

**GARDENS OF GULF COVE**  
Fining Process Operational Procedures  
Reviewed and Approved by the Board of Directors on 10/29/20

**1. Scope**

To document the philosophy and procedures relating to Article 9 (Enforcement of Covenants and Abatement of Violations) 2<sup>nd</sup> Amended and Restated Declaration of Covenants and Restrictions. This document does not override or change the Covenants or Bylaws but provides procedures to implement them.

Management and the Fining Committee share a common goal to insure the property owners comply with the Covenants and Restrictions established to maintain standards of aesthetic character of the Gardens of Gulf Cove Property Owners Association.

**2. Philosophy**

The goal is to preserve the beauty, value, and quality of living within the Gardens of Gulf Cove through effective monitoring and enforcement of the standards defined in Article 7 of the Covenants. While it is our desire to achieve voluntary compliance by all owners, use of the fining process and other legal options contained in our Covenants will be used to their fullest extent to ensure that compliance is achieved. It is not our intention to use the fining process to obtain funding.

**3. Enforcement Procedure**

- 3.1 It shall generally be the policy of the Association to issue a Courtesy Letter to first time offenders for minor violations. The Courtesy Letter will explain the violation and require that it be corrected immediately or within a specified time frame prescribed. A sample Courtesy Letter is attached hereto as Exhibit A.
- 3.2 If the Courtesy Letter does not result in the resolution of alleged violation to the satisfaction of Management, a 2<sup>nd</sup> Notice Violation letter shall be issued. The letter shall inform the owner that fining procedure will be initiated if compliance is not achieved by a final "opportunity to cure" date. The letter shall be delivered by regular mail. E-Mail copies may also be sent but are not required. A sample 2<sup>nd</sup> Notice Violation Letter is attached hereto as Exhibit B.
- 3.3 If there is no remedy by the end of the opportunity to cure, Management shall prepare documentation (copies of notices, letters and/or photographs) of the violation for the Board of Director's action to levy a fine and/or suspension.
- 3.4 It shall generally be the policy of the Association that where a person sought to be fined and/or suspended has violated the Governing Documents in the past, or where the alleged violation is sufficiently serious, as determined by Management, fining or suspension procedure may be initiated without a prior warning/opportunity to cure.

**4. Levy of Fines and Suspension of Use Rights**

Management shall present to the Board of Directors evidence of the violation. Evidence may include, but not limited to dates of violation, photos, and corresponding information.

The Board of Directors is solely responsible to determine what remedies shall be levied on a property owner that does not comply with any of the Covenants, Bylaws, Rules and Regulations.

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Per Florida Statute 720.305(2) "The Association may levy reasonable fines." A fine shall be in a reasonable amount deemed necessary by the Board to deter future violations, but in no event shall exceed \$100 per violation against any member. Each day of a continuing violation may be treated as a separate offense, except that no fines shall exceed \$10,000 in the aggregate. A fine of \$1,000 or more may become a lien against a parcel.

Per Florida Statute 720.305(2)(a) "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."

A fine or suspension levied by the Board of Directors may not be imposed without written notice of at least fourteen (14) days to the person sought to be fined or suspended with an opportunity for a hearing before the Fining Committee. Written notice shall be sent to owner's address of record in the Charlotte County tax rolls or public record. Owner is requested to notify the office whether they will attend in person. Viable alternatives may be offered such as conference by telephone or zoom. The owner is advised that they may have an attorney present for the hearing.

## **5. Fining Committee**

### **5.1 Membership:**

- 5.1.1 Per Florida Statute 720.305(2)(b) "... 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."
- 5.1.2 To ensure that three members will be available for a hearing, a fourth member shall be appointed as an alternate in case one of the members cannot attend a hearing.
- 5.1.3 The Committee members shall serve at the pleasure of the Board of Directors.
- 5.1.4 The Board shall have the power to fill vacancies on the Committee and, at any time, remove any member of the Committee with or without cause.

### **5.2 Qualifications:**

- 5.2.1 Member must be a homeowner in the Gardens of Gulf Cove for at least one (1) full year.
- 5.2.2 Member must not have had any compliance violations within the last full year prior to being eligible for appointment to the Fining Committee.
- 5.2.3 Member must be in good standing, not delinquent in annual assessments, and no outstanding fines or fees unpaid.
- 5.2.4 Member must be knowledgeable of the Covenants and Restrictions in order to enhance effectiveness and to ensure that monitoring and enforcement is uniform and fair.

