violating Party which shall:
 - a. Describe the nature of the conduct or issue which constitutes a violation in ordinary and concise language;
 - 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 before the Compliance Committee ("**Committee Hearing**") 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 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 or the CAM on behalf of 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. Committee Hearing Procedures.

- a. Consideration of Evidence & Argument.** At the Committee 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 Committee 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 Committee Hearing. If the Violating Party fails to attend the Committee 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 Committee Hearing must provide at least seventy-two (72) hours' written notice to the Association in advance of the Committee 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 Committee Hearing, the Compliance Committee may adjourn to deliberate in private or may announce its decision at the conclusion of the Committee 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.** Reject the fine or suspension, or both, levied by the Board.

The Compliance Committee's decision shall be made by majority vote of the Compliance Committee, which shall be described in the minutes (or Chairperson's Written Report) of the Committee Hearing. Irrespective of whether the Compliance Committee's decision is announced at the Committee 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.

6. **Compliance Committee Composition.** The Board may appoint members of the Compliance Committee, and may designate alternates, from time to time. The Compliance Committee shall be composed of at least three (3) 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. The role of Compliance Committee is limited to determining whether to confirm or reject the fine or suspension levied by the Board.
7. **Fine Amount.** A fine of up to \$100.00 per day, per violation, up to \$1,000.00 in the aggregate per violation, may be levied against the Violating Party.
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 Committee Hearing. However, the Compliance Committee may consider the actions taken by the Violating Party or Lot Owner to correct the violation prior to the Committee 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

RESOLVED by the Board of Directors on this 26 day of MAY, 2021.

By: Chris Norris

Printed: CHRIS NORRIS

As President

By: Dean Davis

Printed: DEAN DAVIS

As Secretary

STATE OF FLORIDA

COUNTY OF Duval

The foregoing instrument was acknowledged before me by means of ☐ physical presence or ☐ online notarization this 26 day of MAY, 2021, by Chris Norris, as President and by Dean Davis, as Secretary of Ibis Point Owners 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: Florida Driver's License

