

# BRIAR CREEK MOBILE HOME COMMUNITY I, INC.

## PROTOCOLS – POLICIES - PROCEDURES

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## **FLORIDA STATE STATUTE 718.303 - SUMMARY**

- An Association may levy reasonable fines for the failure of the owner of a unit or its occupant, licensee, or invitee to comply with any provision of the Declaration, Association Bylaws, or Rules of the Association.
- A fine may not exceed \$100 per violation, or \$1,000 in the aggregate.
- An Association may suspend, for a reasonable period of time, the right of an owner, or an owner's tenant, guest, or invitee, to use the common elements, common facilities, or any other Association property for failure to comply with the provision of the Declaration, Association Bylaws, or Rules of the Association.
- Usage right suspensions do not apply to limited common elements intended to be used only by that owner, common elements needed to access the unit, utility services provided to the unit, parking access/parking spaces, or elevators.
- A fine or a suspension for rule violations must be levied at a properly noticed Board meeting and may not be imposed unless the Board first provides at least 14 days' written notice to the unit owner of an opportunity for a hearing before a committee of at least three (3) Association 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 role of the committee is limited to determining whether to confirm or reject the fine or suspension levied. If the committee does not approve the proposed fine or suspension by a majority vote, the fine or suspension may not be imposed.
- If the proposed fine or suspension is approved by the committee, the fine payment is due 5 days after the date of the committee meeting at which the fine is approved. An imposed suspension is effective immediately from the date of the hearing.  
The Association must provide written notice of the fine or suspension by mail or hand delivery to the cited owner and, if applicable, to any unit occupant, tenant, licensee, or invitee of the cited owner
- A fine may not become a lien against a unit.
- If a cited owner is more than 90 days delinquent in paying a fee, fine, or other monetary obligation due to the Association, the Association may suspend the right of the cited owner or the unit's occupant, licensee, or invitee to use common elements, common facilities, or any other Association property until the fee, fine, or other monetary obligation is paid in full.
- An Association may suspend the voting rights of a cited owner or member due to nonpayment of any fee, fine, or other monetary obligation due to the Association which is both more than \$1,000 and more than 90 days delinquent. Proof of such obligation must be provided to the cited owner or member 30 days before the suspension takes effect.
- All suspensions imposed due to 90-day payment delinquency must be approved at a properly noticed Board meeting. Upon approval, the Association must notify the unit owner and, if applicable, the unit's occupant, licensee, or invitee by mail or hand delivery.
- All suspensions imposed, apply to the cited Association member and, when appropriate, the member's tenants, guests, or invitees, even if the delinquency or failure that resulted in the suspension arose from less than all of the multiple units owned by the member.
- All notices must be sent to the legal owner(s) of the cited unit; Must be sent via both certified (if available) and regular US mail and; Must be sent to both the unit mailing address of Association record and the unit mailing address listed within the county's property records base.

# **FINING PROTOCOL DIRECTIVES**

## **1 - NON-COMPLIANCE COMPLAINT FILE**

Opened by **Board of Director (BOD)** or **Community Manager** upon report of a violation of the Association's governing documents.

\*\*\* Please note: A member of the Association may **identify** a potential violation – If available, a signed "Concern Form" or email is required.

A Board member or community manager may **report** a violation – A signed statement, signed "Violation Report Form" or email is required

## **2 - 1st NOTICE - COURTESY RULE REMINDER NOTICE:** (Issued for 1<sup>st</sup> time occurrence &/or correctable violations)

Issued by **BOD** to unit owner indicating the infraction, citing the applicable corresponding rule within the Association's governing documents, requesting immediate correction (*if applicable, provide a specific timeframe for correction*), stating that continuation of violation may result in fines of up to \$100.00 per day/occurrence of violation, up to \$1,000.00 or subject to usage right suspension of Association common area property; in accordance of Florida State Statutes 718.303.

**FOR RECURRING VIOLATIONS** – A "NOTICE OF VIOLATION" is issued by the **BOD** to the unit owner indicating the infraction, citing the applicable corresponding rule within the Association's governing documents, stating the violation may be subject to fines of (*state applicable per day/occurrence fine*), up to \$1,000.00 or subject to usage right suspension of Association common area property; in accordance of Florida State Statutes 718.303.

\*\*\* Fine may be assessed beginning from 1<sup>st</sup> day/occurrence of violation.

