

## HERONS GLEN HOMEOWNERS' ASSOCIATION, INC.

### BOARD RESOLUTION CREATING FINING/SUSPENSION PROCEDURES

WHEREAS, Herons Glen Homeowners Association, Inc. ("**Association**") is the corporation charged with the operation, maintenance, and management of Heron's Glen (the "**Community**"); and

WHEREAS, the Board of Directors (the "**Board**") is the entity responsible for the operation of the Association; and

WHEREAS, Section 720.305(2), Florida Statutes provides that the Association may levy reasonable fines against any Member or any Member's tenant, guest, or invitee for the failure of the Owner of the Unit or its occupant, licensee or invitee to comply with any provision of the Declaration, the Association Bylaws, or reasonable rules of the Association. Further, the Association may suspend, for a reasonable period of time, the right of a Member, or a Member's tenant, guest, or invitee, to use Common Areas and facilities for the failure of the Owner of the Unit or its occupant, licensee, or invitee to comply with any provision of the Declaration, the Association Bylaws, or reasonable rules of the Association; and

WHEREAS, Article X of the Bylaws provides the Association with enforcement rights in line with Chapter 720.305, including the requirement to serve the accused with written notice of the violation, the sanction to be imposed, and at least 14 days' notice of a hearing before a compliance committee; and

WHEREAS, the Board is desirous of adopting a fining/suspension process as a method of enforcing the terms of the Association's Governing Documents and applicable law and empowering the Association's Manager (the "**Manager**") with the authority to initiate the fining/suspension process by authorizing the issuance of required notices and otherwise administering the fining/suspension procedure; and

WHEREAS, the Board has already created a Compliance Committee, as contemplated by Section 720.305(2)(b), Florida Statutes.

NOW, THEREFORE, it is hereby resolved as follows:

1. The above recitations are true and correct and are hereby incorporated into this Resolution.

2. The Association may, but shall not be obligated to, use the procedure set forth herein for purposes of enforcing the terms the Declaration, the Articles of Incorporation, the Bylaws, the Rules and Regulations, the Architectural Review Guidelines, Grounds Community Wide Landscape Standards, all policies, resolutions and lawful orders of the Board, and applicable provisions of law (collectively referred to hereinafter as the "**Governing Documents**"). This procedure shall serve as an independent method of enforcing the Governing Documents. The Association shall not be required to exhaust the remedies provided in this Resolution prior to initiating legal proceedings or pursuing other remedies to enforce the Governing Documents. Furthermore, should it choose to do so, the Association may follow the procedure to impose a fine and/or suspension, and also exercise other available remedies simultaneously where appropriate.

3. The Manager may confer with the President and/or legal counsel, but shall be delegated the general authority (subject always to contrary direction by the President or a majority of the Board) to determine which alleged violations of the Governing Documents shall first be addressed by a warning letter and which alleged violations are of such a nature that they are to be sent directly to the Board for consideration of the levy of a fine and/or suspension. It shall generally be the policy of the Association to issue a prior warning/opportunity to cure to first time offenders for minor violations. Furthermore, it shall generally be the policy of the Association that where the alleged violation is a repeat violation, or where the alleged violation is sufficiently serious, as determined by the Manager or the President, the procedure may be initiated without a prior warning/opportunity to cure.

4. When it is determined that the alleged violation is of the nature where a prior warning/opportunity to cure is warranted, the "Notice of Violation," attached to this Resolution as **Exhibit "A,"** or a similar form promulgated by the Board (collectively referred to hereinafter as the "**Notice of Violation**") can be used to provide such notice.

5. If the alleged violation is not abated to the satisfaction of the Manager or Board within the timeframe provided in the Notice of Violation, or in cases where it is determined that no Notice of Violation will be issued, the Manager, on behalf of the Board, shall be empowered with the authority to initiate the fining/suspension process. The fining/suspension process shall be initiated by including consideration of the levy of a fine and/or suspension relative to the alleged violation on the agenda of a regular or special meeting of the Board. Notice of the meeting is to be provided in the normal course as required by the Governing Documents. No personal notice of the Board meeting need be provided to the Owner or the party(ies) to be fined and/or suspended.

