

This instrument prepared by/return to:
Chase Mills, Esq.
Jackson Law Group
1301 Plantation Island Drive, Suite 304
St. Augustine, FL 32080

FOURTH AMENDMENT
TO THE
BYLAWS OF
HALIFAX PLANTATION PHASE I HOMEOWNER'S ASSOCIATION, INC.

THIS FOURTH AMENDMENT to the Bylaws of Halifax Plantation Phase I Homeowner's Association, Inc. ("Association") is made this 18 day of November 2016.

WHEREAS, the Declaration of Covenants and Restrictions Halifax Plantation, Phase I and Notice of Provisions of Halifax Plantation Phase I Homeowner's Association, Inc. ("Declaration") was recorded on March 18, 1986 in the Official Records of Volusia County, Florida at Book 2797, Page 1385, et seq.; and

WHEREAS, the Association was formed as a Florida not-for-profit corporation for the purposes of fulfilling the duties and obligations set forth in the Declaration; and

WHEREAS, Article XII of the Association's Bylaws provides that the Bylaws may be amended at a regular or special meeting of the Board by an affirmative vote of a two-thirds (2/3) majority of the Board of Directors; and

WHEREAS, on November 15, 2016, at a duly constituted meeting of the Board of Directors, at least two-thirds (2/3) of the members of the Board of Directors voted to amend the following provision of the Bylaws concerning the enforcement and fining policies of the Association; and

THEREFORE, the President and Secretary of the Association hereby attest to the following Recitals and that the following amendment to Article XI of the Bylaws has been approved by the requisite percentage of the members of the Board of Directors of the Association:

1. **Recitals.** The foregoing recitals are true and correct and are hereby incorporated herein by this reference.

2. **Amendment.** The present text of Article XI of the Bylaws is deleted in its entirety and replaced with the following (**Note that the corresponding text of Section IV(G) and Appendix Three of the Halifax Plantation Phase I Homeowner's Association, Inc. Rules and Regulations shall also be deleted in its entirety*):

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ARTICLE XI
ENFORCEMENT

Section 1. Fines and Suspensions. As permitted by Section 720.305 of the Florida Statutes, the Association may levy reasonable fines or suspend the rights to use common areas and facilities for the failure of a member or a member's tenant, guest, invitee, or other occupant to comply with the provisions of the Association's Declaration, Articles of Incorporation, Bylaws, and Rules and Regulations ("Governing Documents"). The procedure for imposing such fines or suspensions are as follows:

a. The member or the member's tenant, guest, invitee, or other occupant against whom the fine or suspension is sought to be levied ("Violating Party") shall be afforded an opportunity for a hearing before a committee consisting of at least three (3) members appointed by the Board of Directors who are not officers, directors, or employees of the Association, or the spouse, parent, child, brother, or sister of an officer, director, or employee ("Review Committee").

b. Upon discovery of a violation, the Violating Party will be sent a written courtesy notice describing the nature of the violation and the timeframe for compliance. The courtesy notice shall also include notice that a fine or suspension, or both, may be imposed if the violation continues after the deadline for correcting the violation. If the circumstances of the violation are such that immediate compliance and remedial action are necessary, then the notice shall so provide.

c. If a violation remains after the deadline provided in the courtesy notice, or if the nature of the violation is not able to be deemed continuing but a substantially similar violation occurs after the courtesy notice has been sent, the Board of Directors shall make a determination on whether to impose a fine or suspension upon the Violating Party. Alternatively, the Board of Directors, at its discretion, may authorize an individual to recognize violations, impose fines and suspensions, and provide the requisite notices to a Violating Party for violations of the Association's Governing Documents ("Enforcement Authority"). The Enforcement Authority shall be appointed by a majority vote of the Board of Directors at a duly noticed meeting where a quorum is met. It is specifically contemplated that this shall be a delegation of the authority to impose a fine or suspension as set forth in Section 720.305(2) of the Florida Statutes.

d. Once a fine or suspension is imposed by the Board of Directors or the Enforcement Authority, a second written notice ("Hearing Notice") shall be sent to the Violating Party and shall:

- (1) Cite to the specific provision of the Governing Documents violated;

- (2) Advise that a fine or suspension, or both, has been imposed (in an amount not to exceed \$100.00 per day per violation) and provide the date, time, and location of the hearing before the Review Committee (“Hearing”).
- (3) Be mailed or hand delivered to the Violating Party at least fourteen (14) days prior to the scheduled Hearing.

e. The courtesy notice and the Hearing Notice may be sent by a member of the Board of Directors, the Enforcement Authority (if applicable), or an agent of the Association, including but not limited to the Association’s respective management company or attorney, after receiving direction to do so by the Board of Directors, and shall be sent via U.S. Mail or hand delivery to the address furnished by the Violating Party to the Association for the purposes of receiving correspondence from the Association. If no such address has been furnished, notice shall be deemed to be properly sent once placed in the mail and addressed to any location where the Violating Party may reasonably receive the notice given the information reasonably available to the party sending the notice; provided, however, that a Violating Party shall have no right to object to the adequacy of notice if that party fails to furnish an address to the Association.

