

Riverwind Cove HOA Rules Enforcement Policy

Policy Purpose

Inherent with the enforcement and defense of the Riverwind Cove Covenants, Declarations & Restrictions, the Articles of Incorporation, and the Bylaws and Rules, the following policy outlines procedures regarding enforcement of the previously stated governing documents of the Association, including delivery of proper notice to the alleged violator, and the imposition of fines & penalties, per Florida Statute 720.

Terms & Definitions

1. **“HOA Member”** or **“Member”** refers to the owner of one or more parcels of land in Riverwind Cove, as defined in the Covenants, Conditions and Restrictions (CCR); the Member may or may not also be a resident. Any non-compliance with the Riverwind Cove Rules and Regulations by any HOA Member, resident, tenant, or guest will be the responsibility of the associated Member.
2. **“Architectural Review Committee (ARC)”** refers to the Committee established to ensure that the buildings and property in the community preserve a high standard of construction and appearance. The members of the ARC shall be made up of HOA members in good standing, selected by the Board of Directors. The members of the ARC shall operate under the authority of the Board of Directors but have no independent authority of their own.
3. **“Board”** refers to the Riverwind Cove HOA Board of Directors, as established in the Covenants, Conditions & Restrictions.
4. **“Hearing Committee”** refers to a committee appointed by the Board and comprised of three (3) to five (5) HOA Members in good standing whom the Board of Directors believes will be able to afford a fair and impartial hearing to members regarding violations. Hearing Committee members may not be officers, directors, or employees of the Association, or the family member of an officer, director, or employee.

Complaint Process

Reporting Complaints. A complaint regarding alleged violations may be reported by any HOA member or resident within the Community, or by the Architectural Review Committee (ARC) or a Board member; such complaint must be recorded in writing and provided to the Board of Directors who will investigate the validity of the complaint.

Required Information. A complaint must include the street address of the property in violation and a concise description of the alleged violation. A complaint form is available on the HOA website at www.riverwindcovehoa.org. Violations that cannot be confirmed by the ARC, Board of Directors, or a designated representative thereof by visual inspection will require additional supporting documentation from the party lodging the complaint. Pictures of the alleged violation should accompany the complaint whenever possible.

Notification & Hearing Process

1. **Courtesy Notice:** If it is determined by the Board that a violation has occurred, a Courtesy Notice will be sent to the violator describing the nature of the violation with reference to the applicable governing document violated, stating actions that must be taken to correct the violation, including a required time frame for the correction (72 hours). This notification is typically sent via email. The Board may dispense

with the Courtesy Notice if it determines an emergency may exist, i.e. if the alleged violation may pose an immediate threat to persons or property. In such case, the initial Notice may be a Notice of Violation.

If the violator and Member are not the same party, a copy of the Courtesy Notice will be sent to the Member as well via email or US mail, addressed to the Member at the address on file with the Association. (Members are responsible for maintaining up-to-date contact information, including mailing address, with the Association.) Members are responsible for addressing Covenants violations on their property whether the property is rented or vacant. A written response from the Member addressing the violation notice, or compliance with the violation, is required within the time frame indicated in the Courtesy Notice.

2. **Notice of Violation (NOV):** If the Member fails to respond to the Courtesy Notice or remedy the violation within the allotted time, a Notice of Violation (NOV) will be sent, restating the violation, citing guidance documents and conditions of compliance indicated in the Courtesy Notice, and indicating potential consequences, including possible fine and loss of voting privileges should the Member fail to comply within the specified time frame, typically 7 days. It is the sole option of the Board of Directors of the Association (Board) to extend the time frame for exigent circumstances or if the violation is of a nature requiring additional time to resolve.
3. **Vote to Fine:** If the Member fails to respond to the Notice of Violation or remedy the violation within the time frame allotted in the NOV, the Board will vote to impose a fine at a public meeting, with the item announced on the meeting agenda.
4. **Fine Hearing:** Following Board approval to impose a fine, 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 (Hearing Committee) will be provided. Such Hearing must be held within 90 days following the vote to fine. The Committee may hold the hearing by telephone or other electronic means. The role of the Hearing Committee is limited to determining whether to ***confirm or reject the fine or suspension levied by the Board.***

The Member in violation may request a reschedule of the established Hearing within 14 days of the initial date; extensions may be granted by the Committee with the agreement of the Board with proof of extenuating circumstances from the Member. *Only one (1) reschedule request per violation is permitted.*

Minutes of the hearing must be kept by this committee. Any HOA member may attend but there is no community involvement in the hearing process by anyone other than Hearing Committee members. If a Board-imposed fine is upheld, the violator will be so notified and have 30 days to render the fine and remedy the violation; thereafter it goes to legal action for further remedy, which may include an injunction. If fine is not paid within 90 days of notice, a lien will be placed on the property through legal proceedings. All legal costs to the HOA will be borne by the Member in violation, per FL Statute 720.305.

At the hearing, the Member in violation shall have the right to give testimony orally, in writing, or both, subject to reasonable rules of procedure, to support his or her appeal.

A hearing need not be conducted according to any technical rules relating to presentation of evidence or witnesses, except the presenting party will provide copies of any written evidence to the other party or parties at least 48 hours in advance of the hearing. Any evidence presented during the hearing shall be duly considered but is not binding on the Hearing Council in making a determination. Should the Member's case be supported, and the violation and fines dismissed, the HOA will rescind the application

of fines and/or penalties. Should the HOA's case be supported, the Member is responsible for any and all fines & penalties imposed by the Association and will bring his/her property into immediate compliance. Failure to comply will result in the Association's pursuit of legal action against the Member in violation.