6. If, at the noticed Board meeting, a quorum is present, but less than a majority of the Directors present approve the levy, no fine or suspension may be imposed, and no further action is required. Alternatively, if at least a majority of the Directors present approve the levy of a fine and/or suspension, the Manager shall be authorized to send the party(ies) against whom a fine and/or suspension was levied written notice of a hearing before the Compliance Committee. The Compliance Committee must be a committee of at least three (3) members appointed by the Board 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 "**Compliance Committee**" or "**Committee**"). The "Notice of Hearing," attached to this Resolution as **Exhibit "B,"** or a similar form promulgated by the Board (collectively referred to hereinafter as the "**Notice of Hearing**") can be used to provide such notice.

7. The Committee shall be empowered with the authority to conduct fining/suspension hearings. With respect to decision making authority, the role of the Committee is limited solely to determining whether to confirm or reject the fine and/or suspension levied by the Board. A majority of the Committee members shall constitute a quorum of the Committee. Actions of the Committee shall be by vote of a majority of the Committee members present at a meeting at which a quorum is present.

8. The hearing will be conducted by the Chairman of the Committee. The Compliance Committee members, Association representatives, and party against whom the fine/suspension has been levied, may appear in person or by electronic substitution (such as telephone or Zoom).



An appropriate representative of the Association shall provide evidence of the alleged violation for consideration by the Committee regardless of whether the Owner and/or the party(ies) to be fined and/or suspended are present. If present, the Owner and/or the party(ies) to be fined and/or suspended, shall then have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. Following review of evidence provided by the Association and by or on behalf of the Owner and/or the party(ies) to be fined and/or suspended, the Committee will dismiss the presenters to allow the committee to discuss and make a determination. If the Committee does not agree with the Board's decision to levy a fine and/or suspension, no fine or suspension may be imposed, and no further action is required.

9. If the Committee confirms the fine and/or suspension, the fine and/or suspension may be imposed by the Board of Directors. A fine and/or suspension may be deemed automatically imposed upon the Committee's confirmation of the fine and/or suspension without further action of the Board of Directors unless a contrary intention is reflected in the minutes of the Board meeting where the fine and/or suspension is levied.

10. The Committee shall summarize its decision in a report or in minutes of the hearing. The report or minutes shall be kept with the Association's official records. The "Report of Compliance Committee," attached to this Resolution as **Exhibit "C,"** or a similar form promulgated by the Board (collectively referred to hereinafter as the "**Report of Compliance Committee**") can be used for this purpose.

11. Once the fine and/or suspension is imposed, notice of the imposition must be provided to the Owner by mail or hand delivery and, if applicable, the party(ies) against whom the fine and/or suspension is sought to be imposed (if different from the Owner). The "Notice of Imposition of Fine and/or Suspension," attached to this Resolution as **Exhibit "D,"** or a similar form promulgated by the Board (collectively referred to hereinafter as the "**Notice of Imposition of Fine and/or Suspension**") can be used to provide such notice.

12. A suspension pursuant to this Resolution shall apply to the use rights in all of the Common Areas and other common facilities, except that such suspension shall not apply to that portion of Common Areas used to provide access or utility services to their Parcel and suspension may not prohibit an Owner or tenant of a Parcel from having vehicular and pedestrian ingress to and egress from the Parcel, including, but not limited to, the right to park. Such suspension shall be for a reasonable time, as determined by the Board in its levy of the suspension, subject to confirmation by the Committee.

13. The Committee members shall serve at the pleasure of the Board. The Board shall have the power to, at any time, remove any Committee member with or without cause and fill vacancies in the Committee. The Board shall also have the power to dissolve such Committee. The Committee shall, amongst itself, elect a Chair and, if desired by the Committee, a Vice-Chair.

14. The Board may delegate such other powers and duties to the Manager or to such other person as may be necessary or appropriate under the circumstances. The Board may adopt additional policies and procedures for the Manager or such other persons to follow, or to be utilized in connection with the fining/suspension process, as amended from time to time.

