

**Spruce Creek Property Owners' Association, Inc.**  
**Board Resolution Adopting**  
**Policies and Procedures**  
**Regarding**  
**Fines and Suspension of Use Rights for Use Restriction Violations**

The Board of Directors has adopted this resolution pursuant to Article V, Section P., sub-section 5. of the Bylaws. This resolution supersedes any prior resolutions or policies previously adopted by the Board of Directors to the extent any such resolutions or policies are in conflict with the policies and procedures herein. The Association's Board of Directors hereby resolves to provide for the following policies and procedures regarding fines and suspension of use rights due to use restriction violations:

1. Content of Hearing Notice. In the Board's or board's designee's discretion, if the owner of a parcel or its occupant, licensee, or invitee fails to comply with any provision of the declaration, the association bylaws, or rules of the Association, the Association or its designee may send a notice to the owner and the owner's tenant(s) or other known occupants, if applicable, which shall include the following:
  - a. include a brief summary of the alleged violation(s);
  - b. state that the Association will be seeking to fine and/or suspend the use rights of all residents, guests and invitees of the property;
  - c. state what use rights will be suspended if the suspension is imposed;
  - d. inform them that they have an opportunity to appear before the Compliance Review Committee at a hearing to dispute the fine and/or suspension before it is imposed.
  - e. specify the date, time and place scheduled for the hearing.
  
2. Service of Notice. Notice shall be delivered by (i) personal delivery; or (ii) certified or registered U.S. mail, return receipt requested. The certified or registered mail does not have to be accepted by the owner or occupant in order to be deemed effective notice, provided the Association mailed the notice to the owner's property address within the community, or, if the owner provided an alternate mailing address for official notices from the Association, to the alternate mailing address provided by the owner.
  
3. Requests For Rescheduling of Hearing. In its sole discretion, the Board of Directors may agree to allow an owner to reschedule the Compliance Review Committee hearing for a later date if the owner will reasonably be unable to be present for the originally scheduled hearing. An owner desiring to reschedule the hearing must contact the Association's designee as stated in the notice for the hearing in order to request the hearing to be rescheduled. However, the owner's request must be received no later than twenty-four hours prior to the originally scheduled hearing date in order to qualify for rescheduling the hearing, unless the Board or the Board's designee determines that, due to circumstances beyond

the owner's control, the hearing should be rescheduled. In addition, the Board of Directors will not consider an owner's willful absence in the off season (i.e. "snowbirds") as reasonable grounds for rescheduling the compliance hearing. Any rescheduled hearing should take place at the next available compliance hearing date, but which must be held no more than sixty (60) days from the date of the originally scheduled hearing unless otherwise approved by the Board of Directors. No hearing may be rescheduled by the owner more than once unless the Board or its designee determines there are sufficient and substantial grounds for doing so.

4. Minimum Notice Prior to Hearing. The hearing shall be held no less than fourteen (14) days after the notice was sent in the mail to all known persons subject to the notice. A person may also waive notice of the meeting, and will be deemed to have waived such notice in the event the person or their counsel appears for the hearing, except if appearing for the sole purpose of objecting to the hearing due to insufficient notice.
5. Committee Member Selection. The Compliance Review Committee will be appointed by the Board of Directors and will consist of at least three (3) members. A member of the committee shall not be an officer, director, or employee of the Association, or the spouse, parent, child, brother or sister of an officer, director or employee. Residents will be asked to be part of a pool of available committee members. The committee may appoint a committee chairperson for the hearing, provided, however, that the Board of Directors may designate a chairperson prior to the hearing.
6. Association's Presentation of Alleged Violation(s). At the hearing, an Association representative shall present to the Compliance Review Committee evidence of the alleged violation(s). The Association may, but is not required to, call witnesses to testify in person.
7. Owner's Right to Speak; Right to Legal Representation. If the owner(s), or other persons whose use rights are subject to possible fine and/or suspension, appear for the hearing, they each must also be given the opportunity to be heard by the Compliance Review Committee and allowed to present evidence in support of their defense. The owner(s) or other persons whose use rights are subject to the hearing may opt to be represented by legal counsel at their own expense.
8. Failure to Appear for Hearing. If the owner or other applicable persons do not appear at the hearing at the designated time, the hearing will continue in their absence.
9. Duties of Compliance Review Committee. The Compliance Review Committee members will evaluate the evidence presented, and may ask the Association representative and/or any of the respondents from the property any questions relevant in determining whether a fine and/or suspension should be imposed.