### **5.3 Responsibilities:**

- 5.3.1 Review details of the violation and Board's recommendation prior to the hearing.
- 5.3.2 Review history of any prior fines and relevant information provided by Management.
- 5.3.3 Allow the property owner the opportunity to present at the hearing any information relevant to the violation.
- 5.3.4 The role of the Fining Committee is limited to determining whether to confirm or reject the fine or suspension levied by the Board.



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**6. Final Violation Letter and Notice of Hearing**

- 6.1 Management must coordinate the date and time of the hearing with the Fining Committee members before the letter is sent.
- 6.2 A Final Violation letter and Notice of Hearing will be mailed to the property owner at the address shown in the Charlotte County tax rolls or deed recorded in the Public Records of Charlotte County, Florida (or electronic transmission if authorized by the owner) at least fourteen (14) days prior to the hearing.
- 6.3 The Final Violation letter will include the description of the violation and identify the corresponding Covenant or specific policy in the Rules and Regulations.
- 6.4 This 14-day requirement is not a 14-day grace period to correct the violation.
- 6.5 Owner is requested to notify the office whether they will attend in person. Viable alternatives may be offered such as conference by telephone or Zoom.
- 6.6 The owner is advised that they may have an attorney present for the hearing. If so, owner must notify Management 7 days prior to hearing.
- 6.7 The Fining Hearing is open to membership and notice shall be posted 48 hours in advance in a conspicuous place on the Association Property and shall set forth the date, time, and place of such meeting. This can be an official notice on the association website or bulletin board at the Management office.

**7. Fining Committee Hearing**

- 7.1 Management will present to the Fining Committee all evidence of the violation. Evidence includes, but is not limited to dates of violation, photos, copies of correspondence, any other relevant documentation.
- 7.2 Verify the property owner has been properly noticed of the hearing.
- 7.3 If present, the owner will have the opportunity to present their facts and defenses to the Fining Committee. Information to be considered must pertain to the property owner's violation at hand. Other owner property situations are not considered relevant.
- 7.4 In the event the violator does not request to be heard or fails to appear at the hearing, the hearing should continue with a decision to be made by the Fining Committee.
- 7.5 The Fining Committee must remain impartial.
- 7.6 The Fining Committee can ask for a deliberation time after the case has been presented.
- 7.7 The Fining Committee cannot make any changes or negotiate the fine amount or suspension. The role of the fining committee is simply to accept or reject the fine or use of right suspension enacted by the Board.
- 7.8 If the fine or suspension levied by the Board is approved by the Fining Committee, by majority vote, the fine payment is due 5 days after the date of the committee meeting at which the fine is approved. The fine shall be treated as a special assessment.
- 7.9 If the Committee, by majority vote, does not approve a proposed fine or suspension, the proposed fine or suspension may not be imposed, and the compliance issue will be dismissed.
- 7.10 The Fining Committee updates the hearing form with their decision and any comments. All Fining Committee members will sign the form.
- 7.11 The decision of the Fining Committee is final and not subject to further appeal.

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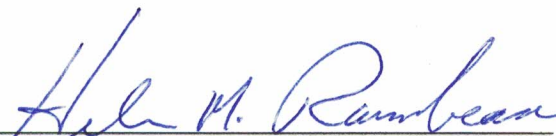
**8. Implementation of Fines, Corrective Actions and Suspensions**

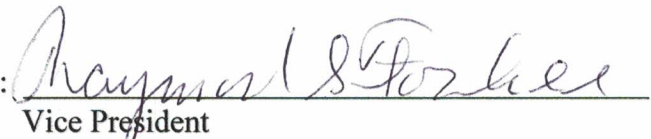
- 8.1 The Association will provide written notice (Notice of Decision) regarding whether the fine was approved or disapproved by the Committee by mail or hand delivery to the parcel owner. In the case of fines, a fine shall be treated as a special charge due to the association five (5) days after written Notice of Decision from the association to the owner. In the case of suspension of use rights, the length of suspension period and date to begin and end shall be included in the Notice of Decision.
- 8.2 The decision of the Fining Committee will be made known to the Board of Directors at the next Board meeting.