15. All notices set forth herein shall be sent by U.S. Mail or hand-delivered, with receipt of such delivery. Though not required, it is recommended that notices sent via U.S. Mail be sent by certified mail, return receipt requested. If the notice is sent by certified mail, it is recommended that a copy be sent via First Class Mail as well. Copies may also be sent by electronic mail, but such delivery is not required. Failure to use certified mail or obtain any type or receipt shall not invalidate the notice given provided that it is sent as required by the Governing Documents.

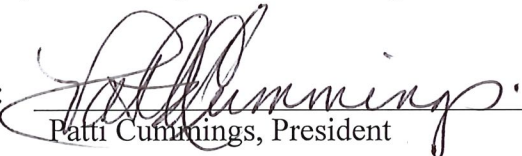
16. General compliance with this Resolution shall be sufficient, it being intended to be used as a guideline to ensure fairness in the fining/suspension process. It is the intention of this Resolution and its exhibits that persons sought to be fined and/or suspended are given a reasonable notice to be heard before the imposition of a fine and/or suspension of use rights. The Manager, in consultation with the Board or the President where appropriate, shall have the authority to disregard the provisions of this Resolution in circumstances where the alleged behavior of a person constitutes a violation of criminal law, or poses a threat to the health, peace, safety, or welfare of the residents of the Community, or in other circumstances where the Association believes such disregard is justified.

This Resolution was adopted by the Board of Directors on the 10th day of February 2021 and is effective upon adoption.

This Resolution replaces Resolution 2017-01 Policy Handling Non-Compliance Issues adopted on February 15, 2017 which are hereby withdrawn.

There are seven (7) total Board members. The number of Board members who voted in favor of this Resolution is seven (7). The number of Board members who voted against this Resolution is 0. The vote of each Director is reflected in the minutes of the meeting at which this Resolution was adopted.

HERONS GLEN HOMEOWNERS' ASSOCIATION,  
INC., Florida corporation not-for-profit

By:   
Patti Cummings, President

Date: 2/10/2021

*Adopted at the 2-10-2021 HOA Board Meeting*



**EDIT/INSERT INFORMATION IN *ITALICS* BEFORE LETTER IS SENT**

**NOTICE OF VIOLATION**

\_\_\_\_\_ [Date Sent]

\_\_\_\_\_ [Method of Delivery; if Certified include Tracking Number]

*If Owner Occupied Unit:  
All Record Owners per Deed  
Notice Address of Record*

*Dear Owner:*

*OR*

*If Non-Owner Occupied Unit:  
Tenant/Non-Owner Occupant  
Unit Address*

*Dear Tenant/Non-Owner Occupant:*

The following violations of the Governing Documents have been noted with regard to the Unit you own and/or are occupying in Herons Glen:

*[Insert violation(s) here including citation to Governing Documents and as much detail as possible as to date(s), time(s) and place(s) of alleged violation(s).]*

Please be advised that if *this violation is OR these violations are* not corrected by *[date\*]* or if further violations occur, the Association reserves the right to take further action against you to enforce the Governing Documents. You are required to *[fill in demanded relief here]*.

If you fail to comply, further legal action may ensue without further notice or demand. Such legal action may include (but is not limited to): the imposition of a fine and/or suspension of certain use rights of Common Areas and other common facilities following a proper notice and opportunity for hearing as required by law; and/or the filing of a lawsuit for damages in the court of appropriate jurisdiction; and/or the filing of a lawsuit for an injunction in the court with appropriate jurisdiction; and/or the service of a demand for mediation pursuant to Section 720.311, Florida Statutes. In the event the Association takes any of the foregoing legal actions, the Association will seek to recover its attorneys' fees and costs as permitted by the Governing Documents and Chapter 720 of the Florida Statutes.

