

EMERALD ESTATES/INDIAN RIVER HOMEOWNERS' ASSOCIATION, INC.  
VIOLATION POLICY AND ENFORCEMENT PROCEDURES

- SUBJECT:** Adoption of a Violation Policy and Enforcement Procedures.
- PURPOSE:** To adopt a uniform procedure to be followed when enforcing covenants and rules to facilitate the efficient operation of the Association.
- AUTHORITY:** The Declaration of Covenants, Bylaws and Articles of Incorporation of the Association, Rules & Regulations, Policies, and State and Local Laws.
- EFFECTIVE DATE:** June 22, 2023

ARCHITECTURAL REVIEW GUIDELINES VIOLATIONS

- The following scenarios will result in immediate notification to the homeowner. The Board of Directors will recommend to the Compliance Committee an initial fine of \$100.
  - Failure to submit an ARC Request for any modifications or project prior to commencement. If the project is complete, the Board of Directors may require that the owner remove the unapproved modification, an additional daily fine may be added to the homeowner's account up to the maximum of \$1,000 per violation.
  - Failure to abide by the approved plans in the Architectural Review Request may require the owner to remove the unapproved modification, an additional daily fine may be added to the homeowner's account up to the maximum of \$1,000 per violation. This includes incomplete projects and modifications.
- The homeowner may request a hearing in writing within 14 days.
- The Compliance Committee will approve or reject the fine and notify the homeowner.
- Once the maximum fine of \$1,000 has been applied to the homeowners' account, the Association may refer the matter to their attorney to proceed with all legal means afforded the Association including, but not limited to, filing of a lien against the property.
- Additionally, by a majority vote of the Board of Directors and upon ten days' prior written notice to the homeowner, the Association shall have the right, through its agents and employees, to enter upon said Lot and remove unauthorized improvements or modifications. The cost thereof plus reasonable overhead costs to the Association shall be added to and become a part of the assessment to which the Lot is subject.
- Any costs incurred including, but not limited to, attorney fees and court costs, by the Association to enforce this policy will be the responsibility of the homeowner.

## **ALL OTHER VIOLATIONS**

### REPORTING VIOLATIONS.

Complaints regarding alleged violations may be reported by an Owner or resident within the community, a group of Owners or residents, the Association's management company, if any, Board member(s), or Committee member(s) by submission of a written complaint.

### COMPLAINT FORM

A Complaint Form will be available on the Association website or may be obtained by contacting any member of the Board of Directors. The completed form may be:

- Filled out and submitted via the Association's website
- Scanned and emailed to the Association:  
[board@emeraldestateshoa.com](mailto:board@emeraldestateshoa.com);
- Mailed to the Association:  
Emerald Estates, 3333 20<sup>th</sup> Street, Vero Beach, FL 32960;
- Hand-delivered to any board member.

### COMPLAINTS BY OWNERS/RESIDENTS

- Complaints by Owners or residents shall be in writing, including email, online submission, or USPS, and submitted to the Board of Directors.
- The complaining Owner or resident shall have observed the alleged violation and shall identify the alleged violator, if known, and set forth a statement describing the alleged violation, referencing the specific provisions which are alleged to have been violated, when the violation was observed and any other pertinent information.
- Non-written complaints or written complaints failing to include any information required by this provision may not be investigated at the discretion of the Board of Directors.

### COMPLAINTS BY BOARD MEMBERS

Complaints by a member of the Board of Directors, a Committee member, or the manager, if any, may be made in writing or by any other means deemed appropriate by the Board if such a violation was observed by the Director or Manager.

### WORKING FILE CREATION

- Upon receipt of a complaint, the Board will open a working file to organize and maintain all documentation related to the complaint.
- Upon resolution of the complaint, the file will be scanned and electronically maintained with the Association's official records except such records that include any attorney-client privilege.

#### ACKNOWLEDGE RECEIPT OF COMPLAINT AND INVESTIGATION

- Upon receipt of a complaint, the Board shall acknowledge receipt of the complaint and if additional information is needed, the complaint may be returned to the Complainant or may be investigated further by the Board, a Board-designated individual, or Committee.
- The Board shall have sole discretion in appointing an individual or Committee to investigate the matter.

#### FIRST VIOLATION: COURTESY NOTICE.

- If the Board of Directors determines that a violation is found to exist, an initial courtesy notice may be sent to the Violator explaining the nature of the violation.
- The courtesy notice will provide the violator with a date to come into compliance. The foregoing procedure will not be used, however, and no initial courtesy notice shall be necessary in the event the violation is determined by the Board to be a repetitious violation.

#### CONTINUED VIOLATION AFTER COURTESY NOTICE

- If the alleged Violator does not come into compliance within the timeframe provided in the initial courtesy notice, a violation letter shall be sent to the alleged Violator, providing notice and explaining if a violation is found to exist, a fine may be imposed pursuant to this Policy. This letter shall include the amount of the proposed and recommended fine.
- The violation letter shall further state that the alleged Violator is entitled to a hearing on the merits of the matter, provided that such a hearing is requested in writing within 14 days of the date of the violation letter.
- The foregoing procedure will not be used, however, in the event the violation is determined by the Board to be a repetitious violation an/or if previous notice of the violation was provided to the homeowner.

