

BAHAMIAN CLUB
PROCEDURES FOR FINING OWNERS

Pursuant to Florida Statute 720.305 and the Bahamian Club's Bylaws under Section 4-J, Powers and Duties, the Board has set up the following procedures for fining/suspension of parcel owners, and if applicable, to any tenant, licensee, or invitee of the parcel owner. These procedures will be updated in accordance with Florida Statute as appropriate.

1. The Board determines that a fine is necessary due to a violation that the owner was notified of such violation by the Manager or the Board President in writing, if possible, or verbally.
2. The Board can assess up to \$100.00 per violation per day but may not exceed \$1,000 in the aggregate.
3. The Board proposes a fine to be assessed to the owner per violation as stated above.
4. The Board must provide at least 14 days' notice to the owner of the proposed fine.
5. The owner must have the opportunity to have a hearing before the Fining Committee (at least 3 owners appointed by the Board).
6. The role of the Committee is limited to determining whether to confirm or reject the proposed fine levied by the Board.
7. Committee by majority vote, either approves or disapproves of the proposed fine. If the Committee does not approve the proposed fine, then the fine cannot be imposed.
8. If the Committee approves the proposed fine levied by the Board, the fine payment is due 5 days after the Committee meeting approved the fine.
9. 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.
10. The above also applies to any suspension of use of common areas and facilities. For more specific information on other types of "suspension", refer to the Florida Statute 720.305(3-6)

Approved: 12/11/2021



Dan DiLullo – President



Carol P. Zumbach – Secretary

FLORIDA STATUTE:

720.305 Obligations of members; remedies at law or in equity; levy of fines and suspension of use rights.—

(1) Each member and the member's tenants, guests, and invitees, and each association, are governed by, and must comply with, this chapter, the governing documents of the community, and the rules of the association. Actions at law or in equity, or both, to redress alleged failure or refusal to comply with these provisions may be brought by the association or by any member against:

- (a) The association;
- (b) A member;
- (c) Any director or officer of an association who willfully and knowingly fails to comply with these provisions; and
- (d) Any tenants, guests, or invitees occupying a parcel or using the common areas.

The prevailing party in any such litigation is entitled to recover reasonable attorney fees and costs. A member prevailing in an action between the association and the member under this section, in addition to recovering his or her reasonable attorney fees, may recover additional amounts as determined by the court to be necessary to reimburse the member for his or her share of assessments levied by the association to fund its expenses of the litigation. This relief does not exclude other remedies provided by law. This section does not deprive any person of any other available right or remedy.

(2) The 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. A **fine** of less than \$1,000 may not become a lien against a parcel. 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 the court.

(a) An 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. This paragraph does not apply to that portion of common areas used to provide access or utility services to the parcel. A

suspension may not prohibit an owner or tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park.

(b) A **fine** or suspension levied by the board of administration may not be imposed unless the board first provides at least 14 days' notice to the parcel owner and, if applicable, any occupant, licensee, or invitee of the parcel owner, sought to be **fin**ed or suspended and an opportunity for a hearing before 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. If the committee, by majority vote, does not approve a proposed **fine** or suspension, the proposed **fine** or suspension may not be imposed. The role of the committee 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 5 days after the date of the committee meeting at which the **fine** is approved. 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.

(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. This subsection does not apply to that portion of common areas used to provide access or utility services to the parcel. A suspension may not prohibit an owner or tenant of a parcel from having vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park. The notice and hearing requirements under subsection (2) do not apply to a suspension imposed under this subsection.

(4) An association may suspend the voting rights of a parcel or member for the nonpayment of any fee, **fine**, or other monetary obligation due to the association that is more than 90 days delinquent. A voting interest or consent right allocated to a parcel or member which has been suspended by the association shall be subtracted from the total number of voting interests in the association, which shall be reduced by the number of suspended voting interests when calculating the total percentage or number of all voting interests available to take or approve any action, and the suspended voting interests shall not be considered for any purpose, including, but not limited to, the percentage or number of voting interests necessary to constitute a quorum, the percentage or number of voting interests required to conduct an election, or the percentage or number of voting interests required to approve an action under this chapter or pursuant to the governing documents. The notice and hearing requirements under subsection (2) do not apply to

a suspension imposed under this subsection. The suspension ends upon full payment of all obligations currently due or overdue to the association.

(5) All suspensions imposed pursuant to subsection (3) or subsection (4) must be approved at a properly noticed board meeting. Upon approval, the association must notify the parcel owner and, if applicable, the parcel's occupant, licensee, or invitee by mail or hand delivery.

(6) The suspensions permitted by paragraph (2)(a) and subsections (3) and (4) apply to a member and, when appropriate, the member's tenants, guests, or invitees, even if the delinquency or failure that resulted in the suspension arose from less than all of the multiple parcels owned by a member.

(INCORPORATES AMENDMENTS RECORDED ON 6/20/2018 AT BOOK 7561, PAGES 2084-2087 AND AMENDMENTS RECORDED ON 7/30/2020 AT BOOK 7887, PAGES 1375-1379 (Bylaws 2.1, 3.4, 6, 6.1-6.7, 7.5, 7.6, 7.12, & 8))

**SECOND AMENDED AND RESTATED BY-LAWS OF
THE BAHAMIAN CLUB OWNERS' ASSOCIATION, INC.**

4. POWERS AND DUTIES. The Board of Directors shall have the powers and duties necessary for the administration of the affairs of the Association and may take all acts, through the proper officers of the Association, in executing such powers, except such acts which by law, the Declaration, the Articles or these Bylaws may not be delegated to the Board of Directors by the unit owners. Such powers and duties of the Board of Directors shall include, without limitation (except as limited elsewhere here), the following:

- J. Levying fines against appropriate unit owners for violations of the rules and regulations established by the Association to govern the conduct of such unit owners.