*[Include this paragraph only if Unit is Non-Owner Occupied]: This Notice is also being provided*

*\* In general, 10 days notice will be given for correction of most violations. Other violations may result in the initiation of a proposed fine and/or suspension without a prior warning, and this letter would not be used. The Manager shall have the authority to require more timely, including immediate, compliance in appropriate circumstances, as well as more liberal compliance deadlines, as determined in the discretion of the Manager in consultation with the President.*

*to the record Owner(s) of the Unit. Pursuant to Florida law and the Governing Documents, the Owner is jointly and severally liable for the conduct of his or her tenants, and the occupants of the Unit, as well as their guests, licensees, or invitees. Accordingly, if the violation is not corrected, this letter serves as notice that the Association may also take the above-referenced actions against the Owner(s), either directly, or jointly and severally.*

Very truly yours,

*Association Manager Name, Association Manager*  
On behalf of the Board of Directors

*cc: If Owner Occupied, Owner by regular mail (if letter also sent by certified mail) and e-mail (if Association has e-mail address, but e-mail optional)*  
*If Non-Owner Occupied, Tenant/Non-Owner Occupant by regular mail (if letter also sent by certified mail) and e-mail (if Association has e-mail address, but e-mail optional)*  
*If Non-Owner Occupied, Owner Address of Record by regular mail and e-mail (if Association has e-mail address, but e-mail optional)*  
*Board of Directors*



**EDIT/INSERT INFORMATION IN *ITALICS* BEFORE LETTER IS SENT**

**NOTICE OF HEARING**

\_\_\_\_\_ [*Date Sent*<sup>†</sup>]

\_\_\_\_\_ [*Method of Delivery; if Certified include Tracking Number*]

*If Owner Occupied Unit:*  
*All Record Owners per Deed*  
*Notice Address of Record*

*Dear Owner:*

OR

*If Non-Owner Occupied Unit:*  
*Tenant/Non-Owner Occupant*  
*Unit Address*

*Dear Tenant/Non-Owner Occupant:*

Section 720.305(2), Florida Statutes, the Association's Governing Documents, and the Board Resolution Creating Fining/Suspension Procedures (the "Resolution") provides that the Herons Glen Homeowners Association, Inc. ("the Association") may levy reasonable fines against any Member or any Member's tenant, guest, or invitee for the failure of the Owner of the Unit or its occupant, licensee or invitee to comply with any provision of the Governing Documents or policies of the Association. Further, the Association may suspend, for a reasonable period of time, the right of a Member, or a Member's tenant, guest, or invitee, to use Common Areas and facilities for the failure of the Owner of the Unit or its occupant, licensee, or invitee to comply with any provision of the Governing Documents or policies of the Association; and

[*If fining and Notice of Violation was given in advance, use the following*] The violation described in the Association's Notice of Violation dated \_\_\_\_\_, 20\_\_, has not been corrected and/or has resumed. Accordingly, the Association's Board of Directors has levied a fine against you in the amount of \$\_\_\_\_\_ per day/\$\_\_\_\_\_ in the aggregate for a continuing violation. **ENCLOSE COPY OF NOTICE OF VIOLATION WITH NOTICE OF HEARING**

[*If fining and NO Notice of Violation was given in advance, use the following instead of previous paragraph*] The following violations of the Governing Documents have been noted with regard to the Unit you own and/or are occupying in Herons Glen:

[*Insert violation(s) here including citation to Governing Documents and as much detail as possible*]

<sup>†</sup> This Notice should be sent at least twenty (20) days before the hearing so that the recipient is in receipt of the letter at least fourteen (14) days before the hearing.

*as to date(s), time(s) and place(s) of alleged violation(s).]*

The Association's Board of Directors has levied a fine against you in the amount of \$\_\_\_\_\_ per day/\$\_\_\_\_\_ in the aggregate for a continuing violation.

*[If suspending, use the following]* The Board has also *[delete "also" if Association is only suspending and not fining]* levied a suspension of your Unit's right to use certain Common Areas and other common facilities, which include of any portion of Clubhouse and the pool, and attendance at or participation in Association-sponsored social or recreational events.

Pursuant Section 720.305(2)(b), Florida Statutes, you are entitled to a hearing before a committee of at least three (3) members appointed by the Board 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 "Compliance Committee" or "Committee"). This hearing will be held on the ***[day] day of [month] 20[year], at [time] at [place, include address]*** to determine whether to confirm or reject the fine and/or suspension levied by the Board of Directors.

