

**JOHNS CREEK PROPERTY OWNERS ASSOCIATION, INC.**

**RESOLUTION ESTABLISHING ENFORCEMENT PROCESS**

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**THIS RESOLUTION** is made this 7<sup>th</sup> day of December, 2022 by the Board of Directors of Johns Creek Property Owners 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 further provides that the Association may levy fines of up to \$100.00 per day for each violation, for failing to comply with the Declaration of Covenants and Restrictions for Johns Creek Property Owners Association, Inc. ("Declaration"), Articles of Incorporation, Bylaws, or Rules and Regulations (hereinafter collectively referred to as "Governing Documents"); and

**WHEREAS**, Section 12.3.2 of the Declaration provides that "the Association may impose a fine or fine against an Owner for failure of an Owner or his guests or invitees to comply with any covenant, restriction, rule or regulation enforceable by the Association"; and

**WHEREAS**, Section 12.3.2(d) of the Declaration further provides that a fine may be imposed for each violation and "no such fine shall exceed the maximum aggregate amount allowed by law for a continuing violation"; and

**WHEREAS**, the Board of Directors 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 resolve them, other members, tenants, guests, and invitees exhibit a continued disregard of the covenants, restrictions, and rules and regulations of the Association; and

**WHEREAS**, the Board of Directors of the Association recognizes the substantial extra management and 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 of Directors has established a committee of at least three (3) members (hereinafter referred to as "Enforcement Committee (EC)") who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director or employee, whose role is limited to determining whether to confirm or reject the fine or suspension levied by the Board. If the proposed fine or suspension levied by the Board is approved by the committee, the fine payment is due **14 days** after the date of the Enforcement

Committee meeting at which the fine is confirmed. 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.

**WHEREAS**, the Board of Directors desires to establish a uniform fining policy and procedure for immediate implementation by the Association, through its Board of Directors, the Enforcement Agent, and the Enforcement Committee (EC), as well as any authorized agent, such as any management company, Community Association Manager ("CAM"), or legal counsel.

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

1. The Board of Directors authorizes the Enforcement Agent, being the individual appointed by a majority vote of the Board at a duly noticed meeting where a quorum is attained, to identify violations of the Association's Governing Documents, impose a fine and/or suspension under the authority delegated by the Board, and provide written correspondence to any party in violation. It is specifically contemplated that this shall be a delegation of the authority to impose a fine on behalf of the Board of Directors as set forth in Section 720.305(2) of the Florida Statutes.
2. Upon discovery of a violation, an Owner, tenant, guest and/or invitee (hereinafter collectively referred to as the "violating party") will be sent a Courtesy Notice in writing detailing the nature of the violation and the timeframe for correcting it. The Courtesy Notice will further include notice that a fine and/or suspension may be imposed if the violation continues after **fourteen (14) days**, if the violation is of a continuing nature, or if the violation is repeated, if the violation is not of a continuing nature.
3. If a violation remains after the **fourteenth (14) day** time period has lapsed, or if the violation is repeated, a second written notice ("Hearing Notice") will be sent to the violating party which shall: (a) cite to the specific provision(s) of the Governing Documents violated; (b) advise the violating party that a fine has been imposed (in an amount not to exceed \$100.00 per day, per violation); (c) advise the violating party that a hearing before the Enforcement Committee {EC} of the Association has been scheduled; and (d) provide the date, time, and location of the Enforcement Committee meeting ("Hearing"), which may not occur sooner than fourteen (14) days after the Association hand delivers the Hearing Notice to the violating party or deposits it in the mail, postage prepaid, whichever occurs first. The Hearing Notice shall constitute evidence of the Enforcement Agent's levying of a fine or suspension against the violating party on behalf of the Board. The Hearing Notice may be sent by the Enforcement Agent or other agent of the Association, including but not limited to the Association's CAM, after receiving

authorization from the Enforcement Agent.