Neither the alleged violating Member nor the complainant(s) are required to be in attendance at the hearing. In that case, the Council will consider any written information presented (including photos) and render a decision based solely on that information.

5. **Intent to Fine Notice:** An Intent to Fine Notice (IFN) will be sent by certified mail, providing at least 14 days' notice of a Fine Hearing to the parcel owner and, if applicable, any occupant, licensee, or invitee of the parcel owner sought to be fined, notifying them of the right to a fine hearing. A mailing receipt/signature card will provide proof of mailing/receipt. The notice must include a description of the alleged violation, the specific action required to cure such violation, and the hearing date, location, and access information if held by telephone or other electronic means. A parcel owner has the right to attend the hearing via telephone or other electronic means. The Hearing Committee has the option to coordinate the hearing with the parcel owner, but it is not mandatory that they do so. The Member's attendance at the hearing is not required; however, it is the member's right to present evidence refuting the violation during the hearing.
6. **Hearing Outcome:** Within 7 days of the hearing the Committee shall provide written notice of the Hearing Committee's findings related to the violation, including any applicable fines or suspensions, indicating how the violation may be cured or suspension lifted, or the date by which the fine must be paid, to the parcel owner at his or her designated mailing or email address from the Association's official records, and if applicable, to any occupant, licensee, or invitee of the parcel owner. The date by which the fine must be paid must be at least 30 days after delivery of the written notice.
 - a. If the violation has been cured before the hearing or in the manner specified in the written notice required in Section 2 or 3 above, a fine or suspension may not be imposed.
 - b. If the violation and proposed fine or suspension is approved by the Hearing Committee and the violation is not cured or fine not paid per the written notice required above, reasonable attorney fees and costs may be awarded to the Association. Said fees and costs may not begin to accrue until after the date noticed for payment and time for an appeal has expired.
7. A Member may request to appeal/contest a violation at any point during the notification process, up to and including during the Fine Hearing.
8. The Board of Directors/Hearing Council may not impose a fine nor suspend voting or any other rights of an Owner for violations of the Association's governing documents unless the procedures set forth in this policy are followed.

Fines & Sanctions

In accordance with Florida Statute 720.305, an Association may levy reasonable fines against any member or any member's tenant, guest, or invitee for the failure of the owner of the parcel or its occupant, licensee, or invitee to comply with any provision of the Covenants, Bylaws, or reasonable rules of the Association unless otherwise provided in the governing documents. Any non-compliance with the Riverwind Cove Rules and Regulations by any HOA Member, resident, tenant, or guest will be the responsibility of the associated Member.

The fine for a violation of the Association's governing documents as formerly stated, including established rules & regulations, other than non-payment of assessment, shall be \$100/day to a maximum of \$1,000 *per violation*. Fines shall be implemented and begin accruing as established in the Intent to Fine Notice for the violation.

Non-Payment of Assessment

The foregoing procedure is not required for the Association to impose appropriate sanction for non-payment of an assessment. Penalty for non-payment of assessments & fees may include, but are not limited to, interest, late fees, liens, collection costs & attorney fees, and foreclosure. Details and appropriate procedures are outlined in the Association's governing documents and FL Statute 720.

Extensions

There may be circumstances that require a Member to request additional time to correct his/her violation. In such instances, the Member may request an extension pursuant to the following:

1. All extension requests must be submitted in writing to the Board of Directors.
2. All extension requests will be reviewed by the Board on a case-by-case basis and decisions will be made based on the facts involving each individual request.
3. No extensions will be given longer than ninety (90 days) from the date of the original Notice of Violation, unless the Board approves an additional extension based on extenuating circumstances.
4. ARC violations and potential extensions are subject to the conditions and parameters set forth in the ARC Standards and Guidelines and/or the Covenants, Conditions & Restrictions.

General Provisions

1. *Adjustments/Relief*: The Board is authorized to extend the time periods and otherwise modify or waive the procedures contained in this policy, on a case-by-case basis, as the Board determines to be necessary in its sole discretion; however, the Board shall take into account at all times previous Boards' decisions in similar situations, and consider the good of the entire community when rendering a decision.
2. *Extenuating Circumstances*: If extenuating circumstances arise with a violation, the Board may request the Member prepare and submit a written plan outlining how the violation will be corrected. The Board will review the proposed plan and decide, in its sole discretion, whether to accept, reject or offer a compromise on the submission.
3. *New Owners/Members*: When a new Member moves into the community, the Association will provide them with a copy of the Covenants, Conditions & Restrictions document. If a violation occurs within the first 60 days of ownership/residence, a friendly reminder will be sent, designed to let the Member know what the violations are, while giving them time to become familiar with the Association's rules and regulations. This applies *only to new HOA Members*, not new tenants nor existing Members. If, however, the violation is not corrected within 10 days of the reminder, the notification process outlined in this policy will commence. It is the responsibility of the Member to inform their tenants of Association rules & regulations.
4. *ARC Notification*: The Board or a designated representative will notify the Architectural Review Committee (ARC), if a violation is a failure to request and receive ARC approval. The ARC may then contact the Member to investigate, and will report their findings to the Board, who shall determine further action, if any.