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BRIGHTWATER HOMEOWNERS ASSOCIATION, INC.

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

THIS RESOLUTION is made as of the date written below by the Board of Directors (“Board”) of Brightwater Homeowners 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 documents creating the Association, 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 further provides that the Association may levy fines and may suspend the right to use the Common Areas and Facilities of any member, tenant, guest, or invitee (hereinafter, a “Violating Party”) for failing to comply with the Declaration of Covenants, Conditions, Restrictions and Easements for Brightwater (“Declaration”), Articles of Incorporation, Bylaws, or Rules and Regulations, including any amendments to any of the above documents (collectively, the “Governing Documents”); and

WHEREAS, Article XV of the Declaration permits the Association to levy fines against Owners, their family, guests, tenants, invitees, and occupants for violations of the Governing Documents.

WHEREAS, the Association’s Board has recognized that while some Owners, tenants, guests, and invitees occasionally and apparently without intent violate the Governing Documents and cooperate to resolve violations after receiving notice, some do not cooperate and correct violations even after receiving notice.

WHEREAS, the Association’s Board 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.

WHEREAS, the Board has established or will establish a committee 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 (hereinafter, the “Enforcement Committee”), which shall have the authority to confirm or reject a fine or suspension levied by the Board, which may be levied through the authority delegated to the Enforcement Authority (as defined below).

WHEREAS, the Board desires to establish a uniform fining and suspension policy and procedure for immediate implementation by the Association, through its Board, the Enforcement Authority, and the Enforcement Committee, as well as any authorized agent, such as any management company, Community Association Manager (“CAM”), or legal counsel; and

WHEREAS, the Board, at its discretion, may adopt further forms and procedures to assist the Board, Enforcement Authority, or Enforcement Committee so that a relatively uniform process may be followed with respect to the imposition of fines and suspensions.

NOW, IT IS RESOLVED that the Board hereby adopts this Resolution to provide notice to all Owners, tenants, guests, and invitees of the following fining and suspension policy and procedure:

1. **Inspections & Courtesy Notice(s).**

a. ***Inspections.*** The Association, through its CAM or other authorized agent, shall conduct visual inspections of the Brightwater community to identify violations at such frequencies as may be determined by the Board. Members may also report alleged violations to the management company or CAM.

b. ***Courtesy Notice.*** The Association, through its CAM or other authorized agent, shall provide an initial courtesy notice of each first violation to the Violating Party. This initial courtesy notice is not required to be in writing and no courtesy notice is required for a repeated or continuing violation.

c. ***Subsequent Informal Warnings & Notices.*** The Association, through its CAM or other authorized agent, may, but is not obligated to, send additional warning or courtesy notices in its discretion. The CAM may request that the alleged Violating Party agree to correct the violation and sign a document indicating such agreement.

2. **Hearing Notice.** If a violation is not resolved after any courtesy or other informal notices which may be required or permitted by this Resolution, the Board shall decide whether to levy a fine or suspension against the Violating Party and direct the CAM or other authorized agent to send a notice to the Violating Party to appear at a scheduled hearing before the Enforcement Committee (“Hearing Notice”). Alternatively, the Board of Directors, at its discretion, may authorize an individual to recognize violations, levy fines and suspensions under the authority delegated by the Board, and direct the CAM or other authorized agent to send the requisite Hearing Notice to a Violating Party for violations of the Association's Governing Documents. If and when the Board designates such an individual under this Section, he or she shall be referred to as the “Enforcement Authority.” The Enforcement Authority shall be appointed by a majority vote of the Board at a duly noticed meeting where a quorum is met. It is specifically contemplated that this shall be a delegation of the authority to impose a fine or suspension as set forth in Section 720.305(2) of the Florida Statutes. Such delegation of authority may be revoked at any time by the Board.

