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St. James Crossing

This Instrument Prepared By: Christopher A. Desrochers, Esq., Christopher A. Desrochers, P.L., 2504 Ave. G NW, Winter Haven, FL 33880. (863) 299-8309.

Resolution Regarding the Establishment of the Fining Committee; Establishment of Rules and Regulations Governing the Fining Committee; Establishment of Rules and Regulations of the Board of Directors Regarding the Imposition and Levying of Fines; and Rules and Regulations Providing for Enforcement.

Note: For the purposes of these resolutions, the Declaration of Covenants, Conditions, and Restrictions of and for St. James Crossing, which is duly recorded in OR Book 7670, Page 956, Public Records of Polk County, Florida, together with any subsequent amendments thereto, shall be referred to as "the CCRs".

WHEREAS, St. James Crossing Homeowners Association, Inc., ("the Association") has determined that the use of fines, pursuant to Section 720.305 of the Florida Statutes is beneficial to the residents of St. James Crossing ("the community"); and

WHEREAS, Article VI, Section 1(a) of the Bylaws of the Association, permits the Board of Directors to promulgate reasonable rules and regulations for the entire development; and

WHEREAS, under Article VI, Section 4, of the CCRs, obnoxious or offensive activities are prohibited; and

WHEREAS the Association, through its Board of Directors, has determined that the promulgation of rules and regulations for the fining of residents; to establish rules of procedure; and to establish rules for enforcement of fines is in the best interest of the Association; and

WHEREAS the Association, through its Board of Directors, has determined that rules and regulations for the fining of residents; to establish rules of procedure; and to establish rules for enforcement of fines is necessary to protect the health, safety, and welfare of the residents of the community, as well as to preserve and protect the property values of the community;

THE BOARD OF DIRECTORS of the Association has approved the following resolution, providing for rules and regulations regarding the Establishment of the Fining Committee; Establishment of Rules and Regulations Governing the Fining Committee; Establishment of Rules and Regulations of the Board of Directors Regarding the Imposition and Levying of Fines; and Rules and Regulations Providing for Enforcement, which are as follows:

1. Establishment of the Fining Committee and its Relationship to the Board of Directors.

A. To the extent required by law, the Fining Committee ("the Committee") is hereby established. The Committee shall consist of a number of persons to be determined by the Board of Directors, provided that the number of members on the Committee shall be no less than three. Members of the Committee are to be appointed by the Board at any regular or special meeting of the Board of Directors. Members of the Committee serve at the pleasure of the Board of Directors and may be removed at any time by the Board of Directors, with or without cause. A member of the Committee has no vested rights to being a member of the Committee.

B. Membership of the Committee is limited to members of the Association who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee of the Association. In the event any member who was lawfully appointed subsequently becomes disqualified due to a change in factual circumstances, that member shall be considered disqualified and removed from the Committee at the time the disqualifying event or circumstance occurs.

C. Whenever referred to by statute or otherwise, the Board of Administration shall be the Board of Directors of the Association.

D. The Committee shall serve as a committee of the Board of Directors of the Association.

2. Matters and Persons Subject to Fining.

A. Any matter of which an Association may fine a member for a violation or noncompliance shall be subject to fining. This includes, but is not limited to, any violation of the CCRs; any violation of a duly promulgated resolution, rule, or regulation; and any other violation which may be punished by fining a member under law.

B. The Board of Directors may create a presumptive schedule of fines for common violations. However, any presumptive schedule of fines shall not divest the Board of Directors from imposing or proposing an otherwise lawful fine that is either above or below the presumptive schedule amount, so long as that amount is lawful.

C. The following persons are subject to fining by the Association:

i. Any member of the Association.

ii. Any lessee, tenant, invitee, licensee, permissive use occupant, or guest of a member of the Association.

iii. Any person found or on about any part of the community, including trespassers.

iv. Any joint owner, tenant in common, life tenant, future interest holder, or other person who holds or claims to hold any interest in real property related to a lot in the Association, including squatters, trespassers, licensees, easement holders, and those holding under claims of adverse possession.

3. Rules, Regulations, and Procedure Governing the Imposition and Levying of Fines.

A. Complaints to the Board concerning activities that may result in the proposed levying and imposition of a fine shall be brought by one of the following individuals:

i. an officer or director of the Association.

ii. the community association manager ("CAM") of the Association, if part of the responsibilities of the CAM is enforcement of the CCRs, resolutions, and/or rules and regulations of the Association.

iii. any other person specifically designated by the Association to bring complaints to the Board of Directors of the Association.

The Board of Directors is not required to respond to or act upon any other complaint brought by any other person or entity. The Board of Directors is not required to respond to or act upon any complaint brought anonymously. Any complaint brought by any of the authorized persons in this subsection must be based upon either a violation committed in the presence of that individual, or is based upon competent evidence sufficient to create probable cause that a violation against the Association has occurred. Competent evidence may include hearsay evidence, lawfully obtained videographic and audiographic evidence, and evidence obtained through telecommunications sources, including (but not limited to) emails, text messages, and evidence obtained through online and application sources.

B. Complaints shall be heard by the Board of Directors, who shall determine whether the alleged violation occurred, and the proposed fine to be imposed for the violation. The Board of Directors may use any evidence it deems relevant in making its determinations, including hearsay evidence, and the rules of evidence shall not apply to these proceedings. The Board of Directors may impose a daily fine for violations of a continuing nature.