## **3 - BOD LEVY FINE/SUSPENSION:** Fine/Suspension must be levied at a properly notice **BOD meeting**.

Fine/Suspension is subject to the cited owner being given a minimum of 14 days written notice of the opportunity to attend a hearing before the Association's review committee to dispute the fine.

## **4 - 3RD NOTICE - NOTICE OF REVIEW COMMITTEE HEARING:**

Issued by **BOD** to cited owner, citing the levied fine amount or suspension time period, the infraction, the applicable corresponding rule within the Association's governing documents & the opportunity to attend a hearing to address the Review Committee prior to the determination as to whether a fine/suspension is warranted and will be imposed.

(Notice must give a minimum of 14 days notice – Recommend 30+ days to accommodate off site owners)

## **5 - 4th NOTICE – NOTICE OF REVIEW COMMITTEE DECISION:**

Issued by **Review Committee member** to the cited owner indicating the infraction, the date of hearing, the committee decision, the applicable corresponding rule within the Association's governing documents.

- If fine or suspension is confirmed the notice specifies the amount and payment terms or suspension time period.
- If a fine is rejected, the notice advises that the file has been closed.

## **6 - IF PAYMENT OF FINE IS DELINQUENT BY 90 DAYS:**

- Notice of demand/arrears letter issued by **BOD** to cited owner.
- **BOD** may suspend amenity/common area access privileges to the cited owner, his tenants, lessees, guests, invitees, licensees. The suspension is inclusive to the cited owner & to all units owned by the cited owner. Suspension must be levied at a properly noticed **BOD meeting**. Upon suspension approval, the association must notify the cited owner and, if applicable, the unit's occupant, licensee, or invitee by mail and/or hand delivery. Suspension may not include parking/parking access & cannot impede access to unit, utilities or exclusive use common area.
- A fine may not become a lien against the cited unit.
- **BOD** may initiate legal proceedings for small claim court against unit owner for fine + associated costs incurred.

\*\*\* State statute requires that the same standards for amenity suspensions and/or voting suspensions must be applied for all outstanding monetary obligations including outstanding fees or assessments.

**ALL NOTICES TO BE ADDRESSED TO THE UNIT'S LEGAL OWNER(S) AND SENT VIA CERTIFIED (if available) & US MAIL TO BOTH THE MAILING ADDRESS OF CONDOMINIUM RECORD & TO THE MAILING ADDRESS LISTED WITHIN THE COUNTY'S PROPERTY RECORDS.**

# DEFINITIONS/DETERMINATIONS

## DEFINITIONS:

**"Rental agreement"** means any written agreement, or oral agreement if for less duration than 1 year, providing for use and occupancy of premises – In accordance of: Florida Statutes 718.103 (22)

*\*\*\* Please note: Use and occupancy does not have to have a \$\$\$ denomination to be considered a rental.*

**"Occupant"** means any person, living, sleeping, cooking, or eating in, or having actual possession of a dwelling unit or rooming unit - In accordance of: Pinellas County Code of Ordinance – Chapter 22

*\*\*\* Please note: Children 2 years of age and under shall not be counted as an occupant.*

**"Unit"** means a part of the condominium property which is subject to exclusive ownership. A unit may be in improvements, land, or land and improvements together, as specified in the declaration.

– In accordance of: Florida Statutes 718.103 (28)

**"Condominium Unit"** - The unit being that certain lot or parcel of real estate, as authorized by Chapter 718.103 (16), Florida Statutes, as the same are designated on the sketch of the survey and plans, copies of which are attached to the Original Declaration and incorporated herein by reference, together with the mobile home situated thereon.

- In accordance of: Declaration of Condominium of Briar Creek Mobile Home Community, I. Inc. 4B

**"Condominium Parcel"** - The condominium lot and mobile home, together with an undivided share in the Common Elements appurtenant thereto, said parcel is hereinafter referred to as a lot. Such reference shall mean the parcel.

- In accordance of: Declaration of Condominium of Briar Creek Mobile Home Community, I. Inc. 4D

**"Unit owner" or "owner of a unit"** means a record owner of legal title to a condominium parcel.

– In accordance of: Florida Statutes 718.103 (28)

**"Tenant/Lessee"** – A person(s) who occupy a unit based upon a rental agreement with the unit owner.

**"Licensee"** - A trustee, appointee, consignee, transferee and/or assignee of a unit.

**"Invitee"** - A person or persons invited onto condominium property by a unit owner and/or licensee for the purpose of business.

## DETERMINATIONS:

**"Tenant/lessee"** - Regardless to whether a written or oral lease or of any monetary consideration, determination is that of the unit owner **not** being on premises and in residence at the same unit, at same time of tenant/lessee occupancy, except in the instance of immediate family.

