

Julington Creek Plantation Property Owners' Association, Inc.
Board Policy

Subject: **Covenant Enforcement**

Julington Creek Plantation ("JCP") is a deed-restricted community that is governed by the Julington Creek Plantation Property Owners' Association, Inc. ("POA"), and has a Board of Directors ("BOD") that has a responsibility to enforce the property covenants and use restrictions applicable to all of JCP, and the Articles of Incorporation of the POA, the Bylaws of the POA, and other rules and regulations adopted by the POA from time to time. The covenants, Articles, Bylaws and such rules and regulations, as may be amended, are collectively referred to herein as the "Covenants". This policy sets forth certain processes the POA may utilize in the pursuit of its responsibilities to enforce the Covenants when violated.

1. Covenant Enforcement Oversight

The POA employs a licensed community association management firm, or Property Manager ("PM"), that is responsible for inspecting the community on a periodic basis towards identifying violations of the Covenants, and coordinating all Covenant enforcement and compliance activities of the POA, pursuant to conditions contained within the Covenants, applicable law, and other processes established by the BOD. Where the PM identifies a violation, the PM shall follow the processes of this policy towards resolving the violation. If the PM is uncertain as to the appropriate response required to a particular violation, the PM shall take the matter to the BOD for guidance or instructions. The PM shall maintain a record of all outstanding violations of the Covenants, to include the initial date of identification, actions taken to resolve the violation, and current status.

2. Architectural Control Committee

The BOD appoints an Architectural Control Committee ("ACC") whose function is to review owner applications for new and renovation projects, and applications resulting from detected architectural-related violations.

3. Covenants Enforcement Committee

The BOD appoints a Covenants Enforcement Committee ("CEC") whose function is to determine if fines levied for a violation of the Covenants by the BOD are appropriate. The CEC may impose all, a portion, or none of a levied fine. The CEC functions pursuant to certain rules set forth in the Covenants and applicable law. The CEC does not participate in determining violations, may not suggest or approve a remedy of a violation, and may not declare a reported violation to be invalid. Curing a violation before a CEC hearing does not automatically waive a fine levied by the BOD or imposed by the CEC, but may be considered by the CEC as a mitigating factor when deciding

whether to impose a fine. Initial or late application fees charged an owner for ACC applications, and other such fees charged an owner, are not fines and cannot be waived by the CEC.

4. Categories of Violations

The POA establishes two categories of covenant violations that are subject to fines by the POA:

- A. **ACC Violations** – These violations occur when 1) an owner does not acquire the required ACC approval prior to making an improvement to their property, or 2) an owner acquires ACC approval of a proposed improvement, but fails to perform the improvement as approved.
- B. **Non-ACC Violations** – Examples of such violations would be the parking of unauthorized vehicles or boats in residence driveways, trashcans placed in unacceptable locations, yard maintenance issues, etc.

5. Priority of Violations

Violations will usually be processed by the PM in the order they are identified. However, violations the PM or BOD believe to be of a serious nature may be processed in an expedited fashion.

6. Notice of Violation

Upon the identification of a violation, the PM shall follow the below process of notification to the affected property owner:

- A. Owner shall be sent a “**first letter**” advising owner of the violation, and request the violation be corrected within ten (10) days. This letter will also ask the owner to contact the PM if owner intends to correct the violation, but requires more than ten (10) days to do so.
- B. If resolution is not attained by the “first letter”, the PM shall, generally within ten (10) days after the last day of the ten (10) day period under the “first letter”, send the owner a “**second letter**” advising the owner of the continuing violation, require the violation be corrected within ten (10) days, and advise that failure to comply may result in fines being levied against the owners account. This letter will also ask the owner to

contact the PM if owner intends to correct the violation, but requires more than ten (10) days to do so.

- C. If resolution is not attained by the “second letter”, the PM shall, generally within ten (10) days after the last day of the ten (10) day period under the “second letter”, send owner a “**third letter**” advising of the date the violation will be presented to the CEC for its consideration of the imposition of any fine levied by the BOD. This “third letter” must be sent to owner at least fourteen (14) days prior to the CEC hearing date.

Except for the required fourteen (14) day prior notice of the “third letter”, the PM may alter the number of days allowed an owner to comply with a violation notice letter, due to the complexity of correcting the violation or other relevant factors that the PM determines justifies a longer time to comply. Doing so shall not require the POA to afford other residents the same number of days as every case is different.

The preceding notice requirements of this provision shall not affect, restrict or limit the requirements upon the POA to provide prior notice to property owners relating to its exercise of any rights it holds under the POA governing documents to enter upon property subject to the governing documents to itself correct or otherwise resolve violations of the governing documents (commonly referred to as “self-help” rights).

7. Fines

Any violation of the Covenants identified by the PM, if not cured within the curing period set forth in written notices provided owner by the PM, may result in the BOD levying a fine in an amount up to the maximum daily and total amount allowed by applicable law for each day the violation continues, beginning with the day the violation is first identified. If a fine is levied, it is not charged to the violators account until imposed by the CEC.

