

**RESOLUTION ESTABLISHING FINING COMMITTEE ("COMPLIANCE COMMITTEE")  
AND CREATING FINING PROCEDURES**

**WINDWARD ESTATES HOMEOWNERS ASSOCIATION, INC.**

WHEREAS, the Windward Estates Homeowners Association, Inc. ("Association") is the corporation charged with the operation, maintenance, and management of Windward Estates ("the Community"); and

WHEREAS, Section 720.305(2), Florida Statutes, provides, in part:

- An association may levy reasonable fines.
- A fine may not exceed \$100 per violation against any member or any member's tenant, guest, or invitee 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 unless otherwise provided in the governing documents.
- A fine may be levied by the board for each day of a continuing violation, with a single notice and opportunity for hearing, except that the fine may not exceed \$1,000 in the aggregate unless otherwise provided in the governing documents.

WHEREAS, the Association is desirous of empowering a Compliance Officer with the authority to initiate the fining process by authorizing the issuance of required notices and otherwise administering the fining procedure; and

WHEREAS, the Association is also desirous of creating a Compliance Committee (the "Committee"), as contemplated by Section 720.305(2)(b), Florida Statutes.

NOW, THEREFORE, it is hereby resolved as follows:

1. The above recitations are true and correct and are hereby incorporated into this Resolution.
2. The Committee shall consist of no less than three (3) members, who may be appointed by the Board from time to time. The Committee members shall serve at the pleasure of the Board of Directors. The Committee members may be removed or replaced on motion of the Board, documented in the minutes, without need for further resolution of the Board. The Committee members may not be officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee. The Board shall have the power to fill vacancies in the Committee and, at any time, remove any member of the Committee with or without cause. The Board shall also have the power to dissolve such Committee. The Committee shall, amongst itself, elect a Chair and, if desired by the Committee, a Vice-Chair.
3. The Board will designate a Compliance Officer who is authorized to, in appropriate situations, initially address violations through the issuance of a "Notice of Violation," generally in the form attached to this Resolution as Exhibit "1" or similar form promulgated by the Board. The Compliance Officer shall be a community association manager or a board member or officer appointed pursuant to Article VIII of the Bylaws, and this person shall be referred to in this Resolution as the "Compliance Officer." The Compliance Officer may confer with the President and/or legal counsel in attending to this function, but shall be delegated the general authority and responsibility to provide initial notices of violations of the

Governing Documents (which shall include the Declaration of Covenants and Conditions, the Articles of Incorporation, the Bylaws, and the Rules and Regulations), as well as violations of any policies, resolutions or lawful orders of the Board of Directors, or applicable provisions of law; all of which shall be referred to in this Resolution as a violation of the Governing Documents. The Compliance Officer may confer with the President and/or legal counsel, but shall be delegated the general authority (subject always to contrary direction by the President or the Board) to determine which violations shall be initially addressed through a warning letter first sent, and which such proceedings may be initiated without the provision of a prior warning through issuance of a Notice of Violation, referenced above. It shall generally be the policy of the Association to issue prior warnings to first time offenders for minor violations.

4. Assuming that the Notice of Violation does not result in the resolution of an alleged violation to the satisfaction of the Compliance Officer, or in cases where no Notice of Violation is issued, the Compliance Officer, on behalf of the Board, shall be empowered with the authority to initiate the fining process by placing on the agenda for a regular or specially scheduled meeting of the Board of Directors the consideration of levying a fine.

5. If at the meeting of the Board of Directors, a majority of the Board votes to levy a fine, the Lot(s) and person(s) against whom the fine is levied shall be delivered written notice of the Board's action levying the fine and further be notified of a hearing before the Committee where the fine shall be considered by the Committee for confirmation or rejection of the fine. The written notice shall be in a form generally equivalent to the "Notice of Hearing" attached here to as Exhibit "2," and shall be delivered by certified mail, return receipt requested, with an additional copy by regular mail. E-Mail copies may also be sent, but are not required. If the fine is confirmed by the Committee, the fine may be deemed imposed without further action of the Board of Directors.

6. The Committee shall be empowered with the authority to conduct fining hearings. At least a majority of the Committee Members are required for a quorum of the Committee. Actions of the Committee shall be by vote of a majority of the Committee Members present. At said hearings, the Committee shall be empowered with the authority to either confirm or reject the fine levied by the Board. The Owner and, if applicable, the party against whom the fine is sought to be imposed (if different from the Owner), shall have an opportunity to respond, to present evidence, and to provide written and oral argument on all issues involved and shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. Formal rules of evidence shall not be applicable.

7. Once the fine is imposed, the Compliance Officer shall deliver a "Notice of Imposition of Fine" in a form generally equivalent to Exhibit "3" attached hereto by mail or hand delivery.

