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**PALAMAR OAKS VILLAGE HOMEOWNER'S ASSOCIATION, INC.**  
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Message Phone (407) 957-9533

November 7, 2005

**SUSPENSIONS / FINES / ACTIONS AT LAW OR IN EQUITY  
HEARING COMMITTEE POLICY STANDARDS**

GOVERNING DOCUMENTS:

1. Florida Statutes:

- "720.305 (2): If the governing documents so provide, an association may suspend, for a reasonable period of time, the rights of a member or a member's tenants, guests, or invitees, or both, to use common areas and facilities and may levy reasonable fines, not to exceed \$100 per violation, against any member or any tenant, guest, or invitee. A fine may be levied on the basis of each day of a continuing violation, with a single notice and opportunity for hearing, except that no such fine shall exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. A fine shall not become a lien against a parcel. In any action to recover a fine, the prevailing party is entitled to collect its reasonable attorney's fees and costs from the nonprevailing party as determined by the court.  
(a) A fine or suspension may not be imposed without notice of at least 14 days to the person sought to be fined or suspended and an opportunity for a hearing before a committee of at least three 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. If the committee, by majority vote, does not approve a proposed fine or suspension, it may not be imposed.  
(b) The requirements of this subsection do not apply to the imposition of suspensions or fines upon any member because of the failure of the member to pay assessments or other charges when due if such action is authorized by the governing documents.  
(c) Suspension of common-area-use rights shall not impair the right of an owner or tenant of a parcel to have vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park."
- "720.305 (3): If the governing documents so provide, an association may suspend the voting rights of a member for the nonpayment of regular annual assessments that are delinquent in excess of 90 days."

2. Articles of Incorporation.

3. Declaration of Covenants, Conditions and Restrictions.

4. Adopted By-Laws.

- ARTICLE XVII, VIOLATIONS, Section 1. Fines and Penalties. The Board of Directors, after approval by two-thirds (2/3) vote, shall levy fines against any member (Owner as defined in the Covenants) for violations of the Articles of Incorporation; Declaration of Covenants, Conditions and Restrictions; and the adopted By-Laws and Rules and Regulations written to assist in implementing the same. The fine shall be reasonable (not to exceed one hundred dollars (\$100) per violation per day); not to exceed one thousand dollars (\$1000) in the aggregate unless otherwise provided in the Association's governing documents and the member shall receive fourteen (14) days notice to correct the violation before a fine is levied. An opportunity for a hearing before a committee of at least three (3) members not related to the Board or management of the Association and at least one (1) Board member will be permitted to attend upon receipt of a written request during the fourteen (14) day notice period. The committee shall be appointed by the Board of Directors and meet within five (5) days and if the committee does not approve the fine by majority vote, the Board shall advise the committee decision. Fines shall be due on the first (10th.) day of the month after a fine has been levied and if not paid by the tenth (10th.) of the month, are delinquent. Additional fines shall be levied for a repeated violation that has been resolved or has not been resolved after a violation process has been completed. The foregoing notice and hearing does not apply to the Association Assessments. Fines and Penalties do not circumvent other specific actions in the Articles of Incorporation; Declaration of Covenants, Conditions and Restrictions; and the adopted By-Laws; but are in addition to the actions specified therein.

- ARTICLE XVII, VIOLATIONS Section 2. Effect of Nonpayment of Fines: Remedies of the Association. All levied fines are due on the first (1st.) of the month, and if not paid by the tenth (10th.) of the month, are delinquent. The Board of Directors will immediately take action to collect or take action through the courts without notice to the delinquent Homeowner on the first (1st.) day of the delinquency. All costs incurred by the Homeowners' Association to collect a delinquent fine shall be recoverable from the owner and will be added to and become part of the amount due to which an owner is subject. The Association is not required to remind a delinquent Homeowner of their levied fine responsibility. The Association may bring an action at law or other methods against the Owner personally obligated to pay the fine, collection costs, and resolve any cited violation. No Owner may waive or otherwise escape liability for the fine and costs provided for herein by non-use of the Common Area or abandonment of his Lot. A first (1st.) mortgage, upon request, is entitled to written notification from the Association of any default in the payment of any fine and collection costs. No sale or transfer of a lot shall relieve such owner from liability for any fines and collection costs due on the date of the sale or transfer.
- ARTICLE VII, POWERS AND DUTIES OF THE BOARD OF DIRECTORS Section 1. Powers. The Board of Directors shall have power to: a) adopt and publish rules and regulations governing the use of the Common Area and facilities, and the personal conduct of the members and their guests thereon, and to establish penalties for the infraction thereof; b) suspend the voting rights and right to use of the recreational facilities of a member during any period in which such member shall be in default in the payment of any assessment levied by the Association. Such rights may also be suspended after notice and hearing for a period not to exceed sixty (60) days for infraction of published rules and regulations;"

