

Fining Policy and Procedures for Buckingham Home Owners Association (HOA)

The AMENDED AND RESTATED DECLARATION OF PROTECTIVE COVENANTS, CONDITIONS AND RESTRICTIONS OF BUCKINGHAM SUBDIVISION Section 17 authorizes the Association to levy reasonable fines in accordance with Florida Statutes. The procedures that follow have been approved by the Board of Trustees and implement fining procedures. These procedures will be published and made available to all homeowners.

HOMEOWNERS CONFLICTS

If disputes occur between the HOA and homeowners, the Board will make every effort to resolve those disputes with the homeowner. The Board reserves the right to consult legal counsel for advice on any dispute. If the dispute cannot be resolved the Board may take appropriate action to enforce the governing documents and protect the well-being of the HOA.

ASSOCIATION ENFORCEMENT AND COMPLAINT PROCEDURE

Fines Policy

The HOA does not maintain a fine schedule. Fines will be \$100 per day per fine for all violations up to the Florida Statute limitation of \$1000. Each violation is subject to a separate fine.

Enforcement Policy

Enforcement of the governing documents is the responsibility of the Board of Trustees. The Violation Committee may observe property violations of the governing documents and bring them to the attention of the Board of Trustees for enforcement. Additionally, any member of the HOA may file a written complaint detailing time, date, and nature of an alleged violation to the Violation Committee. The Violation Committee will take the necessary steps to investigate the complaint and if warranted, issue a violation notice and/or send the matter to the Board of Trustees for enforcement.

HOA Violation Procedures

HOA violation procedures are specified in Section 22 of the HOA by-laws.

Attorney Client Privilege

Once the Board has resolved any matter for which they sought legal advice or that concerned litigation, including collection of past due assessments, the Board at its discretion may disclose such communication or opinion at an open meeting and make the opinion an open document to the Association Membership, or the Board may preserve the attorney client privilege on the issue. The Board shall discuss privilege release matters in an executive session prior to relinquishing the attorney client privilege.

HOA Hearing Procedures

Homeowner Association fines are regulated by Section 720.305(2), Florida Statutes.

When the Board of Trustees levies a fine on a homeowner, a Hearing Committee will convene to allow fined homeowners the opportunity to participate in a hearing regarding their proposed fine. The Committee shall consist of at least three 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. The HOA may have multiple members for the Hearing Committee. When required, at least three (3) members will be assembled, as selected by the Board. There is no requirement for three permanent Committee members; the HOA may randomly select committee members from a pool, so the same three members are not attending every Hearing.

Delivery of the notices to the homeowner will be either certified mail, priority mail or USPS regular mail.

HOA Fining Procedures

Fining a homeowner is a three-step process:

Step 1: At a duly scheduled meeting, the Board of Trustees votes whether to levy a fine on a homeowner and decides on amount.

The Board of Trustees determines that a fine might be appropriate at a Board Meeting, sets the amount, and authorizes sending the notice of fine with the information that the homeowner is expected to cure the violation that generated the fine. The homeowner has 14 days from receipt of notice of fine in which to request a hearing before the Hearing Committee.

The initial notice to the owner does **not** state the date, time and place of the hearing. The date, time and place of the hearing are not set until the owner responds and requests a hearing. If the HOA receives no response from the homeowner, the hearing meeting will be scheduled without homeowner input.

Step 2: The Hearing Committee must hold a hearing, hear evidence, and then vote whether to approve or reject the fine(s) proposed by the Board.

After the 14 days has expired, the Hearing Committee meets with the homeowner as requested. If the homeowner did not request a hearing, the Hearing Committee meets without the homeowner present. The meeting is not open to the HOA membership for attendance. The homeowner requesting the hearing may bring witnesses, documentation, and legal counsel to the hearing if they choose.

The Hearing Committee has the ultimate authority to determine whether the proposed fine is levied. The Committee makes its decision and reports back to the Board. If the Hearing Committee does not agree with the HOA's proposed fine, the fine cannot be levied.

HOA Board members cannot attend Hearing Committee meetings

Step 3: The Board of Trustees holds a meeting to review the Hearing Committee determination.

The Hearing Committee report/decision is reviewed at a subsequent Board meeting. If the Hearing Committee approved a fine being levied, a final written notice is sent to the homeowner informing them a fine has been levied and giving the homeowner five (5) days in which to pay the fine. The Hearing Committee does not notify the person of the fine. All correspondence with the homeowner will be done by the Board.

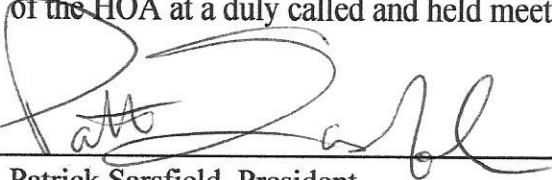
Fines will begin (5) days after notice of the approved fine is provided to the home owner. Each day the violation continues is considered a separate violation and will be fined up to a maximum of \$1,000. Fine schedule will be \$100 per day per fine for all violations.

If/when the unpaid fine amount reaches \$1,000, the Association may place a lien on the homeowner's property to collect the fines. A lien action would entitle the HOA to the same rights to claim attorneys' fees and court costs as any other collection action. The lien process is not permitted if the fine is less than \$1,000. The HOA cannot initiate a lien if the fined homeowner cures the violation before it reaches the \$1000 threshold.

The HOA may suspend the member's right to vote for any homeowner more than 90 days delinquent in fine payments.

Unpaid fines will be maintained on the property account and included in the estoppel letter for any future sale of the property. If the homeowner rents out the home, the HOA can make demand for the tenant to pay the rent to the Association until the fine is paid in full.

The Undersigned hereby certifies that the forgoing resolutions were adopted by the Board of Trustees of the HOA at a duly called and held meeting of the HOA on this day 19 December 2021.



Patrick Sarsfield, President
Buckingham Home Owners Association