8. The Board may delegate such other powers and duties to the Compliance Officer or to such other person as may be necessary or appropriate under the circumstances. The Board may adopt additional policies and procedures for the Compliance Officer or such other persons to follow, or to be utilized in connection with the fining process, as amended from time to time.

9. General compliance with this Resolution shall be sufficient, it being intended to be used as a guideline to ensure fairness in the fining process. It is the intention of this Resolution and its exhibits that persons sought to be fined are given a reasonable notice to be heard before the imposition of a fine. The Compliance Officer, in consultation with the President, where appropriate, shall have the authority to disregard the provisions of this Resolution in circumstances where the alleged behavior of a person constitutes a violation of criminal law, or poses a threat to the health, peace, safety, or welfare of the residents of the Community, or in other circumstances where the Association believes such disregard is justified. Compliance with this Resolution and the imposition of fines shall not be deemed a

prerequisite to the initiation of legal proceedings or other remedies to enforce the Governing Documents.

This Resolution was adopted at the Board of Directors' Meeting held Aug 15, 2020

There are 5 total Board members.

The number of Board members who voted in favor of this Resolution is 5.

The number of Board members who voted against this Resolution is 0.

The vote of each Director is reflected in the minutes of the meeting at which this Resolution was adopted.

WINDWARD ESTATES HOMEOWNERS ASSOCIATION,  
INC.

BY: 

Trevor Brown, President

Date: 8/15/2020

**EXHIBIT 1 – NOTICE OF VIOLATION**

**NOTICE OF VIOLATION**

\_\_\_\_\_ [Date Sent]

**FIRST CLASS MAIL**

TO: [Owner Address of Record, Name All Record Owners per Deed, if Owner Occupied Lot] or  
[Tenant/Non-Owner Occupant at Lot's Address, if Non-Owner-Occupied Lot]

Dear [Owner, if Owner Occupied Lot] or [Name Tenant/Non-Owner Occupant, if Non-Owner-Occupied Lot]:

The following violations of the Governing Documents have been noted:

*[Insert violation(s) here including citation to Governing Documents and as much detail as possible as to date(s), time(s) and place(s) of alleged violation(s).]*

Please be advised that if this violation (*these violations*) is (*are*) not corrected by [date\*]<sup>1</sup>, or if further violations occur, the Association reserves the right to take further action against you to enforce the Governing Documents. You are required to *[fill in demanded relief here]*.

If you fail to comply, further legal action may ensue without further notice or demand. Such legal action may include (but is not limited to): the imposition of a fine following a proper notice and opportunity for hearing as required by law; and/or the filing of a lawsuit for damages in the court of appropriate jurisdiction; and/or the filing of a lawsuit for an injunction in the court with appropriate jurisdiction; and/or the service of a demand for mediation pursuant to Section 720.311, Florida Statutes. In the event the Association takes any of the foregoing legal actions, the Association will seek to recover its attorneys' fees and costs as permitted by the Governing Documents and the Florida Homeowners' Association Act, Chapter 720 of the Florida Statutes.

*[Include this paragraph only if Lot is Non-Owner Occupied]* This Notice is also being provided to the record Owner(s) of the Lot. Pursuant to Florida law and the Governing Documents, the Owner is jointly and severally liable for the conduct of his or her tenants, and the occupants of the Lot, as well as their guests, licensees, or invitees. Accordingly, if the violation is not corrected, this letter serves as notice that the Association may also take the above-referenced actions against the Owner(s), either directly, or jointly and severally.

Very truly yours,

*[Compliance Officer]*

On behalf of the Board of Directors

cc: *[If Owner Occupied, Owner by e-mail, if Association has e-mail address, but e-mail optional]*

*[If Non-Owner Occupied, Tenant/Non-Owner Occupant by e-mail if Association has e-mail address, but e-mail optional]*

*[If Non-Owner Occupied, Owner Address of Record by regular mail and e-mail if Association has e-mail address, but e-mail optional]*

*[Board President]*

---

<sup>1</sup> \* In general, 10 days' notice will be given for correction of most violations. Other violations may result in the initiation of a proposed fine without a prior warning, and this letter would not be used. The Compliance Officer shall have the authority to require more timely compliance, including immediate compliance, in appropriate circumstances, as well as more liberal compliance deadlines, as determined in the discretion of the Compliance Officer in consultation with the President.