**"Immediate family"** – A unit owners` spouse, parents, parents-in-law, siblings, children and grandchildren only. Immediate family is determined as a visitor/guest for all applicable Association bylaws, rules and regulations and policies.

**"Visitor/guest"** - The unit owner and/or licensee **must** be on premises and in residence at the same unit, at the same time of visitor/guest occupancy.



# **REVIEW COMMITTEE**

## **REVIEW COMMITTEE MEMBERS:**

- The committee must be comprised of five (5) members appointed by the Board of Directors.
- Committee members may **NOT** be officers, directors, or employees of the association, or the spouse, parent, child, brother, or sister of an officer, director, or employee.
- The role of the committee at a review hearing is limited to determining whether to confirm or reject the fine or suspension levied by the board.
- If the committee does not approve the proposed fine or suspension by majority vote, the fine or suspension may not be imposed.

## **THE ROLE OF THE REVIEW COMMITTEE:**

- Ensure that the guidelines and directives of Florida State Statute 718.303 are maintained in the fining/suspension process for rule non-compliance issues.
- Ensure that a fair, proper and unbiased practice is taken by the Board of Directors.
- Review and Examine the documentation in place to verify that there is a valid infraction of the Association's governing rules.
- Allow the cited owner an opportunity for a hearing before the Review Committee.
- Determine to confirm or reject the fine or suspension. No recommendations or opinion may be given.
- If applicable, assist in efforts between cited owner and BOD at achieving rule compliancy and resolution **prior** to a fine being levied by the BOD.

## **COMMITTEE REVIEW CRITERIA:**

- Proposed infraction is supported as a non-compliance violation within Association's governing documents.
- Notifications to the cited owner meet the required criteria in accordance of Florida State Statute 718.303.
- If applicable, the cited owner is given an opportunity to correct the violation.
- If applicable, reasonable efforts of resolution were made prior to BOD levying fine or suspension.
- The cited owner has been provided with at least 14 days written notice of the opportunity to attend and/or participate in a hearing before the Review Committee.
- The Information/documentation provided supports verification of a violation of the Association's governing documents.

**BRIAR CREEK MOBILE HOME COMMUNITY I**  
**100 Briar Creek Boulevard, Safety Harbor, Florida 34695**

## **RECOMMENDED FINES**

**MAINTENANCE AND USE RESTRICTION**  
**REASONABLE FINES IN ACCORDANCE OF: FLORIDA STATE STATUTE 718.303(3)**

### **Maintenance of Units, Lots**

1. Exterior of units, parking areas, and all structures
2. Lots - (modification, landscaping and irrigation)

### **Assessed Fine**

\$100.00/Month  
\$100.00/Month

### **Use Restrictions**

3. Signs
4. Parking and Vehicular Restrictions

\$25.00/Occurrence-Day  
\$25.00/1st Occurrence  
\$50.00/2nd Occurrence  
\$100.00/3rd Occurrence  
\$100.00/Thereafter

5. Nuisances
6. Trash
7. Unsightly or Unkempt Conditions
8. Outside Installations
9. Subdivision of Unit and Time Sharing
10. Tents, Trailers, Temporary Structures, Sheds
11. Tree Removal
12. Insurance Rates
13. Air Conditioning Units
14. Exterior Lighting
15. Exterior Sculptures and Similar items
16. Fences
17. Business Use/Rentals
18. Use/Occupancy
19. Pets
20. Pool
21. Sale/Rental/Conveyance/Transfer

\$25.-\$100.00/Occurrence-Day  
\$25.-\$100.00/Occurrence-Day  
\$25.-\$100.00/Occurrence-Day  
\$100.00/Occurrence  
\$100.00/Occurrence  
\$25.-\$100.00/Occurrence-Day  
\$100.00/Month  
\$100.00/Month  
\$100.00/Month  
\$100.00/Month  
\$100.00/Month  
\$100.00/Month  
\$100.00/Occurrence-Day  
\$100.00/Occurrence-Day  
\$25.-\$100.00/Occurrence-Day  
\$15.-\$100.00/Occurrence/Day  
\$100.00/Month

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\* Fines may not exceed \$100.00 per Occurrence-Day/Month of noted violation and may not exceed \$1000.00 in the aggregate.

\* A fine may not be imposed unless the BOD 1<sup>st</sup> provides at least 14 days written notice & opportunity for a hearing to the cited owner.