**9. Non-payment of Fine**

- 9.1 If a fine is not paid by the due date the fine shall accrue interest at the highest rate allowed by law and may be the subject of a late payment fee of \$25.
- 9.2 When the fine equals or exceeds \$1,000 the property shall be sent to the Association attorney to initiate legal action against the property. Some options include, but not limited to, a lien on the parcel or court order to collect the money from rent being paid by property tenant if applicable.
- 9.3 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 a court.
- 9.4 Per Florida Statute 720.305(3) "If a member is more than 90 days delinquent in paying any fee, fine, or other monetary obligation due to the association, the association may suspend the rights of the member, or the member's tenant, guest, or invitee, to use common areas and facilities until the fee, fine, or other monetary obligation is paid in full." The notice and hearing requirement under FS 720.305(2) do not apply to a suspension imposed under this subsection. Suspensions imposed pursuant to subsection (3) must be approved at a properly noticed board meeting. Suspension must be an item on the agenda to be discussed and approved by majority of the Board of Directors. Upon approval, the association must notify the parcel owner and, if applicable, the occupant, licensee, or invitee by mail or hand delivery. The suspension ends upon full payment of all obligations currently due of overdue to the association.

IN WITNESS WHEREOF, the undersigned have executed this Resolution on the 29<sup>th</sup> day of October, 2020.

Signed:  Date: 10-29-20  
President

Signed:  Date: 10/29/20  
Vice President



# Exhibit A

## Courtesy Letter (Sample)

### Gardens of Gulf Cove POA

~ A Deed Restricted Community ~

6464 Coniston Street, Port Charlotte, FL 33981

Phone: 941-697-4443

gardensofgulfcove@gmail.com



(Date)

OWNER NAME

Street Address

City, State ZIP

RE: (*Address of Violation*)

Dear Property Owner,

In order to maintain the property values and aesthetic appeal of the Gardens of Gulf Cove for all homeowners, the Board of Directors and Management office have the duty to uphold the governing documents of the community. This letter is being sent as a friendly reminder of an area of concern with your property.

We are requesting that the following be corrected [ immediately/within the next \_\_\_\_ days. ]

( *DESCRIPTION OF VIOLATION* )

This is a violation of Article \_\_\_\_\_ in the Gardens of Gulf Cove 2<sup>nd</sup> Amended Declaration of Covenants & Restrictions.

For further clarification, you may also view the association governing documents in their entirety on our website at [www.TheGardensofGulfCove.com](http://www.TheGardensofGulfCove.com) under Documents & Forms in the left side panel, then click on Declaration of Covenants & Restrictions. If you should have any questions or concerns, please call the office at (941) 697-4443 during office hours, 9:00 am to 4:00 pm, Monday through Friday.

Sincerely,

Lori Milakeve, Compliance Officer

*Assistant Community Association Manager*

**Gardens of Gulf Cove POA Inc.**

Phone: 941-697-4443

Email: GardensCompliance@gmail.com

# Exhibit B

## 2<sup>nd</sup> Notice Violation Letter (Sample)

### Gardens of Gulf Cove POA

~ A Deed Restricted Community ~

6464 Coniston Street, Port Charlotte, FL 33981

Phone: 941-697-4443

gardensofgulfcove@gmail.com



(Date)

OWNER NAME

Street Address

City, State ZIP

RE: (Address of Violation)

Dear Property Owner,

Attached please find a copy of the Courtesy Letter, dated \_\_\_\_\_. In this letter, you were informed that \_\_\_\_\_ is a violation of the 2<sup>nd</sup> Amended & Restated Declaration of Covenants & Restrictions, Article \_\_\_, \_\_\_\_\_. You were given \_\_\_\_\_ days to correct the Violation and there has been no remedy or response from you.

The Gardens of Gulf Cove POA is a deed restricted community with established standards of aesthetic appeal. When you purchased your property you became a member of the Gardens of Gulf Cove and therefore agreed to abide by the governing documents.

Please remedy the above violation by \_\_\_\_\_. If you choose not to, the Association intends to take corrective action and the issue will be immediately forwarded to the Board of Directors as a fining matter.

For further clarification, you may also view the association governing documents in their entirety on our website at [www.TheGardensofGulfCove.com](http://www.TheGardensofGulfCove.com) under Documents & Forms in the left side panel, then click on Declaration of Covenants & Restrictions. If you should have any questions or concerns, please call the office at (941) 697-4443 during office hours, 9:00 am to 4:00 pm, Monday through Friday.

Sincerely,

Lori Milakeve, Compliance Officer

*Assistant Community Association Manager*

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