

**RESOLUTION OF  
KINSTON COMMUNITY ASSOCIATION, INC.  
REGARDING POLICIES AND PROCEDURES FOR  
COVENANT AND RULE ENFORCEMENT**

Effective,                     October 8                    , 2021, Kinston Community Association, Inc. (the “**Association**”) hereby adopts the following procedures to be followed when enforcing the covenants and rules of the Association:

1. Reporting Violations. Complaints regarding alleged violations may be reported by an Owner or resident within the community, a group of Owners or residents, the Association's management company, if any, Board member(s) or committee member(s) by submission of a written complaint.
  
2. Complaints. Complaints by Owners or residents shall be in writing and submitted to the Board of Directors, in care of the Association’s manager, if any. The complaining Owner or resident shall have observed the alleged violation and shall identify the complainant (the "**Complainant**"), the alleged violator, if known, the Unit on which the violation exists or occurred, and a statement describing the alleged violation, referencing the specific provisions which are alleged to have been violated, when the violation was observed and any other pertinent information. Non-written complaints or written complaints failing to include any information required by this provision may not be investigated or prosecuted at the discretion of the Association. Complaints by a member of the Board of Directors, a committee member, or the manager, if any, may be made in writing or by any other means deemed appropriate by the Board, if such violation was observed by the Board member, committee member or the manager, if any.
  
3. Investigation. Upon receipt of a complaint by the Association, if additional information is needed, the complaint may be returned to the Complainant or may be investigated further by a Board designated individual or committee, or the Association’s manager, if any. The Board shall have sole discretion in appointing an individual or committee to investigate the matter.
  
4. Enforcement Process for Continuous Violations. Upon determining that a “**Continuous Violation**” (defined as a violation that is ongoing, uninterrupted by time and may take time to cure) has occurred, the Association, acting through the Board or the Association’s management company, if any, shall take the following steps:
  - (a) *Warning Letter.* If the Board, or the Association’s management company, if any, determines that a Continuous Violation exists, either through the complaint and

investigative process as set forth above, or through independent inspections or observations, a Warning Letter will be sent to the Owner by first-class United States mail to the address of the Owner on record with the Association notifying the Owner of: (i) the covenant or rule violated and the nature of the Continuous Violation, (ii) that the Owner must have the Continuous Violation corrected within 7 days after the date of the Warning Letter, and (iii) that failure to timely cure the Continuous Violation may result in potential fines or other sanctions.

- (b) *First Fine Notice and Opportunity to Be Heard.* If an Owner fails to cure a Continuous Violation within 7 days of the date of the Warning Letter, a notice of potential fine and opportunity to be heard (the “**First Fine Notice**”) will be sent to the Owner by first-class United States mail to the address of the Owner on record with the Association notifying the Owner of the Continuous Violation and of the potential fine that may be imposed, pursuant to the fine schedule set forth in Section 11 below, if the Continuous Violation is not cured. The First Fine Notice shall further state that the Owner is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing by the Owner within 7 days of the date of the First Fine Notice.
- (c) *Second Fine Notice and Opportunity to be Heard.* If after 7 days of the date of the First Fine Notice, the Owner has not requested a hearing or cured the Continuous Violation, another notice (the “**Second Fine Notice**”) will be sent to the Owner to by first-class United States mail to the address of the Owner on record with the Association demanding that the Owner cure the ongoing Continuous Violation and notifying the Owner that an additional fine may be imposed, pursuant to the fine schedule set forth in Section 11 below. The Second Fine Notice shall further state that the Owner is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing by the Owner within 7 days of the date of the Second Fine Notice.
- (d) *Continuing Violation.* In the event that a Continuing Violation continues to exist uninterrupted 7 days after the date of the Second Fine Notice and the Owner has not requested a hearing pursuant to any previous notice, the Association may in its discretion, in addition to any other remedy, send the Owner a notice of daily fines (the “**Daily Fine Notice**”), which shall advise the Owner of the possible imposition of daily fines pursuant to the fine schedule set forth in Section 11 below and which shall provide the Owner with the opportunity for a hearing if requested within 7 days of the date of the Daily Fine Notice.