C. Once the Board of Directors has determined a violation has occurred and has proposed a fine, the matter shall be referred to the Committee. A fine may not be imposed by the Board of Directors without at least 14 days' notice to the person or entity sought to be fined ("the respondent") and an opportunity for

a hearing before the Committee. To that effect, the Committee shall notify the individual or entity subject to being fined of the decision of the Board of Directors and the proposed fine, and their right to a hearing before the Committee. The notice shall contain the month, day, year, time, and place of the hearing.

D. At the hearing, the Board of Directors shall present its case to the Committee; following which, the respondent shall present its case to the Committee; and following which, the Board of Directors shall have the ability to offer evidence and argument in rebuttal. The Board of Directors, as well as the respondent, may present its case through counsel, if it wishes. Parties to the hearing may present evidence in the form of testimony, presentation of documents and other physical evidence, and may also (with the consent of the Committee) present evidence through a summary of the evidence. The rules of evidence governing civil proceedings are not in effect, and the Committee may hear and receive hearsay testimony into evidence.

E. In the event the respondent fails to appear at the hearing, the committee may proceed without the appearance of the respondent, and may accept the absence of the respondent as an admission of violation as charged.

F. The role of the committee is limited to determining whether to confirm or reject the proposed fine levied by the Board of Directors. If the Committee, by majority vote, does not approve a proposed fine, it may not be imposed. If the committee does approve a proposed fine, then the Board of Directors may then officially levy and impose that fine. If the proposed fine is approved by the Committee, the fine payment is due five days after the date of the Committee meeting at which the fine is approved. The Association must provide written notice of such fine by mail or hand delivery to the parcel owner, and, if applicable, to any tenant, licensee, or invitee of the parcel owner, or other affected person or entity.

G. In the event the Committee approves the proposed fine, the imposition and levying of the fine shall be automatic and no further Board action is necessary. The Secretary of the Association shall provide the appropriate notice under subsection (F) of this section, and shall promulgate and record any other documents reasonably necessary to impose and levy the fine. In the event the Committee does not approve the proposed fine, the Board of Directors shall address the matter at its next meeting. If the matter is not addressed at the next meeting, the matter is deemed automatically tabled. Subsequent action on the proposed violation must be by a new complaint.

H. The Board of Directors and the Committee may promulgate reasonable rules and regulations to supplement this Resolution, as well as to govern the conduct of its meetings in relation to this Resolution.

4. Amount of fines and lien status.

A. A fine may not exceed $100.00 (or $100.00 per day for violations of a continuing nature) unless the Board of Directors determines that the violation is a repeat violation or that the violation required the expenditure of Association funds to remedy a matter caused by the violation. In such cases, the fine may exceed $100.00 (or $100.00 per day for violations of a continuing nature).

B. A fine may be levied by the Board of Directors for each day of a continuing violation, with a single notice and opportunity for a hearing, and the fine may exceed $1000.00 in the aggregate. For the purposes of this Resolution, a continuing violation is deemed to have ceased on the day when a duly authorized representative of the Board of Directors has confirmed that the violation no longer exists. The burden is on the violator to contact the Board of Directors once a violation no longer exists to have an authorized representative of the Board of Directors then confirm that the violation no longer exists.

C. The Board of Directors may also levy the costs of prosecution as a fine. This amount shall not count towards the $100.00 limit in subsection (A) of this section. The costs of prosecution may include a reasonable attorney's fee, as well as the fees and costs associated with promulgating the notice of hearing. The fine may also prospectively include any fees and costs associated with levying and enforcing the lien, including, but not limited to, the attorney's fees and costs of any recorded or non-recorded lien notice, and

the attorney's fees and costs of any foreclosure or other enforcement action.

D. A fine of less than $1000.00 may not become a lien against a parcel. A fine of $1000.00 or more shall become a lien against the parcel of any violator. This is self-executory, and no further Board of Directors action is required to establish the lien. The Secretary shall prepare and record the appropriate documents in the public records of Polk County, Florida, to record and impose the lien.

5. Supplemental Nature; Severability; Effective Date.

A. This Resolution shall be considered supplemental to any other remedy the Association may have to cure a breach against the Association. The doctrine of election of remedies shall not apply, and the Association may pursue two or more remedies against the same breach.

B. This Resolution shall be considered remedial and supplemental to any rights the Association may have to impose fines under law.

C. No part of this Resolution shall be construed as violating any governing law. In the event any provision is suspected of violating any governing law, the Association shall have the opportunity to provide a construction that will place that provision in conformance with governing law, and if that is done, that construction shall conclusively be presumed to the be correct construction. In the event no construction will place a provision in conformance with governing law, then the offending portion shall be stricken, and the remaining Resolution shall be enforced.

D. This Resolution shall be effective immediately upon passage.

E. The President and the Secretary of the Association shall have the power to conduct any and all acts to provide that this Resolution shall be valid and effective. This includes, but is not limited to, the power to record this Resolution in the public records, to publish this Resolution to the membership, and to execute any collateral documents deemed reasonable to make this Resolution valid and effective.

I hereby certify that this is a true and correct copy of the foregoing Resolution of the Association.

Dated April 29, 2020.

Cindy Brown
Secretary
St. James Crossing Homeowners Association, Inc.

STATE OF FLORIDA
COUNTY OF POLK

The foregoing instrument was acknowledged before me this 29 day of APRIL, 2020, by Cynthia Brown, Secretary, St. James Crossing Homeowners Association, Inc., who is personally known to me or has produced _____ as identification and who did not take an oath.

Monique Desrochers
Notary

NOTARY PUBLIC STATE OF FLORIDA
MONIQUE DESROCHERS
MY COMMISSION # GG 071893
EXPIRES: March 27, 2021
Bonded Thru Budget Notary Services