The following guidelines are provided in support of the Florida Statutes; Articles of Incorporation; Declaration of Covenants, Conditions and Restrictions; and the By-Laws. These guidelines shall not supersede any requirements of the Florida Statutes; Articles of Incorporation; Declaration of Covenants, Conditions and Restrictions; and the By-Laws; But are for clarification purposes in providing the guidelines for a Hearing Committee. These guidelines are not to be considered complete or conclusive and will be updated periodically to reflect additional clarification of issues that arise:

GUIDELINES:

- The association may suspend, for a reasonable period of time, the rights of a member or a member's guests, or invitees, or both, to use common areas and facilities and may levy reasonable fines, not to exceed \$100 per violation per day; not to exceed \$1000 in the aggregate; against any member or any tenant, guest, or invitee.
- A fine, suspension or both may not be imposed without notice of at least 14 days to the person sought to be fined or reasonable attempts were made to provide/send a notice; and an opportunity for a hearing before the Hearing Committee. The party against whom the fine, suspension, or both, may be levied must be given the opportunity to respond, present evidence, provide written and oral argument on all issues involved, and must have an opportunity to review, challenge, and respond to any material considered by the association.
- Upon such time that the association has exhausted their reasonable avenues to resolve a violation success, a Notice of Violation(s) with pending suspensions, fines and/or other penalties shall be prepared and provided to the owner(s) responsible for or accused of committing the violations by the association. In addition, general notions of due process require that the association make reasonable attempts to notify the member(s) of the alleged violation(s), date and nature of the violation(s) and the governing document provisions(s) violated.
- The matter shall be provided to the Hearing Committee and the Hearing Committee shall meet within five business days of a written request during the fourteen (14) day notice period. The Hearing Committee shall establish a hearing date with notification to the affected owner(s) to review, determine that a violation does or does not exist, and provide this information to the Association.
- The purpose of the hearing and the Hearing Committee is for the committee to evaluate the allegations, listen to the members' response, and determine whether a fine, suspension or both should be levied, and if so, in what amount, times of suspension, or both. The Hearing Committee shall consist of three members of the association, appointed by the majority of the board of directors. The committee members cannot be officers, directors or employees of the Association, or the spouse, parent, child brother or sister of an officer or director or employee. A member of the association's board of directors or the Manager may attend a Hearing.

- If the Hearing Committee determines that a violation does not exist or is in any way does not reflect the conditions as reported, they shall report these findings to the Association before taking further actions.
- The Hearing Committee shall present the details of their findings and recommendations to the Association and if the Hearing Committee does not approve a proposed fine, suspension, or both, by majority vote, it may not be imposed by the association.
- The association shall not treat the fine, suspension, or both as levied, after the committee has made its decision and before the association has held a meeting to levy the fine, suspension, or both.
- Before levying a fine, suspension, or both, the association shall ensure that the person accused of committing the violation received the hearing notice or reasonable attempts were made to provide/send a hearing notice; a hearing was conducted; a fine, suspension, or both has been approved by the Hearing Committee; and all due processes have been followed. The association shall notify those affected of any suspensions, fines, or both. Fines shall be addressed as in "Section 2. Effect of Nonpayment of Fines: Remedies of the Association" during which a fine has been approved and thereafter during which a violation(s) continues to occur and a fine has been approved for that violation(s).
- The association shall provide a "letter of closure" upon compliance of a Notice of Violation(s) with pending suspensions, fines and/or other penalties.

OTHER CONSIDERATIONS:

- In addition to the above or as an alternate to the above, actions at law or in equity, or both, to redress alleged failure or refusal to comply with the governing documents of the community and the rules of the association may be brought by the association. The prevailing party in any such litigation is entitled to recover reasonable attorney's fee and costs. (Reference Florida Statute 720.305 Obligations of Members)

APPROVED

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 Clyde D. Jackson  
 President, Board of Directors