**EXHIBIT 2 - NOTICE OF HEARING**  
**(SEND AT LEAST 20 DAYS IN ADVANCE OF HEARING)**

**NOTICE OF HEARING**

\_\_\_\_\_ [Date Sent – Must be at least 20 days before hearing]

**CERTIFIED MAIL #** [Fill in Tracking Number from Green Card Here]

TO: [Owner Address of Record, Name All Record Owners per Deed, if Owner Occupied Lot] or  
[Tenant/Non-Owner Occupant at Lot's Address, if Non-Owner-Occupied Lot]

Dear [Owner, if Owner Occupied Lot] or [Name Tenant/Non-Owner Occupant, if Non-Owner-Occupied Lot]:

Section 720.305(2), Florida Statutes and the Association's Resolution Creating Fining Committee ("Compliance Committee") and Adopting Fining Procedures authorizes Windward Estates Homeowners Association, Inc. ("the Association") to levy reasonable fines against any Owner or any Owner's tenant, guest, or invitee for the failure of the Owner of the Lot or its occupants, licensees, or invitees to comply with any provision of the Governing Documents.

[If fining and Notice of Violation was given in advance, use this paragraph] The violation described in the Association's Notice of Violation dated \_\_\_\_\_, 20\_\_\_\_, **copy attached**, has not been corrected and/or has resumed. Accordingly, the Association's Board of Directors has levied a fine against you in the amount of [insert amount of fine/\$100.00 per day per violation, up to \$1,000 in the aggregate for a continuing violation and state per day fine and number of days].

[If fining and NO Notice of Violation was given in advance, use this paragraph instead of previous paragraph] The Association's Board of Directors has levied a fine against you in the amount of [insert amount of fine/\$100.00 per day per violation, up to \$1,000 in the aggregate for a continuing violation and state per day fine and number of days]. The following violations of the Governing Documents have been noted with regard to the Lot you own and/or are occupying at \_\_\_\_\_, or the conduct of you, your Lot's tenants, occupants, guests, licensees, or invitees. [Insert violation(s) here including citation to Governing Documents and as much detail as possible as to date(s), time(s) and place(s) of alleged violation(s).]

Pursuant Section 720.305(2)(b), Florida Statutes, a hearing before the Compliance Committee (the "Committee," an impartial committee of Owners who are neither officers, directors or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee), will be held on the [day] day of [month] 20[year], at [time] at [place, include address] to determine whether to confirm or reject the fine levied by the Board of Directors.

You have a right to attend the hearing to respond, to present evidence, and to provide written or oral argument. You shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. You also have a right to be represented by counsel at the hearing. If you intend to appear with counsel, please notify the Association, in writing, no later than seven (7) days prior to the hearing so that the Association has sufficient time to arrange for its counsel to be present should it choose to do so.

If you fail to appear at the hearing, the fine, if confirmed by the Committee, will be imposed after a hearing has been conducted in your absence. If you have any questions about scheduling, please contact [Association Compliance Officer] at [phone number] or [e-mail address].

In the event that the Committee confirms the fine levied by the Board of Directors, the fine will be imposed. If the Committee rejects the fine, it will not be imposed. You will receive written notice of any fine imposed.

*[Include this paragraph only if Lot is Non-Owner Occupied]* This Notice is also being provided to the record Owner(s) of the Lot. Pursuant to Florida law and the Governing Documents, the Owner is jointly and severally liable for the conduct of his or her tenants, and the occupants of the Lot, as well as their guests, licensees, or invitees. Accordingly, the fine may also be imposed against the Owner(s), either directly, or jointly and severally. In cases where only a non-Owner (e.g., tenant, occupant or invitee) is fined, the Owner shall be jointly and severally liable for payment of the fine.

Very truly yours,

*[Association Compliance Officer]*  
On behalf of the Board of Directors

cc: *[If Owner Occupied, Owner Address of Record by regular mail w/ encl. and e-mail w/encl., if Association has e-mail address, but e-mail optional]*  
*[If Non-Owner Occupied, Tenant/Non-Owner Occupant by regular mail w/ encl. and e-mail mail w/encl., if Association has e-mail address, but e-mail optional]*  
*[If Non-Owner Occupied, Owner Address of Record by Certified Mail (with tracking number) w/encl., regular mail w/ encl. and e-mail w/encl., if Association has e-mail address, but e-mail optional]*  
*[Board President]*

**EXHIBIT 3 - NOTICE OF FINE**

**NOTICE OF IMPOSITION OF FINE**

\_\_\_\_\_ [Date Sent]

**CERTIFIED MAIL #** [Fill in Tracking Number from Green Card Here]

TO: [Owner Address of Record, Name All Record Owners per Deed, if Owner Occupied Lot] or  
[Tenant/Non-Owner Occupant at Lot's Address, if Non-Owner-Occupied Lot]

**Re: Notice of Violation Dated [Include date and use only if Notice of Violation was given in advance]; Hearing Held \_\_\_\_\_, 20\_\_\_\_\_**

Dear [Owner, if Owner Occupied Lot] or [Name Tenant/Non-Owner Occupant, if Non-Owner-Occupied Lot]:

On \_\_\_\_\_, 20\_\_\_\_\_ [fill in date of hearing], the Compliance Committee (the "Committee") confirmed the fine levied by the Board of Directors in the amount of [\$\_\_\_\_\_ per day/\$\_\_\_\_\_ cumulative, be specific], as authorized by law.

