

PLANTATION ROW HOMEOWNERS' ASSOCIATION, INC.

A RESOLUTION OF THE BOARD OF DIRECTORS TO IMPLEMENT A UNIFORM POLICY REGARDING THE ENFORCEMENT OF RESTRICTIVE COVENANTS, DECLARATION OF COVENANTS, BY-LAWS, BOARD RESOLUTIONS, AND/OR RULES AND REGULATIONS OF THE PLANTATION ROW HOMEOWNERS' ASSOCIATION FOR THE NOTICE OF ALLEGED VIOLATIONS, CONDUCT OF HEARINGS AND IMPOSITION OF FINES.

BE IT HEREBY RESOLVED by the Board of Directors of Plantation Row Homeowners' Association, Inc. (the Board), as follows:

WHEREAS, a duty of the Board is to enforce the provisions of the Restrictive Covenants, Declaration of Covenants, By-Laws, Board Resolutions, and the Rules and Regulations of Plantation Row Homeowners' Association (hereinafter the Governing Documents); and,

WHEREAS, there continue to be a few residents of Plantation Row who continually fail to comply with the Governing Documents, and at the same time it is necessary for the Board to be better able to enforce the Governing Documents; and,

WHEREAS, Article VII (Exterior Maintenance) of the Declaration of Covenants, Conditions and Restrictions of Plantation Row, and, N.C.G.S. Chapter 55A et seq. of the Non-profit Corporations Act, and, N.C.G.S. Chapter 47F-3 et seq. of the N.C. Planned Community Act gives authority to enact this Resolution; and,

WHEREAS, the overall objective of a policy for assessing fines is to achieve compliance; it shall never be considered an income generating strategy for this Association; and,

WHEREAS, in light of the above shown need, authority and objective, the Board hereby agrees to adopt a policy for assessing fines for homeowners who continually fail to adhere to the Governing Documents, and that adopted policy is as follows:

1. Complaints regarding alleged violations may be reported by an owner or resident within Plantation Row, a group of owners or residents, the Association's management company (AMG), a Board member or members, or a committee member, by submission of a written complaint to the Board.

2. The complaint must identify the alleged violator, if known, and if not known, the address, and set forth a statement describing the alleged violation and any pertinent information.
3. Upon receipt of a complaint by the Board, if any additional information is needed, the complaint may be returned to the one complaining or may be investigated further by the Board or a Board Committee member. The Board may appoint an individual or committee to investigate the matter.
4. If a violation is found to exist, the homeowner shall be notified with a courtesy phone call, eMail or letter as a friendly reminder of the Association's applicable governing documents.
5. If the friendly reminder does not bring results, then a Warning Letter of Violation shall be mailed to the homeowner and the Letter shall include: a clear statement of the nature of the violation; a reference to the provision in the Governing Documents that makes the offense a violation, and, that gives the Association the authority to enforce and fine; and, a specific date that is a deadline for remedy (and that deadline will take into consideration the time required for remedy, generally two weeks or two weekends).
6. If the alleged violator does not come into compliance within the specific date set in the Warning Letter, then a Final Letter of Violation/Notice of Hearing, shall be sent to the alleged violator, providing notice and a date, time and place for a hearing (which will be held within 10 days of the date of the Final Letter). The Notice of Hearing must explain that if a violation is found to exist, a fine may be imposed, or other action taken, pursuant to the Governing Documents and this Resolution. (Examples include unapproved additions or construction, landscaping and/or lamp post issues, parking, trash/recycle bins, etc.) The Notice of Hearing shall be served in person or sent by certified mail. The letter shall further state that the alleged violator is entitled to a hearing on the merits of the matter. The Board may modify any dates for compliance as may be appropriate given the nature of the alleged violation.
7. The Board may appoint a Committee or Panel to serve as the Hearing Committee/Panel, which may serve in place of or in conjunction with the Board.

8. Any Board member who feels he or she may not be able to render objective and disinterested consideration on any hearing shall disclose such to the other Board members prior to the hearing and the Board member shall be disqualified from all proceedings with regard to that hearing. If disqualification of any board member results in an even number of remaining Board members (or committee/panel member) eligible to hear a case, the president may appoint an association member, in good standing, to serve as a voting member of the hearing board.