#### BOARD REFERRAL

If the Violator does not come into compliance within 14 days of the violation letter, the Board of Directors may levy the fine to be imposed and shall refer the matter to the Compliance Committee with its' findings and recommendations.

#### COMPLIANCE COMMITTEE

- The Compliance Committee shall consist of three (3) members of the Association appointed by the Board of Directors.
- Members shall not be deemed to have a direct personal or financial interest in the outcome of the decision and will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the Association.
- Members of the Committee shall not be Board members or any relation to a Board member.
- The Committee shall have the sole authority to approve or reject the Board's recommendation regarding the enforcement of the Association's covenants, conditions and restrictions, including architectural requirement disputes, and other rules and regulations of the Association.

#### FAILURE TO APPEAR AT A HEARING

- If the alleged Violator fails to appear at a scheduled hearing the Committee shall make a decision with respect to the alleged violation based on the complaint, the results of the investigation, and any other available information without the necessity of holding a formal hearing.
- If a violation is found to exist, the alleged Violator may be assessed a fine pursuant to these policies and procedures.

#### NOTICE OF HEARING

The Association, or its agent, shall serve a written notice of the hearing to all parties involved and the Board of Directors at least 14 days prior to the hearing date. The notice will clearly state the date, time, and place of the hearing and the reason for the hearing.

#### HEARING

- At the beginning of each hearing, the Committee Chairman shall introduce the case by describing the alleged violation and the procedure to be followed during the hearing.
- Each party may, but is not required to, make an opening statement, present evidence and testimony, present witnesses, and make a closing statement.
- The Chairman may also impose such other rules of conduct as may be appropriate under the given circumstances.
- The Committee shall base its decision solely on the matters set forth in the Complaint, the results of the investigation, and such other credible evidence as may be presented at the hearing.
- Unless otherwise determined by the Board, all hearings shall be open to attendance by all Owners. After all testimony and other evidence has been presented at a hearing, the Committee shall, within five (5) days, render its written findings and decision, and impose a fine, if applicable.

#### NOTIFICATION OF DECISION

- The Committee shall notify the Board of Directors of their final decision immediately.
- The decision of the Committee shall be in writing and provided to the Violator and Complainant within five (5) days of the hearing, or if no hearing is requested, within five (5) days of the final decision.
- If a fine is imposed, the fine is due within five (5) days of notice being provided to the Violator.

#### SUSPENSION OF VOTING RIGHTS

- The Board of Directors will suspend the voting rights of a member for the nonpayment of any fee, fine, or other monetary obligation due to the association that is more than 90 days delinquent.
- A voting interest which has been suspended by the association shall be subtracted from the total number of voting interests in the association.
- The notice and hearing requirements do not apply to a suspension imposed.
- The suspension ends upon full payment of all obligations currently due or overdue to the association.
- All suspensions imposed must be approved at a properly noticed board meeting.
- Upon approval, the association must notify the owner by mail or hand delivery.

#### WAIVER OF FINES

- The Board may waive all, or any portion, of the fines if, in its sole discretion, such a waiver is appropriate under the circumstances.
- Additionally, the Board may condition a waiver of the entire fine, or any portion thereof, upon the Violator coming into and staying in compliance with the Articles, Declaration, Bylaws, or Rules.

#### OTHER ENFORCEMENT MEANS

- The enforcement process as adopted in this Policy is in addition to all other enforcement means which are available to the Association through its Declaration, Bylaws, Articles of Incorporation, and Florida law.
- The use of this process does not preclude the Association from using any other enforcement means available.

#### COSTS INCURRED

- Any costs incurred, including but not limited to, attorney fees and court costs, by the Association to enforce the Declaration of Covenants, Policies and Procedures, Rules and Regulations. State and Local laws governing homeowners' associations will be the responsibility of the homeowner.

#### SUPPLEMENT TO LAW

The provisions of this Policy shall be in addition to, and in supplement to, the terms and provisions of the Declaration and the law of the State of Florida.

#### DEVIATIONS

The Board may deviate from the procedures set forth in this Policy if in its sole discretion such deviation is reasonable under the circumstances.

**PRESIDENT'S CERTIFICATION:** The undersigned, being the President of Emerald Estates/Indian River Homeowners' Association, Inc., a Florida nonprofit corporation, certifies that the foregoing Policy and Procedure was adopted by the Board of Directors at a duly called and held meeting of the Board of Directors on this 22<sup>nd</sup> day of June 2023 the undersigned has subscribed his/her name.

**EMERALD ESTATES/INDIAN RIVER HOMEOWNERS' ASSOCIATION, INC.**

A handwritten signature in black ink, appearing to read 'Arthur Starr', is written over a light blue rectangular background.

By:

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Arthur Starr, President