The Hearing Notice must be mailed or delivered at fourteen (14) days before the hearing scheduled before the Enforcement Committee and shall contain:

- a. A general statement of the nature of the violation(s);
- b. The specific provision(s) of the Governing Documents alleged to have been violated; provided, however, that if there are multiple bases in the Governing Documents for the violation, only one is required to be specified for each alleged violation;
- c. That a fine or suspension, or both, has or have been levied against the Violating Party, subject to confirmation by the Enforcement Committee;
- d. The date, time, and location of the hearing before the Enforcement Committee at which the Enforcement Committee will consider whether to confirm or reject the fine or suspension, or both, levied by the Board (which may be through the Enforcement Authority by the authority delegated by the Board), and at which the Violating Party may be heard by the Enforcement Committee.

The Hearing Notice 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 correspondence 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; 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.

3. Enforcement Committee Hearing Procedures. At the hearing before the Enforcement Committee, the Violating Party may provide testimony or other evidence as to why the fine or suspension should not be confirmed. The Enforcement Committee may ask questions of the Violating Party as part of the hearing process, and it may consider any evidence presented by a Violating Party the Enforcement Committee deems reliable. Members of the Board of Directors, the CAM, and any other individual with information regarding the violation may appear at the hearing to testify or offer other evidence. The Enforcement Committee may limit the presentation of testimony and other evidence which is overly duplicative, redundant, immaterial, irrelevant, or unreliable, and may otherwise limit the duration of the hearing to a reasonable time while allowing a reasonable opportunity for the Violating Party to present evidence and testimony.

a. *Notification of Representation.* A Violating Party desiring to be represented by legal counsel at the hearing before the Enforcement Committee (which must be retained independently by the Violating Party at his or her expense) must provide at least seventy-two (72) hours' written notice to the Association in advance of the hearing. The purpose of this provision is to afford the Association the opportunity to have legal counsel present on its behalf. Failure to timely provide notice to the Association will result in exclusion of the Violating Party's legal counsel from the hearing.

b. ***Enforcement Committee Decision.*** After the presentation of all evidence, the Committee shall confirm or reject the fine or suspension, or both, by majority vote of a quorum of the Enforcement Committee. The Enforcement Committee may also conditionally confirm the fine or suspension, but reduce the fine amount or suspension duration originally levied by the Board or Enforcement Authority. If desired, the Enforcement Committee may briefly adjourn to deliberate in private and then reconvene to vote to confirm or reject the fine or suspension, or both, in the presence of those attending the Hearing. If the Enforcement Committee does not confirm the fine or suspension, as applicable, the fine or suspension shall not be imposed.

4. **Notice of Enforcement Committee Decision.** The Association, through its CAM or other authorized agent, shall send notice to the Violating Party as appropriate regarding the decision of the Enforcement Committee ("Decision Notice") within twenty-one (21) days of the Hearing; provided, however, that the failure to timely provide notice does not affect the validity of any fine or suspension imposed. The Decision Notice shall: (a) include a statement that a fine or suspension, or both, has or have been imposed; (b) specify the amount of the fine; (c) specify the duration of the suspension; (d) state that the violation(s) must be immediately corrected; and (e) state that the fine shall be paid within thirty (30) days after the date of the Decision Notice. Per Article VII(D) of the Declaration, any fine of \$1,000.00 or more constitutes a Parcel Assessment, may result in a lien being recorded against a Lot, and the Association, as a non-exclusive, optional remedy, may institute foreclosure proceedings if the fine remains unpaid after the recording of a claim of lien.

5. **Recurring or Repeated Violations.** A violation of a substantially similar nature to a prior violation which recurs within twelve (12) months of the prior violation (regardless of whether the prior violation was corrected) shall not be entitled to any courtesy notices. Rather, a Hearing Notice may immediately be sent and the Violating Party may be subject to a fine from the date of the Hearing Notice.