9. At the beginning of each hearing, which shall be in person, the presiding officer shall introduce the case by describing the alleged violation and the procedure to be followed during the hearing. Each party or designated representative, may, but is not required to, present evidence and testimony and present witnesses. The presiding officer may also impose such other rules of conduct as may be appropriate under the given circumstances. Neither the one complaining nor the alleged violator is required to be in attendance at the hearing but if the alleged violator fails to appear, then a "default" hearing shall be held in his or her absence. The Board shall base its decision solely on the matters set forth in the complaint, results of the investigation and such other evidence as may be presented at the hearing. All hearings must be open to attendance by all owners, unless otherwise determined by the Board.

10. After all testimony and other evidence has been presented at a hearing, the Board's or Committee's/Panel's decision must be in writing. The Board or Panel or Committee shall have 5 days to determine whether or not a violation has occurred and if so, shall set a reasonable amount for the fine, which may not exceed \$25.00/day/violation and shall be commensurate with the violation and be fair and consistent across the board for each type of violation. A fine cannot be imposed prior to, during, or within 5 days after the hearing. If a "per day" fine is imposed, the violator is responsible to notify the Board when the violation is corrected, before any fines or other actions will be stopped.

11. If a Committee/Panel presides over the hearing, it shall render its decision to the Board who shall in turn, within 10 days of the hearing, render its written findings and decision, and impose a fine, if applicable. The fine to be imposed shall be no more than \$25.00 per day for a first violation, or the cost incurred by the Association in abating the violation, whichever is greater. A decision, whether a

finding for or against the owner, must be by a majority of the Board or Committee/Panel members present at the hearing. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the hearing committee's decision absent a showing of denial of due process. The homeowner shall have 5 days before a fine is commenced to have a last opportunity to remedy without a fine. Thereafter, the homeowner should receive a monthly invoice for the fine.

12. The violator may file a written notice of appeal with the President or Secretary of the Board of any adverse decision of the hearing results or within 10 days after receiving a copy of the written statement of the results of the hearing.

13. If a violation recurs after a fine or other action has been imposed, no courtesy notice will be made and such violation may trigger an Immediate Notice of Fine letter of the repeat violation.

14. All fines shall be due and payable upon notice of the fine and shall be late if not paid within 10 days of the date that the owner is notified of the imposition of the fine. All fines and late charges shall be considered an assessment that may be secured by a lien and shall be collected as set forth in the Declaration and the Associations due's (assessment's) collection policy. Fines shall be in addition to all other remedies available to the Association pursuant to the terms of the Governing Documents and North Carolina law, including the Association's right to collect attorney fees as authorized by law.

15. If the fine is not paid within 90 days, the Board may initiate the filing of a lien for past due fines which may be foreclosed upon. The lien for collection of fines shall be handled by the Association's attorney. If the matter of past due fines is turned over to the Association's attorney to compel the violating owner to comply with the Governing Documents, the Board shall direct all conversations, correspondence, inquiries and discussions to the attorney's law firm.

16. The Board may waive all, or any portion, of the fines if, in its reasonable discretion, such waiver is appropriate under the circumstances. Additionally, the Board may condition waiver of the entire fine, or any portion thereof, upon the violator coming into compliance with the Governing Documents.

17. The provisions of this resolution shall be in addition to and in supplement of the terms and provisions of the Associations' Governing Documents and state and federal laws.

18. This policy may be amended from time to time by the Board but shall in all instances comply with all state and federal laws.

ADOPTED by the Board of Directors on this the 20th day of September, 2017, nunc pro tunc, July 5, 2017.

PLANTATION ROW HOMEOWNERS' ASSOCIATION, INC.

By: _____, Inga Kear, President
_____ *original in file*, Jerry Galiger, Vice President
_____ *file*, Lorri Warlick, Secretary
_____, Carol Hutchins, Treasurer
_____, Joan Carella, Board Member at Large

Authority: Plantation Row Declaration of Covenants, Article VII: "[I]f any owner shall fail to maintain any lot owned by him in a manner which is reasonably neat or orderly or shall fail to keep improvements ... thereon in a state of repair so as not to be unsightly, the Association, in its discretion, by the affirmative vote of two-thirds (2/3) of the membership of the Board of Directions, and following ten (10) days written notice to the owner, may enter upon and make or cause to be made" maintenance and repairs ... [t]he cost incurred by the Association in rendering all such services, plus a service charge of fifteen percent (15%) of such costs, shall be added to and become a part of such other assessment to which lot is subject;"

N.C.G.S. Chapter 47F-3-107.1 of the N.C. Planned Community Act allows for fines so long as a specific guideline is followed.

Note: NC has a 6 year statute of limitations to enforce a restrictive covenant while the developer is still in control. If the developer loses control, then the 6 year statute begins upon the developer's loss of control. (April, 2023).