

## Villages of Homestead Homeowners' Association Fines Procedure

### Introduction

Florida Statute 720.305(2) states the following:

*The association may levy reasonable fines of up to \$100 per violation 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 declaration, the association bylaws, or reasonable rules of the association. A fine may be levied for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$1,000 in the aggregate unless otherwise provided in the governing documents. A fine of less than \$1,000 may not become a lien against a parcel. In any action to recover a fine, the prevailing party is entitled to reasonable attorney fees and costs from the non-prevailing party as determined by the court.*

*(b) A fine or suspension may not be imposed without at least 14 days' notice 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. If the association imposes a fine or suspension, the association must provide written notice of such fine or suspension by mail or hand delivery to the parcel owner and, if applicable, to any tenant, licensee, or invitee of the parcel owner.*

The purpose of this procedure is to specify when and how the fines process will be implemented by the Villages of Homestead Homeowners' Association

### Discussion

The Audubon Village Declaration of Restrictions provides several methods that may be used to enforce compliance with the provisions that it contains. Among these, are the option correct landscaping problems and bill the applicable owner after providing ten days written notice, and to address property maintenance deficiencies and bill the applicable owner after providing 30 days written notice. However there are instances where these processes either are not applicable or will not work to achieve a permanent solution to the problem. Examples would be cases which do not involve physical aspects of the property, in which the necessary access to the property is not available, or which involve a repetitive ongoing pattern of violations. In cases such as these, the imposition and collection of a fine may be a more appropriate method of correcting the behaviors that underlie the problem. The remainder of this procedure specifies the process for establishing and executing the Villages of Homestead Homeowners' Association fines process

### Procedure

1. On a yearly basis the Board of Directors of the Villages of Homestead Homeowners' Association shall appoint a Fines Review Committee.
  - a. The Fines Review Committee shall consist of three members who are not officers, directors or employees of the Villages of Homestead Homeowners' Association and who are not the spouse, parent, child, brother or sister of an officer, director or employee.
  - b. The appointments shall normally be made within 30 days following the annual meeting and shall be for a period of one year.
  - c. In the event that one or more vacancies occurs on the Fines Review Committee during the course of the year, the Board of Directors shall make the additional appointments necessary to fill the vacancies in an expeditious manner.

- d. Members of the previous years' Fines Review Committee shall continue to serve until the members of the next years' Committee are appointed, at which time their service shall be complete.
    - e. The new Fines Review Committee shall select a Chairman from among their number.
  2. The Architectural Control Committee (ACC) is charged with routine oversight of property maintenance and compliance with the physical aspects of the Audubon Village Declaration of Restrictions.
    - a. The ACC shall follow its own process with respect to the need to notify owners of deficiencies that need to be corrected and follow through with that process up to and including correction of the deficiency and billing of the owner, as described above.
    - b. In cases where the ACC believes that a fine is warranted, the issue shall be referred, in writing, to the Villages of Homestead Board of Directors for review.
  3. Any owner, tenant, or guest may identify a violation of the Audubon Village restrictions or rules.
    - a. Violations identified in this manner shall be submitted in writing to the Villages of Homestead Board of Directors for review.
  4. Upon being made aware of a violation or deficiency through either of the methods above, the Villages of Homestead Board of Directors shall make a determination on whether the Fines Process is to be used. This determination shall be based upon the following criteria:
    - a. The applicable owner shall have been notified at least once of the violation or deficiency through a traceable method (i.e. certified letter, hand delivery etc.) and given an appropriate period to correct the deficiency.
    - b. The occurrence of previous instances of the same or a similar deficiency shall be considered.
    - c. The stated intentions of the owner with respect to correction of the deficiency should be considered.
  5. If the Villages of Homestead Board of Directors determines that the imposition of a fine is the most appropriate method by which to address the deficiency, the following steps shall be executed:
    - a. The Board of Directors shall schedule a meeting of the Fines Review Committee and provide the person sought to be fined with at least 14 days' notice of the date time and place of the meeting.
    - b. The Board of Directors shall provide the Fines Review Committee, at least 3 days in advance of the meeting, with the following:
      - i. A written statement concerning the nature of the deficiency accompanied by any applicable documentation or photographic evidence.
      - ii. A specified fine amount or conditions of suspension and provisions for levying additional fines for each day of a continuing violation if applicable.
  6. The Fines Review Committee shall meet at the appointed time and place to consider the evidence provided by the Board of Directors and any applicable input from the person sought to be fined.
    - a. If the Committee, by majority vote does not approve the proposed fine or suspension, it may not be imposed.
    - b. If the Committee, by majority vote, approves the proposed fine or suspension, the Villages of Homestead Board of Directors shall take the actions necessary to provide written notice of the fine or suspension by mail or hand delivery to the parcel owner and if applicable, to any tenant, licensee or invitee of the parcel owner.
  7. A fine, once imposed, shall be turned over to the Management Company for billing and collection in accordance with the normal process used for amounts due in connection with the property.

## Fines Schedule\*

1. Violation of requirements which are explicitly stated in the Audubon Village Declaration of Protective Covenants or Conditions or the Audubon Village Declaration of Restrictions (examples: commercial trucks, recreational vehicles, trailers, boats, temporary structures)
  - a. Identified violation - \$50 /week
  - b. Continuing violation (uncorrected after 1 month following the imposition of the original fine) - \$100/week
2. Failure to maintain the exterior of any structure in good repair and appearance or failure to address cutting and/or mowing issues following at least two requests to correct the identified condition (examples: damaged siding, fence in poor repair, mold and severely deteriorated paint, unacceptable lawn or foliage growth)
  - a. Identified violation - \$25/week
  - b. Continuing violation (uncorrected after 1 month following the imposition of the original fine) - \$50/week

\*Fines are applied on a per-violation basis. More than one violation may result in more than one fine during the same time period.