

**GEORGETOWNE SUBDIVISION HOME OWNERS ASSOCIATION, INC.**

**2024 SUMMARY OF FINING PROCEDURES**

**Warning Letter:**

The first step in any enforcement matter, after becoming aware of the violation, should be to send a warning letter to the resident, citing the provision that is being violated, and giving a stated period of time to fix the problem. Case law requires reasonable written notice and an opportunity to cure the violation before enforcement action, such as fining, can be taken. See Majestic View Condo. Association Inc. v. Bolotin, 429 So. 2d 438 (Fla. 4th DCA 1983).

**2024 Florida Statutes:**

If the warning letter proves to not be effective, the procedures of the relevant provisions of Chapter 720 of the Florida Statutes, which are pasted in below, must be followed in order for fining to occur. The Board of Directors levies a fine, and the committee described below determines whether to confirm or reject the fine or suspension levied by the Board.

720.305

(2) An association may levy reasonable fines for violations of the declaration, association bylaws, or reasonable rules of the association. A fine may not exceed \$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 unless otherwise provided in the governing documents. A fine may be levied by the board 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 nonprevailing party as determined by the court.

(a) An 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 parcel or its occupant, licensee, or invitee to comply with any provision of the declaration, the association bylaws, or reasonable rules of the association. This paragraph does not apply to that portion of common areas used to provide access or utility services to the parcel. A 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.

(b) A fine or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days' written notice of the parcel owner's right to a hearing to the parcel owner at his or her designated mailing or e-mail address in the association's official records and, if applicable, to any occupant, licensee, or invitee of the parcel owner, sought to be fined or suspended. Such hearing must be held within 90 days after issuance of the notice 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. The committee may hold the hearing by telephone or other electronic means. The notice must include a description of the alleged violation; the specific action required to cure such violation, if applicable; and the hearing date, location, and access information if held by telephone or other electronic means. A parcel owner has the right to attend a hearing by telephone or other electronic means.

(c) If the committee, by majority vote, does not approve a proposed fine or suspension, the proposed fine or suspension may not be imposed. The role of the committee is limited to determining whether to confirm or reject the fine or suspension levied by the board.

(d) Within 7 days after the hearing, the committee shall provide written notice to the parcel owner at his or her designated mailing or e-mail address in the association's official records and, if applicable, any occupant, licensee, or invitee of the parcel owner, of the committee's findings related to the violation, including any applicable fines or suspensions that the committee approved or rejected, and how the parcel owner or any occupant, licensee, or invitee of the parcel owner may cure the violation, if applicable, or fulfill a suspension, or the date by which a fine must be paid.

(e) If a violation has been cured before the hearing or in the manner specified in the written notice required in paragraph (b) or paragraph (d), a fine or suspension may not be imposed.

(f) If a violation is not cured and the proposed fine or suspension levied by the board is approved by the committee by a majority vote, the committee must set a date by which the fine must be paid, which date must be at least 30 days after delivery of the written notice required in paragraph (d). Attorney fees and costs may not be awarded against the parcel owner based on actions taken by the board before the date set for the fine to be paid.

(g) If a violation and the proposed fine or suspension levied by the board is approved by the committee and the violation is not cured or the fine is not paid per the written notice required in paragraph (d), reasonable attorney fees and costs may be awarded to the association. Attorney fees and costs may not begin to accrue until after the date noticed for payment under paragraph (d) and the time for an appeal has expired.

(Emphasis added.)

### **Governing Documents:**

The governing documents do not contain much information regarding fining and enforcement. The Articles of Incorporation of Georgetowne Subdivision Home Owners Association, Inc. provide in Article III, Section C that the Association has the power “To enforce by any and all lawful means the provisions of these Articles of Incorporation, the Bylaws of the Association which may be hereafter adopted and the terms and provisions of the aforesaid Declarations of Restrictions.” The Declaration of Restriction for Georgetowne Subdivision, Unit I and Georgetowne Subdivision, Unit II also states the following regarding enforcement:

27. Enforcement. These covenants and restrictions may be enforced by the Association or by the owner of any lot in the Subdivisions by an action at law or in equity against any person violating or attempting to violate the covenants and restrictions. The party bringing the action may recover damages and or injunctive relief and the successful party shall be entitled to recover costs and reasonable attorneys’ fees. Additionally, the Association may levy and impose fines as provided in Section 720.305 of the Florida Statutes, as amended from time to time.

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