The committee is not bound by the rules of evidence or rules of civil procedure, but must weigh any evidence or testimony submitted in a fair and reasonable manner in a light most favorable to the alleged violator(s).

10. Fining Guidelines; Limitations. The Association, through the Compliance Review Committee, may levy reasonable fines of up to \$100.00 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 rules of the Association. A fine may be levied for each day of a continuing violation, with a single notice and opportunity for hearing; provided, however, that the fine may not exceed \$1,000 in the aggregate, unless a greater amount is permitted in the governing documents, as amended from time to time. Pursuant to Florida law, a fine of less than \$1,000 may not become a lien against a parcel, but a fine of \$1,000 or more may become a lien against a parcel.
11. Suspension Guidelines; Limitations. The Association, through the Compliance Review Committee, 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 of the Association. However, any such suspensions shall not include that portion of common areas used to provide access or utility services to the parcel, nor impair the right of an owner or tenant of a parcel to have vehicular and pedestrian ingress to and egress from the parcel, including, but not limited to, the right to park. The determination of what constitutes a reasonable period of time for the suspension will be determined by the Association's Board of Directors, considering the nature and extent of the violations, whether the violator(s) have committed the same violation(s) in the past, and the amount of time imposed by the committee when it considered similar instances in the past, if applicable. The Association Board shall propose the amount of the fine and/or length of the suspension, which the committee must accept as proposed, or reject.
12. Vote Needed to Impose Fine/Suspension. A majority of the Compliance Review Committee must find that the fine and/or suspension of use rights should be imposed against the owners and/or tenants, etc., or the fine(s)/suspension(s) cannot be imposed by the Association.
13. Post-Hearing Notice. If the Compliance Review Committee approves the fine and/or suspension of any or all of the persons, the Association shall thereafter provide written notice of the fine and/or suspension by mail or hand delivery to the owner(s) and, if applicable, to any known tenant, licensee, or invitee of the owner.
14. Content of Post-Hearing Notice. The notice to be sent to the owner(s) and other affected persons following the hearing will state when the suspension will become effective, when the suspension will end, and specify what use rights will

be suspended. In addition, if a fine is to be imposed, the notice will state the amount of the fine due, and the due date for the fine, which must be no less than thirty (30) days from the date the notice is to be sent.

15. Additional Notification For Tenants. If the property has been rented, the notice sent to the tenant should also state that the tenant should provide a copy of a current, written lease to the Association's Office before the date in which the suspension is to become effective in order for the tenant to be permitted access to the property without the need for the guard to have to call the owner each time the tenant comes to the entrance gate.
16. Commencement of Suspension. Upon the date specified in the notice(s), the transponders for all vehicles registered to the property shall be disabled until the suspension period has expired; provided, however, that in the event a fine has also been levied, the transponders will not be reactivated until such fines have also been paid.
17. Election of Remedies. The Association Board's submission of any alleged violations to the Compliance Review Committee shall not preclude the Association from seeking any and all other remedies at law or in equity, which may be in lieu of, or in addition to, the remedies contemplated herein.

So ADOPTED at the duly noticed meeting of the Board of Directors of the Spruce Creek Property Owners' Association, Inc., held on the 11<sup>th</sup> day of September, 2012.

SPRUCE CREEK PROPERTY OWNERS'  
ASSOCIATION, INC.



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Michael R. Hay, President