8. Referral of Violations to the CEC

Cases will be presented to the CEC if the violation is not adequately resolved to the POA’s satisfaction prior to the “third letter” being sent to the owner. That is, cases shall not be withdrawn if resolved after the “third letter” (referral to the CEC) is sent to the owner. However, the offending owner may present evidence that the violation was resolved after the “third letter” was sent during a CEC hearing.

The following **referral** process shall be followed based on the category of violation:

A. **ACC Violations** – All cases are to be referred to the CEC for hearings on the levied fines pursuant to the “third letter” referenced under preceding Section 6. C.

B. **Non-ACC Violations**

Non-ACC violations can be handled in one of the two following ways – individually or as part of a group.

1.) Referred **individually** pursuant to the “third letter” referenced under preceding Section 6. C., or

2.) Referred as **part of a group**.

A.) Such cases are sent the “first letter” and “second letter” as set forth in preceding Sections 6. A. and B.

B.) The PM will send the owner (in place of the “third letter” referenced under preceding Section 6. C.) a written Notice of Fine and advise the BOD has fined them (that is, levied a fine) for a previously specified violation; the amount of the fine; that the fine will be automatically imposed against their account unless the owner requests a hearing before the CEC with fourteen (14) days after the date of the Notice; and if the owner requests a hearing within the fourteen (14) day period, the fine will not be imposed until the matter is heard by the CEC, and then only if the CEC votes to impose the fine.

C.) If owner responds within the preceding fourteen (14) day period and requests a CEC hearing, the PM will then provide owner prior written notice of the scheduled CEC hearing date. The CEC conducts a hearing and makes a determination on the levied fine.

D.) If owner does not respond within the specified period, the case will be set for a hearing at the CEC’s next scheduled meeting, and placed on a consent agenda for consideration by the CEC.

The CEC conducts a hearing and makes a determination on the levied fine.

9. Fines & Clemency

The decision of the CEC should be considered as final.

10. Notice of Intended Enforcement Action / Attorney Demand Letter

Enforcement efforts will not cease because or after a violation is sent to the CEC. That is, any action taken by the CEC is separate from the POA's enforcement actions.

- A. If an owner who is sent a "third letter" or Notice of Fine does not, within ten (10) days of the date of the "third letter" or Notice of Fine, respond and present an acceptable written plan to resolve the violation, the PM shall send the offending owner a "Notice of Intended Enforcement Action".
- B. If an owner who is sent a Notice of Intended Enforcement Action does not, within five ((10) days of the date of the Notice, respond and present an acceptable written plan to resolve the violation, the PM shall (subject to the prior approval of the POA President) direct the POA attorney to send an Attorney Demand Letter to the offending owner.

11. Reporting of Failure to Cure Cases to the BOD

The PM shall report outstanding violations to the BOD at the following times:

- A. Any violation that 1) has not been resolved by the actions taken through preceding Section 10; 2) has not been corrected within any period established by the POA; or 3) the PM believes should be presented to the BOD for its review.
- B. Within one (1) year of initial action by the POA.
- C. Any violation that is believed to have first occurred more than three (3) years ago, or the age of which cannot be determined.

Such cases shall be reported to the BOD as part of its next regular meeting for consideration of enforcement action. At that meeting, the BOD shall be provided

sufficient information regarding the uncorrected violation(s), and information regarding the owners past violation and compliance history.

12. Possible Actions by the BOD

The BOD may, in a duly called meeting, consider any of the following actions (in no certain order) to encourage or force correction of the violation:

- A. Exercise any “self-help” rights the POA may hold to bring the violation into compliance.
- B. Direct the POA attorney to send the offending owner an Attorney Demand Letter specifying one or more of the following:
 - 1) An expected compliance date.
 - 2) An offer to mediate the matter on either an informal or formal basis.
 - 3) Other matters considered appropriate to the violation and its enforcement, including notice that the POA may elect to initiate litigation if the violation is not corrected.

The POA President may authorize the PM to direct the POA attorney to send the offending owner this letter, which approval by the President shall be placed to writing at the time of approval.

- C. Initiate pre-suit mediation against the owner. At the time of this directive the BOD should advise the POA attorney if it wishes to proceed with litigation without further BOD authorization if the pre-suit mediation is not successful.
- D. If pre-suit mediation is not successful, discuss pursuing litigation seeking a judgment ordering correction of the violation.
- E. Any other potential remedies the BOD believes might result in compliance under conditions acceptable to the POA.

The BOD shall undertake any such actions to cure uncorrected violations subject to the Covenants, applicable law, and upon reasoned deliberations.

13. Amendment

This policy may be amended or terminated by the BOD during a duly called meeting.

Adopted: 5-29-13
Revised: 12-7-16
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