5. Enforcement Process for Repetitious Violations. Upon determining that a “**Repetitious Violation**” (defined as a violation that occurs at a set point in time and does not require time to cure, such as the parking of a restricted vehicle in the community or leaving trash cans out beyond the time allowed) has occurred, the Association, acting through the Board or the Association’s management company, if any, shall take the following steps:
  - (a) *Warning Letter.* If the Board, or the Association’s management company, if any, determines that a Repetitious Violation has occurred, either through the complaint and investigative process as set forth above, or through independent inspections or observations, a Warning Letter will be sent to the Owner by first-class United States mail to the address of the Owner on record with the Association notifying the Owner of the covenant or rule violated and the nature of the Repetitious Violation, and that any subsequent violations of the same covenant or rule within 7 days of the date of the Warning Letter may result in the imposition of fines.
  - (b) *Notices of Repetitious Violations.* If an Owner subsequently violates the same covenant or rule within 7 days of date of the Warning Letter, each such instance shall constitute a separate Repetitious Violation for which fines may be imposed pursuant to the fine schedule set forth in Section 11 below. Upon the occurrence of each subsequent Repetitious Violation, a letter will be sent to the Owner by first-class United States mail to the address of the Owner on record with the Association advising the Owner of the Repetitious Violation and of the fine to be imposed (each a “**Repetitious Fine Notice**”). Each such Repetitious Fine Notice shall state that the Owner is entitled to a hearing on the merits of the matter provided that such hearing is requested in writing by the Owner within 7 days of the date of the particular Repetitious Fine Notice. The Board of Directors may hear more than one violation at any hearing requested.
6. Notice of Hearing. If a hearing is requested by an Owner in response to any notice advising the Owner of the right to a hearing, the Board, committee or other person conducting such hearing as may be determined in the sole discretion of the Board, shall serve a written notice of the hearing to all parties involved at least 7 days prior to the hearing date.
7. Impartial Decision Maker. Pursuant to Colorado law, an Owner has the right to be heard before an "**Impartial Decision Maker**". An Impartial Decision Maker is defined under Colorado law as "a person or group of persons who have the authority to make a decision regarding the enforcement of the association's covenants, conditions, and restrictions, including architectural requirements, and other rules and regulations of the association and do not have any direct personal or financial interest in the outcome. A decision maker shall not be deemed to have a direct personal or financial interest in the outcome if the decision

maker will not, as a result of the outcome, receive any greater benefit or detriment than will the general membership of the association." Unless otherwise disqualified pursuant to the definition of Impartial Decision Maker, the Board may appoint to act as the Impartial Decision Maker the entire Board, specified members of the Board, any other individual or group of individuals.

8. Hearing. At the beginning of each hearing, the presiding officer shall introduce the case by describing the alleged violation and the procedure to be followed during the hearing. Each party or designated representative, may, but is not required to, make an opening statement, present evidence and testimony, present witnesses, and make a closing statement. The presiding officer may also impose such other rules of conduct as may be appropriate under the given circumstances. The Impartial Decision Maker shall base its decision solely on the matters set forth in the Complaint, results of the investigation and such other credible evidence as may be presented at the hearing. Unless otherwise determined by the Board, all hearings shall be open to attendance by all Owners. After all testimony and other evidence has been presented at a hearing, the Impartial Decision Maker shall, within a reasonable time, not to exceed 7 days, render its written findings and decision, and impose a fine, if applicable. Failure to strictly follow the hearing procedures set forth above shall not constitute grounds for appeal of the hearing committee's decision absent a showing of denial of due process.
9. Failure to Timely Request Hearing. If an Owner fails to request a hearing within the number of days specified in any letter advising the Owner of the right to a hearing, the Association, acting through the Board or the Association's management company, if any, may apply the applicable fine to the Owner's account without the necessity of holding a hearing. If an Owner requests a hearing and then fails to appear at the hearing, the Impartial Decision Maker may make a decision with respect to the alleged violation based on the Complaint, results of the investigation, and any other available information without the necessity of holding a formal hearing. If a violation is found to exist, the Owner may be assessed a fine pursuant to these policies and procedures.
10. Notification of Decision. The decision of the Impartial Decision Maker and the imposition of any fine shall be in writing and provided to the Owner within 7 days of the hearing, or if no hearing is requested, within 7 days of the failure of the Owner to request a hearing.
11. Fine Schedule. The following fine schedule has been adopted for any and all covenant and rule violations:

(a) *Continuous Violations:*

First Fine Notice:	\$25.00
Second Fine Notice:	\$50.00
Daily Fine Notice:	\$100.00/day

(b) *Repetitious Violations:*

First Repetitious Fine Notice:	\$25.00
Second Repetitious Fine Notice:	\$50.00
Each subsequent Repetitious Fine Notice	\$100.00

(c) *Attorney Turnover.* Any Continuous Violation that remains uncured 1 month after the date of the Second Fine Notice or the date of Daily Fine Notice, if sent, or the First occurrence of a Repetitious Violation may be turned over to the Association's attorney to take appropriate legal action.

12. Waiver of Fines. The Board of Directors may waive all, or any portion, of the fines if, in its sole discretion, such waiver is appropriate under the circumstances. Additionally, the Board may condition waiver of the entire fine, or any portion thereof, upon the Owner coming into and staying in compliance with the Articles, Declaration, Bylaws or Rules.
13. Other Enforcement Means. This fine schedule and enforcement process is adopted in addition to all other enforcement means which are available to the Association through its Declaration, Bylaws, Articles of Incorporation and Colorado law. The use of this process does not preclude the Association from using any other enforcement means.
14. Definitions. Unless otherwise defined in this Resolution, initially capitalized or terms defined in the Declaration shall have the same meaning herein.
15. Supplement to Law. The provisions of this Resolution shall be in addition to and in supplement of the terms and provisions of the Declaration and the law of the State of Colorado governing the Project.
16. Deviations. The Board may deviate from the procedures set forth in the Resolution if in its sole discretion such deviation is reasonable under the circumstances.
17. Amendment. This Resolution may be amended from time to time by the Board of Directors.