4. A fine may be imposed for each day that a violation continues from the date the Hearing Notice was hand delivered to the violating party or placed in the mail, postage prepaid, whichever occurs first, even if the violation is corrected prior to the Hearing. The Board hereby adopts the Schedule of Fines attached as **Attachment A** to establish the fines or range of fines that may be imposed.
5. At the Hearing, the violating party may provide testimony and other relevant evidence as to why the fine should not be confirmed. The Enforcement Committee (EC) may ask questions of the violating party as part of the hearing process and may consider any relevant evidence presented by a violating party.
6. A violating party desiring to be represented by legal counsel at the Hearing must provide at least **72-hour notice** in advance of the Hearing to the Association, through its management company.
7. Members of the Board, the Enforcement Agent (if not a Board member), the Association's CAM, and any other person with information regarding the violation giving rise to the fine or suspension may, but is not required to, appear at the Hearing. Such persons may provide relevant testimony, information, and other evidence in support of the fine imposed by the Board; provided, however, that the information provided in the Courtesy Notice and Hearing Notice alone may be sufficient to confirm a fine and/or suspension if deemed adequate by the Enforcement Committee. Thereafter, persons choosing to appear shall only participate at the Hearing if questioned by the Association or its authorized agent, a member of the Enforcement Committee (EC), or the violating party. It is the intent of this provision that individuals may appear to offer evidence proving or refuting the occurrence of a violation and to answer any questions asked by the Enforcement Committee (EC) or violating party but may otherwise not offer argument or attempt to influence the determination of the Enforcement Committee (EC).
8. If a majority of members of the Enforcement Committee (EC) appearing at the Hearing where a quorum of the Enforcement Committee (EC) is attained agree on the confirmation or rejection of a fine and/or suspension, the EC Chairperson shall provide a written determination to the management company and/or Board of Directors. The written determination shall only be required to include the determination of whether the fine and/or suspension was confirmed or rejected and need not contain discussion of the issues or evidence. Upon receipt of the written determination, the management

company or Board of Directors shall send written notice to the violating party providing the decision of the Enforcement Committee (EC) and advising that the violating party must pay the fine within fourteen (14) days of the date the notice was hand delivered or deposited in the mail, postage prepaid, whichever occurs first. The management company or Board of Directors may follow up with appropriate demands for payment and collection action as appropriate. In no instance shall the Board of Directors have the authority to impose a fine or suspension for a violation if the Enforcement Committee (EC) votes to reject a levied fine or suspension; provided, however, the Enforcement Authority may identify future violations and engage in the procedures identified herein irrespective of any prior decision of the Enforcement Committee concerning the same or similar type of violation. A violating party who has corrected a violation but commits the same or a substantially similar violation within **twelve (12) months** of the correction date of the prior violation shall not be entitled to a Courtesy Notice as set forth in Paragraph 2. Instead, the Enforcement Authority may immediately send a Hearing Notice and the violating party may be subject to a fine from the date the Hearing Notice was hand delivered or deposited in the mail, postage prepaid, whichever occurs first.

9. A member is jointly and severally liable with his or her 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 a fine is not paid, the Association may pursue any remedy available at law or in equity to recover the fine and resolve the violation, including without limitation filing a lawsuit to collect a fine and/or enjoin the violation. The prevailing party in any such action shall be entitled to recover from the non-prevailing party all reasonable attorneys' fees and costs incurred, through all stages of litigation, including without limitation pre-suit attorneys' fees and costs associated with attempting to correct the violation or recover the fine and attorneys' fees and costs associated incurred incident to establishing the amount and reasonableness of attorneys' fees and costs to be awarded. However, if a fine reaches \$1,000.00 in the aggregate for a violation, the fine shall be considered an assessment against the member's lot and may be collected in the same manner as an unpaid assessment. The unpaid assessment shall bear interest, late fees, and reasonable attorney's fees and costs incident to collection, all of which shall be secured by the Association's lien for assessments. The Association may record a claim of lien in the Official Records of St. Johns County, Florida and pursue foreclosure in the manner provided by law.
10. Any reference to days or months in this resolution shall mean calendar days or months, not business days. This procedure provides one, optional method of enforcing the Governing Documents and may be pursued in conjunction with any other right or remedy available at law or in equity.

**RESOLVED** on this 7th day of December, 2022, by the Board of  
Johns Creek Property Owners Association, Inc.

JOHNS CREEK PROPERTY OWNERS ASSOCIATION, INC.

By: Shawn C Birst  
Shawn C Birst, President

By: Della Boyea  
Della Boyea, Secretary