As such, the Board of Directors has imposed a fine in the total amount of \$\_\_\_\_\_. **Payment of the fine is due (must be received by the Association) no later than five (5) days after the date of the Committee meeting at which the fine is approved, or five (5) days from the date of this letter, whichever is later.**

[Include this paragraph only if Lot is Non-Owner Occupied] This Notice is also being provided to the record Owner(s) of the Lot. Pursuant to Florida law and the Governing Documents, the Owner is jointly and severally liable for the conduct of his or her tenants, occupants, guests, licensees, and invitees and for fines imposed upon them. Accordingly, this Notice serves as notice to the Owner(s) that he/she/they are jointly and severally liable for the payment of the fine.

You may remit payment of the fine to the Association, c/o [edit as appropriate]. Checks should be made payable to the Windward Estates Homeowners Association, Inc. If you fail to pay the fine, the Association reserves all rights available under law to collect the fine. These include (but are not limited to) additional fines as may be permitted by law, filing an action in a court of competent jurisdiction to recover the fine. Pursuant to Florida law, the prevailing party is entitled to recover reasonable attorneys' fees and costs.

Thank you for your prompt attention to this matter.

Very truly yours,

[Association Compliance Officer]

On behalf of the Board of Directors

cc: [If Owner Occupied, Owner Address of Record by regular mail w/ encl. and e-mail w/encl., if Association has e-mail address, but e-mail optional]

[If Non-Owner Occupied, Tenant/Non-Owner Occupant by regular mail w/ encl. and e-mail mail w/encl., if Association has e-mail address, but e-mail optional]

[If Non-Owner Occupied, Owner Address of Record by Certified Mail (with tracking number) w/encl., regular mail w/ encl. and e-mail w/encl., if Association has e-mail address, but e-mail optional]

[Board President]

Prepared by and returned to:

Becker & Poliakoff, P.A.  
Yeline Goin, Esquire  
111 N. Orange Avenue, Suite 1400  
Orlando, FL 32801  
(407) 875-0955

## **CERTIFICATE OF RECORDATION**

### **WINDWARD ESTATES HOMEOWNERS ASSOCIATION, INC.**

#### **RESOLUTION ESTABLISHING FINING COMMITTEE ("COMPLIANCE COMMITTEE") AND CREATING FINING PROCEDURES**

**WHEREAS**, the original Declaration of Covenants and Restrictions for Windward Estates is recorded at Official Records Book 3898, Page 1218 *et seq.*, Public Records of Orange County, Florida, and has been amended from time to time (hereinafter "Declaration"); and

**WHEREAS**, Windward Estates Homeowners Association, Inc. (the "Association") is the entity formed to provide for the ownership, maintenance, preservation and architectural control for the Lots, Property, and Common Areas within the development known as Windward Estates, as described in the Declaration; and

**WHEREAS**, the undersigned officer of the Association hereby certifies that the Resolution Establishing Fining Committee ("Compliance Committee") and Creating Fining Procedures, attached hereto as Exhibit "A", was properly proposed, submitted, and approved at the duly noticed meeting of the Board of Directors on August 15, 2020; and

**WHEREAS**, the Association wishes to provide record notice of the above action by recording this Certificate of Recordation.

**NOW, THEREFORE**, the Association hereby records the attached documents in the public records of Orange County, Florida, as further record notice of the Association's action.



**WINDWARD ESTATES  
HOMEOWNERS ASSOCIATION, INC.**

Darryl Conrod  
Witness

Darryl Conrod  
(PRINT NAME)

Brent Krebs  
Witness

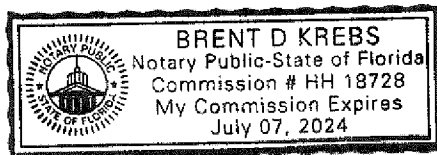
BRENT KREBS  
(PRINT NAME)

By: Trevor Brown  
Trevor Brown, President

Date: 8/20/2020

**STATE OF FLORIDA**  
**COUNTY OF** ORANGE

The foregoing instrument was acknowledged before me by means of physical presence or online notarization this 20 day of AUGUST, 2020, by Trevor Brown, as President of Windward Estates Homeowners Association, Inc., a Florida Corporation. He is personally known to me or has produced (type of identification) \_\_\_\_\_ as identification.



**NOTARY PUBLIC - STATE OF FLORIDA**

Brent D Krebs  
Notary Public

Brent D Krebs  
Printed Name

My commission expires: July 7, 2024