You have a right to attend the hearing to respond, to present evidence, and to provide written or oral argument. You will be provided with an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. You also have a right to be represented by counsel at the hearing. If you intend to appear with counsel, please notify the Association, in writing, no later than seven (7) days prior to the hearing so that the Association has sufficient time to arrange for its counsel to be present should it choose to do so. If you fail to appear at the hearing, the *fine and/or suspension [include or delete as appropriate]*, if confirmed by the Committee, will be imposed after the hearing has been conducted in your absence.

If you have any questions about scheduling, please contact *[Association Manager]* at *[phone number]* or *[e-mail address]*.

In the event that the Committee confirms the *fine and/or suspension [include or delete as appropriate]* levied by the Board of Directors, the *fine and/or suspension [include or delete as appropriate]* will be imposed. If the Committee rejects the *fine and/or suspension [include or delete as appropriate]*, it will not be imposed. You will receive written notice of any *fine and/or suspension [include or delete as appropriate]* imposed.

***[Include this paragraph only if Unit is Non-Owner Occupied]*** *This Notice is also being provided to the record Owner(s) of the Unit. Pursuant to Florida law and the Governing Documents, the Owner is jointly and severally liable for the conduct of his or her tenants, and the occupants of the Unit, as well as their guests, licensees, or invitees. Accordingly, the fine may also be imposed against the Owner(s), either directly, or jointly and severally. In cases where only a non-Owner (e.g., tenant, occupant or invitee) is fined, the Owner shall be jointly and severally liable for payment of the fine. [Use following suspension sentence, if applicable.] Owners shall likewise be suspended from common facility use during the period of the suspension of a non-Owner. Owners have the right to attend the Committee Hearing.*

Very truly yours,

**EXHIBIT B  
NOTICE OF HEARING**



*Association Manager Name, Association Manager*  
On behalf of the Board of Directors

*cc: If Owner Occupied, Owner by regular mail (if letter also sent by certified mail) and e-mail (if Association has e-mail address, but e-mail optional)*  
*If Non-Owner Occupied, Tenant/Non-Owner Occupant by regular mail (if letter also sent by certified mail) and e-mail (if Association has e-mail address, but e-mail optional)*  
*If Non-Owner Occupied, Owner Address of Record by regular mail and e-mail (if Association has e-mail address, but e-mail optional)*  
*Board of Directors*

## REPORT OF COMPLIANCE COMMITTEE

TO: Board of Directors, Herons Glen Homeowners Association, Inc.

1. Name(s) of Owner(s) and, if applicable, the party(ies) against whom the fine and/or suspension is sought to be imposed (including relation to Owner): \_\_\_\_\_  
\_\_\_\_\_
2. Property Address/Unit Number: \_\_\_\_\_
3. Type of Alleged Violation (describe basic violation and applicable provision of Governing Documents): \_\_\_\_\_  
\_\_\_\_\_
4. Notice of Violation sent: Yes                  No  
  
If yes, date Notice of Violation sent: \_\_\_\_\_, 20\_\_\_\_
5. Date Notice of Hearing sent: \_\_\_\_\_, 20\_\_\_\_
6. Date of Hearing: \_\_\_\_\_, 20\_\_\_\_
7. Proper notice of hearing verified with Manager: Yes                  No
8. Names of those who appeared at hearing on behalf of Unit: \_\_\_\_\_  
\_\_\_\_\_
9. Names of those who presented evidence at the hearing on behalf of Association: \_\_\_\_\_  
\_\_\_\_\_
10. Fine levied by Board (if any) : \$ \_\_\_\_\_ per day/\$ \_\_\_\_\_ aggregate  
  
Confirmed                  Rejected                  (attach list of votes by member if not unanimous)
11. Suspension levied by Board (if any) (including duration): \_\_\_\_\_  
\_\_\_\_\_
- Confirmed                  Rejected (attach list of votes by member if not unanimous)

Signed: \_\_\_\_\_  
Chair or Vice-Chair of Committee

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

## EXHIBIT C REPORT OF COMPLIANCE COMMITTEE



**EDIT/INSERT INFORMATION IN *ITALICS* BEFORE LETTER IS SENT**

**NOTICE OF IMPOSITION OF FINE AND/OR SUSPENSION**

\_\_\_\_\_ [Date Sent]

