

CYPRESS TRAILS HOMEOWNERS ASSOCIATION, INC.

**RESOLUTION ESTABLISHING ENFORCEMENT COMMITTEE AND PROCESS FOR IMPOSITION OF
FINES AND SUSPENSIONS**

THIS RESOLUTION is made as of the date written below by the Board of Directors (“Board”) of Cypress Trails Homeowners Association, Inc., a Florida Corporation not-for-profit (“Association”).

WHEREAS, Section 720.305 of the Florida Statutes mandates that each owner, tenant, and invitee comply with Chapter 720 of the Florida Statutes, the governing documents of the community, and the rules of the association and further provides that actions at law or equity may be brought against any of the foregoing parties for failing to comply; and

WHEREAS, Section 720.305 of the Florida Statutes further provides that the Association may levy fines not to exceed \$100.00 per day for each violation up to and including \$1,000.00 in the aggregate, and may suspend the right to use common areas of, any member, tenant, guest, or invitee (hereinafter referred to as “Violating Party”) for failing to comply with the Declaration of Covenants and Restrictions for Cypress Trails (“Declaration”), the Association’s Articles of Incorporation, the Bylaws, and the Rules and Regulations (including the Architectural Guidelines), and any amendments thereto (all the foregoing collectively referred to as “Governing Documents”); and

WHEREAS, Section 11.2 of the Declaration provides the Association with authority to levy fines against a Violating Party for violations of the Governing Documents; and

WHEREAS, the Board of the Association has recognized that while some members, tenants, guests, and invitees occasionally and apparently without intent violate the covenants, restrictions, and rules and regulations of the Association and quickly remedy same, there are certain other members, tenants, guests, and invitees exhibiting a continued disregard of the covenants, restrictions, and rules and regulations of the Association; and

WHEREAS, the Board of the Association recognizes the substantial extra management time and effort needed, volunteer time and effort needed, and the additional costs incurred for site inspections, providing multiple notices to, and holding hearings for those that exhibit a continued disregard of the Governing Documents; and

WHEREAS, the Board has established or will establish a committee of at least three (3) members who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee (hereinafter referred to as “Enforcement Committee”), which Enforcement Committee has the authority to confirm or reject a fine or suspension levied by the Board or Enforcement Authority (as further defined below); and

WHEREAS, the Board desires to establish a uniform fining and suspension policy and procedure for immediate implementation by the Association, through its Board, the Enforcement

Authority, and the Enforcement Committee, as well as any authorized agent, such as any management company, Community Association Manager (“CAM”), or legal counsel; and

WHEREAS, the Board, at its discretion, may adopt further forms and procedures to assist the Board, Enforcement Authority, or Enforcement Committee so that a relatively uniform process may be followed.

NOW, IT IS RESOLVED that the Board, hereby evidences the passage of this Resolution to provide notice to all members, tenants, guests, and invitees of the following fining and suspension policy and procedure:

1. Inspections & Courtesy Notice(s).

a. *Inspections.* The Association, through its CAM or other authorized agent, shall conduct visual inspections of the Cypress Trails community to identify violations at such frequencies as may be determined by the Board. Members may also report alleged violations to the management company or CAM.

b. *Courtesy Notice.* The Association, through its CAM or other authorized agent, shall provide an initial courtesy notice of each first violation to the Violating Party. This initial courtesy notice is not required to be in writing and no courtesy notice is required for a repeated or continuing violation.

c. *Subsequent Informal Warnings & Notices.* The Association, through its CAM or other authorized agent, may, but is not obligated to, send additional warning or courtesy notices in its discretion.

2. Hearing Notice. If a violation is not resolved after any courtesy or other informal notices which may be required or permitted by this Resolution, the Board shall make a determination on whether to levy a fine or suspension upon the Violating Party and direct the CAM or other authorized agent to send a notice to the Violating Party to appear at a scheduled hearing before the Enforcement Committee (“Hearing Notice”). Alternatively, the Board of Directors, at its discretion, may authorize an individual to recognize violations, levy fines and suspensions, and direct the CAM or other authorized agent to send the requisite Hearing Notice to a Violating Party for violations of the Association's Governing Documents (“Enforcement Authority”). The Enforcement Authority shall be appointed by a majority vote of the Board at a duly noticed meeting where a quorum is met. It is specifically contemplated that this shall be a delegation of the authority to impose a fine or suspension as set forth in Section 720.305(2) of the Florida Statutes.