6. **Applicability of Fines and Suspensions.** A member is jointly and severally liable with a violating tenant, guest, or invitee for any fines imposed as a result of a violation of the Governing Documents by any tenant, guest, or invitee. If the Violating Party fails to correct the violation or pay a fine, the CAM may refer the matter to the Board for consideration of further remedies, including without limitation referring the matter to legal counsel for resolution. In addition, all suspensions of the right to use Common Areas and Facilities shall apply to the Association member and his, her, or its tenants, guests, and invitees, even if the delinquency or violation that resulted in the suspension arose from less than all of the multiple parcels owned by a member.

7. **Fining Schedule.** The Board may adopt a Fining Schedule, and may amend it from time to time, which sets forth the amounts of fines to be imposed based on the nature of the violation, the number of violations occurring within a particular time period, and other relevant criteria. The initial Fining Schedule is attached to this Resolution as **Exhibit A**.

8. **Suspension of Use & Voting Rights for Nonpayment.** In addition to the Association's authority to levy suspensions for violations of the Association's Governing Documents, the Association may suspend the rights of a member and the member's tenants, guests,

and invitees to use Common Areas and Facilities, and may suspend the member's right to vote, if a member is more than 90 days delinquent in the payment of any fee, fine, or other monetary obligation due to the Association, until the monetary obligation is paid in full. The notice and hearing requirements provided above with respect to suspensions imposed for violations of the Governing Documents do not apply to suspensions imposed for nonpayment of a monetary obligation due to the Association.

9. **Interpretation.** Any reference to days in this resolution shall refer to calendar days.

10. **Non-Exclusive Remedy.** This Resolution is intended to establish an optional, non-exclusive method of enforcing violations. The Association may pursue fines or suspensions, or both, in accordance with this Resolution, but may choose at any time to engage in any other enforcement action provided by law or equity in lieu of, or in addition to, the remedies set forth herein.

RESOLVED on this 19 day of April, 2021, by the Board of Brightwater Homeowners Association, Inc.

BRIGHTWATER HOMEOWNERS ASSOCIATION, INC.

By: Mary Alice Valentine
Mary Alice Valentine, President

By: Matthew Freiman
Matthew Freiman, Secretary

STATE OF FLORIDA
COUNTY OF Duval

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 19 day of April, 2021, by Mary Alice Valentine as President, and by Matthew Freiman as Secretary of Brightwater Homeowners Association, Inc., on behalf of the corporation.

[Handwritten 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: _____

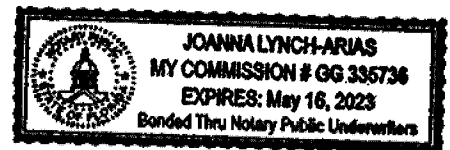


EXHIBIT A

FINING SCHEDULE

(Schedule to Resolution Establishing Enforcement Committee and Process for Imposition of Fines and Suspensions)

First Violation (\$100.00/day up to \$5,000.00/aggregate)

Violations will be subject to an initial fine of \$100.00 per day, up to and including \$5,000.00 in the aggregate, for each day that the violation continues. The foregoing amounts shall only be applicable to first-time violations or a repeat violation if the first violation was previously corrected but repeated after the expiration of twelve (12) months following the correction of the first violation. Repeat violations, which are violations that recur within twelve (12) months following a previous violation of a substantially similar nature, are subject to fines in the following amounts.

Second Violation (\$100.00/day up to \$10,000.00/aggregate)

Any violation that is a repeat violation shall be subject to a fine of \$100.00 per day for each day that the violation continues, up to and including \$10,000.00 in the aggregate.

Third Violation (\$100.00/day up to \$20,000.00/aggregate)

Any violation of a substantially similar nature occurring within twelve (12) months of a repeat violation shall be subject to a fine of \$100.00 per day for each day that the violation continues, up to and including \$20,000.00 in the aggregate.

Fines are deemed to be imposed and begin to accrue daily until correction of the violation upon the mailing (being the date that the Hearing Notice is placed in the mail, postage prepaid) or hand delivery of the Hearing Notice. Any violation that continues from and after the date a Hearing Notice is provided by the Association through its CAM or Enforcement Authority shall be subject to a fine each day that the violation continues, up to maximum aggregate amounts listed above.