\_\_\_\_\_ [Method of Delivery; if Certified include Tracking Number]

*If Owner Occupied Unit:  
All Record Owners per Deed  
Notice Address of Record*

**Re: Notice of Violation Dated \_\_\_\_\_, 20\_\_ [If Notice of Violation was given in advance]; Notice of Hearing Dated \_\_\_\_\_, 20\_\_; Hearing Held \_\_\_\_\_, 20\_\_**

*Dear Owner:*

OR

*If Non-Owner Occupied Unit:  
Tenant/Non-Owner Occupant  
Unit Address*

*Dear Tenant/Non-Owner Occupant:*

**Re: Notice of Violation Dated \_\_\_\_\_, 20\_\_ [If Notice of Violation was given in advance]; Notice of Hearing Dated \_\_\_\_\_, 20\_\_; Hearing Held \_\_\_\_\_, 20\_\_**

The Compliance Committee (the "Committee") confirmed the fine levied by the Board of Directors in the amount of \$\_\_\_\_\_ per day/\$\_\_\_\_\_ in the aggregate, as authorized by law. *[Use only the following sentence where applicable]* The Committee also confirmed that your right to use non-essential Common Areas and other common facilities, as defined in the Association's Board Resolution Creating Fining/Suspension Procedures and Establishing a Compliance Committee (the "Resolution"), including of any portion of Clubhouse and the pool, and attendance at or participation in Association-sponsored social or recreational events, be suspended for a period of \_\_\_\_\_ (\_\_\_\_\_) days, effective \_\_\_\_\_, 20\_\_. As such, the Board of Directors has imposed a fine in the total amount of \$\_\_\_\_\_ and/or has imposed the suspension for a period of \_\_\_\_\_ (\_\_\_\_\_) days, with the suspension effective beginning \_\_\_\_\_, 20\_\_. **Payment of the fine is due (must be received by the Association) no later than five (5) days from the date of this letter.** The suspension applies to all Owners, tenants, occupants, guests, licensees, and invitees. *[This paragraph may be edited to be tailored to whether a fine, a suspension, or both have been imposed]*

You may remit payment of the fine to the Association at *[mailing address]*. Checks should be made payable to **Herons Glen Homeowners Association, Inc.** If you fail to pay the fine, or violate the Association's suspension order, the Association reserves all rights available under law to

**EXHIBIT D  
REPORT OF COMPLIANCE COMMITTEE**

collect the fine and enforce the suspension *[edit as appropriate]*. These include (but are not limited to) additional suspension of use privileges as may be permitted by law, additional fines as may be permitted by law, filing an action in a court of competent jurisdiction to recover the fine and/or enforce the suspension. Pursuant to Florida law, the prevailing party in such proceedings is entitled to recover reasonable attorneys' fees and costs.

*[Include this paragraph only if Unit is Non-Owner Occupied]* This Notice is also being provided to the record Owner(s) of the Unit. Pursuant to Florida law and the Governing Documents, the Owner is jointly and severally liable for the conduct of his or her tenants *and the occupants of the Unit, as well as their guests, licensees, or invitees. Accordingly, this Notice shall serve as notice to the Owner that he or she is jointly and severally liable for payment of the fine. [Use following suspension sentence, if applicable.] The Owners is also suspended from common facility use during the period of the suspension of a non-Owner.*

Thank you for your prompt attention to this matter.

Very truly yours,

*Association Manager Name*, Association Manager  
On behalf of the Board of Directors

cc:     *If Owner Occupied, Owner by regular mail (if letter also sent by certified mail) and e-mail (if Association has e-mail address, but e-mail optional)*  
          *If Non-Owner Occupied, Tenant/Non-Owner Occupant by regular mail (if letter also sent by certified mail) and e-mail (if Association has e-mail address, but e-mail optional)*  
          *If Non-Owner Occupied, Owner Address of Record by regular mail and e-mail (if Association has e-mail address, but e-mail optional)*  
          *Board of Directors*



**FINING/SUSPENSION PROCEDURE FLOWCHART**  
(tied to Resolution Establishing Fining/Suspension Procedures)