f. A fine may be imposed for each day that a violation continues from and after the date of the Hearing Notice, even if the violation is corrected prior to the Hearing. No additional notices other than those specifically contemplated above shall be required to impose a fine each day for a continuing violation. However, the Review Committee may consider the fact that a violation has been corrected and may reject the imposition of a fine or suspension upon correction of the cited violation(s) and a good-faith showing by the Violating Party that he, she, or it will comply with the Governing Documents in the future.

g. At the commencement of the Hearing, proof of notice and the invitation to be heard shall be placed in the minutes of the meeting. Such proof shall be deemed adequate if a copy of the notices, together with a statement of the date and manner of delivery, is entered by the officer, director, or agent who delivered such notice. The notice requirement shall be deemed satisfied if the Violating Party appears at the Hearing.

h. At the Hearing, the Violating Party may provide testimony as to why the fine and/or suspension should not be confirmed. The Review Committee may ask questions of the Violating Party as part of the hearing process and may consider any reliable evidence presented by the Violating Party. The Board of Directors shall have the authority to adopt further documents including, but not limited to, procedures, guidelines, and reports for the Review Committee to use during the Hearing.

i. The determination of whether to confirm or reject a fine or suspension shall be decided by majority vote of the Review Committee. If a decision is not made during the Hearing, the Review Committee shall have ten (10) days (excluding holidays) after the Hearing to make a determination of whether to confirm or reject the fine or suspension, or both. It is specifically contemplated and authorized that the Review Committee may reduce, but may not increase, the amount of a proposed fine or duration of a proposed suspension imposed by the Board of Directors or Enforcement Authority. The Board of Directors shall not have the authority to impose a fine or suspension for a violation when the Review Committee rejects a fine or suspension; however, the Board shall have the discretion to vacate a fine or suspension after it has been confirmed by the Review Committee.

j. The decision of the Review Committee shall be provided to the Board of Directors or its agent, after which the Board of Directors or its agent shall:

- (1) If provided to the Board of Directors' agent, advise the Board of Directors of the Review Committee's determination as soon as practicable;
- (2) Provide written notice to the Violating Party regarding the decision of the Review Committee; and
- (3) Follow up with appropriate invoices, billing, and collection activity as then or subsequently may be appropriate.

k. A Violating Party who commits a violation within twelve (12) months following the date of a previous violation of a substantially similar nature shall not be entitled to a courtesy notice as set forth above. Rather, the Board of Directors, its agent, or the Enforcement Authority (if applicable), may immediately send a Hearing Notice to the Violating Party and that party may be subject to a fine or suspension commencing on the date that the Hearing Notice is placed in the mail or hand delivered.

Section 2. Fines Amounts and Liens. A member is jointly and severally liable with a violating tenant, guest, invitee, or any other occupant for any fines imposed as a result of a violation of the Governing Documents by any tenant, guest, invitee, or other occupant, and any suspension imposed shall apply to the member in addition to the Violating Party. A fine shall not exceed \$100.00 per day for each day that the violation continues and shall not exceed \$1,500.00 in the aggregate per violation. If a fine reaches or exceeds \$1,000.00 in the aggregate, it shall automatically become a special assessment against the lot owned by the member to whom the violation is attributable (irrespective of whether the violating conduct was committed by the member), after which the Association may record a claim of lien and institute foreclosure proceedings. All fines that become liens shall

be subject to interest and late fees in the highest amount permitted by law regarding unpaid assessments.

IN WITNESS WHEREOF, the President and Secretary of Halifax Plantation Phase I Homeowner's Association, Inc. have executed and attest to this Fourth Amendment to the Bylaws of Halifax Plantation Phase I Homeowner's Association, Inc. on the day and year written above.

Witnesses

Halifax Plantation Phase I Homeowner's Association, Inc.

Patricia Weekley
Signature of Witness 1

Robert P Lund
Signature of President

Patricia Weekley
Printed

Robert P Lund
Printed

Stacey Konopa
Signature of Witness 2

Carol A Guerra
Signature of Secretary

Stacey L. Konopa
Printed

Carol A Guerra
Printed

STATE OF FLORIDA
COUNTY OF Flagler

The foregoing instrument was acknowledged before me this 18 day of November, 2016, by Robert Lund, as President and by Carol Guerra, as Secretary of Halifax Plantation Phase I Homeowner's Association, Inc., who are personally known to me or [] have produced _____ as identification.



Christine Gardner
Notary Public, State of Florida At Large
(Print, Type, or Stamp Commissioned Name of Notary Public)