The Hearing Notice must be mailed or delivered at least fourteen (14) days before the hearing scheduled before the Enforcement Committee and shall contain:

- a.** A general statement of the nature of the violation(s);

b. The specific provision(s) of the Governing Documents alleged to have been violated; provided, however, that if there are multiple bases in the Governing Documents for the Violation, only one need be specified for each alleged violation;

c. That a fine, in the amount of \$100.00 per day, per violation, each of which may accrue up to \$1,000.00 in the aggregate, or a suspension has been levied, or both, against the Violating Party.

d. The date, time, and location of the hearing before the Enforcement Committee at which the Enforcement Committee will consider whether to confirm or reject the fine or suspension, or both, levied by the Board or the Enforcement Authority.

The Hearing Notice shall be sent via U.S. Mail or hand delivery to the address furnished by the Violating Party to the Association for the purposes of receiving correspondence from the Association. If no such address has been furnished, notice shall be deemed to be properly sent once placed in the mail and addressed to any location where the Violating Party may reasonably receive the notice given the information reasonably available to the party sending the notice; provided, however, that a Violating Party shall have no right to object to the adequacy of notice if that party fails to furnish an address to the Association.

3. **Accrual of Fines.** Fines shall begin to accrue on the date that the Hearing Notice is mailed to the Violating Party.

4. **Enforcement Committee Hearing Procedures.** At the hearing before the Enforcement Committee, the Violating Party may provide testimony as to why the fine or suspension should not be confirmed. The Enforcement Committee may ask questions of the Violating Party as part of the hearing process, and may consider any evidence presented by a Violating Party. Members of the Board of Directors, the CAM, and any other individual with information regarding the violation may appear at the hearing. Such individuals shall provide all information and documentation, and may provide testimony, supporting or refuting the violation(s). Thereafter, such individuals shall only participate during the hearing if questioned by either a member of the Enforcement Committee or the Violating Party. It is the intent of this provision that individuals may appear to provide evidence regarding the violation(s) and answer any questions asked by the Enforcement Committee or Violating Party, but they may not otherwise influence the determination of the Enforcement Committee.

a. ***Notification of Representation.*** A Violating Party desiring to be represented by legal counsel at the hearing before the Enforcement Committee (which must be retained independently by the Violating Party at his or her expense) must provide at least seventy-two (72) hours' notice to the Association in advance of the hearing. The purpose of this provision is to afford the Association the opportunity to have legal counsel present on behalf of the Association. Failure to timely provide notice to the Association will result in exclusion of the Violating Party's legal counsel from the hearing.

b. ***Enforcement Committee Decision.*** After the presentation of all evidence, the Committee shall confirm or reject the fine or suspension, as applicable, by majority vote of a

quorum of the Enforcement Committee. If desired, the Enforcement Committee may briefly adjourn to deliberate in private and then come back to vote to confirm or reject the fine or suspension, as applicable, in the presence of those attending the Hearing. If the Enforcement Committee does not confirm the fine or suspension, as applicable, the fine or suspension shall not be imposed.

5. **Notice of Enforcement Committee Decision.** No later than fourteen (14) days after the Enforcement Committee's decision, the Association, through its CAM or other authorized agent, shall send notice to the Violating Party as appropriate regarding the decision of the Enforcement Committee ("Post-Hearing Notice"). The Post-Hearing Notice shall: (a) include a statement that a fine or suspension, or both, has been imposed; (b) specify the amount of the fine, which may be levied on a continuing basis for each day the violation continues up to the maximum aggregate amount provided in the schedule of fines; (c) specify the duration of the suspension, not to exceed ninety (90) days for each violation, (d) state that the violation(s) must be immediately corrected; and (e) state that the fine shall be paid within five (5) days after the date of the Post-Hearing Notice.

6. **Recurring or Repeated Violations.** A violation which has been previously corrected but which recurs within twelve (12) months of the correction date shall not be entitled to any courtesy notices. Rather, a Hearing Notice may immediately be sent and the Violating Party may be subject to a fine from the date of the Hearing Notice.

7. **Applicability of Fines and Suspensions.** A member is jointly and severally liable with a violating tenant, guest, or invitee for any fines imposed as a result of a violation of the governing documents by any tenant, guest, or invitee. If the Violating Party fails to correct the violation or pay a fine, the CAM shall refer the matter to the Board for consideration of further remedies, including without limitation referring the matter to legal counsel for resolution.

8. **Interpretation.** Any reference to days in this resolution shall refer to calendar days.

9. **Non-Exclusive Remedy.** This Resolution is intended to establish an optional, non-exclusive method of enforcing violations. The Association may pursue fines or suspensions, or both, in accordance with this Resolution, but may choose at any time to engage in any other enforcement action provided by law or equity in lieu of, or in addition to, the remedies set forth herein.

RESOLVED on this 15 day of February, 2023, by the Board of Cypress Trails Homeowners Association, Inc.

CYPRESS TRAILS HOMEOWNERS ASSOCIATION, INC.

By: Rich Horvath, President

By: Paul Naranjo, Secretary
2/15/23