

## **PASEO MASTER ASSOCIATION, INC.**

### **DISCIPLINE POLICY - Nuisance and Misconduct Cases**

*(Adopted by the Board of Directors by Resolution, July 10, 2017)*

#### **I. Nuisance and Misconduct Defined**

Per the Paseo Master Declaration, a "nuisance" is a noxious, illegal or offensive activity or other action or noise that disturbs the peace, quiet, safety, comfort or serenity of other residents and their family members and guests.

"Misconduct" for the purposes of this policy, is the improper interference with the proper functioning or activities of the Master HOA and its common areas and amenities, or with those who work at or use the common areas and amenities, or other action or conduct that otherwise damages the Master HOA and its property.

Subject to the general definitions above, the following shall constitute a nuisance and/or misconduct:

- Disruption of, or improper interference with the administrative, sporting, social or other activities of the Master HOA, whether on the Master HOA premises or elsewhere
- Obstruction of or improper interference with the functions, duties or activities of any fellow member, resident, guest, manager or staff member
- Violent, indecent, disorderly, threatening or offensive behavior or language whilst on Master HOA property or engaged in any Master HOA activity
- Fraud, deceit, deception or dishonesty in relation to the Master HOA or its staff or in relation to being a member of the Master HOA
- Behavior or conduct likely to cause injury or impair the safety of others on Master HOA property
- Sexual, racial or any other form of harassment of any fellow member, resident, guest, manager or staff member
- Intentional or reckless damage, misuse or defacement of Master HOA property or the property of another resident or guest

- Conduct which constitutes a criminal offense that takes place on Master HOA property or affects or concerns other members, residents, guests, managers or staff members

#### **11. Procedures**

The following procedure will apply to all violations and infractions involving nuisance and misconduct as defined above.

- (1) Residents may report violations to the Association Manager by submitting a written notice describing the violation.
- (2) The Board of Directors, the Association Manager, or committee appointed by the Board of Directors, may also note any violations discovered during a walk-through or by personal knowledge.

Owners are responsible for their own conduct and the conduct of their family members, tenants, guests, contractors, pets and other invitees. While reserving the right to issue warnings and take corrective action directly against an Owner's family member(s), tenant, guest or other invitee, the Master HOA will initiate and direct all warnings and disciplinary procedures to the responsible Owner.

#### **A. Initial Warning**

At the time a violation is noted or reported, the Master HOA may, but is not required, to:

- (1) Contact the offending member or resident by phone or in-person warning
- (2) Contact the offending member or resident in writing at their last known official address on file with the Master HOA. The notice will contain a description of the violation, and instructions regarding corrective action that is needed.

Notwithstanding the above, in circumstances involving conduct that involves a) an immediate or unreasonable threat to safety or quiet enjoyment; b) a fire hazard; c) a threat of material damage or destruction to Master HOA property; or d) prior violation(s) for the same offense, the Master HOA may in its sole discretion forego an initial warning and take immediate corrective or legal action.

#### **B. Second Warning and Penalty**

After the initial warning as provided above, if the violation continues or is repeated, the Association Manager shall issue a second and final written warning to the offending party and bring the matter before the Master HOA Board for consideration of a penalty.

If the violation has not been completely corrected before review by the Board, the Board may consider fines of up to \$100.00 per instance (with each day being a separate fineable instance) . The Board may also consider a suspension of access to amenities and/or voting rights. Calculation of the daily fines will begin the first day following the deadline for compliance provided in the second and final warning.

#### **C. Review by Violations Committee**

Pursuant to Florida law, persons who are fined or suspended will receive written notice from the Association Manager or Association Attorney, specifying the fine or suspension imposed and notifying them of their opportunity to meet with the Violations Committee to present reasons why the fine or suspension is invalid or improper. Such a meeting will take place at least 14 days following issuance of the aforementioned written notice.

At a meeting of the Violations Committee where the validity of a fine or suspension is considered, the facts of the alleged infraction(s) shall be presented to the Violations Committee. The person(s) being fined or suspended shall then have a reasonable opportunity to present evidence that may contradict or refute the validity of the fine or suspension. The Violations Committee may choose to reject irrelevant evidence and exclude any person(s) from the meeting who are not present to offer helpful and relevant evidence.

After considering all facts and evidence, the Violations Committee shall exclude all persons from the meeting. The Violations Committee then, by majority vote, may either approve or disapprove the penalty(s) imposed by the Board and report their decision to the Association Manager. The committee shall not have the discretion to strengthen, weaken or otherwise modify the Board's penalty: If the committee approves the fine or suspension, it may then be enforced by the Master HOA to the fullest extent allowed by law.

#### **D. Fines**

- (1) All fines shall be added to the Owner's Master HOA ledger and accrue interest at the maximum legal rate until paid. No fine shall exceed one thousand dollars (\$1,000.00)

in the aggregate for a single violation. However, fines that reach \$1,000 shall be treated as an assessment against the Owner's lot or unit and shall be secured by a lien if not paid within forty-five (45) days of the Master HOA's written notice of intent to lien.

- (2) If a valid fine remains unpaid for more than 90 days, the Board will have the right to suspend access to amenities and voting rights with a single written notice to the Owner. No additional hearing is required.

#### **E. Suspensions**

- (1) The length and extent of a suspension shall be set by the Master HOA Board in its sole and absolute discretion. The terms of the suspension shall be reasonable and commensurate with the severity of the violation. The Board shall have the discretion to strengthen or extend the terms of a suspension for repeat violations.

#### **F. Other Remedies**

In cases where fines and/or suspensions are not effective or practicable, the Board of Directors will have the right to seek legal counsel and consider pre-suit mediation under section 720.311, Florida Statutes, and other more severe legal remedies. Owners in violation who fail or refuse to correct a violation will be responsible for the Association's legal expenses if such legal remedies become necessary.

Done and Resolved this \_\_\_\_ day of \_\_\_\_\_, 2017.

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Title: Board President