

VILLA BORGHESE
Homeowner's Association, Inc.

Compliance Committee
and Compliance
Program

Approved and Adopted by the Board of Directors
Amended on November 12, 2018

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ARTICLE 1: DEFINITIONS

As used in this document:

“Alleged Violations” means violations by a resident or guest of the Association’s rules and regulations and/or ARC Guidelines that are reported to the Property Manager, as well as violations that the Property Manager witnesses as result of inspection initiatives. As stated in the Association’s rules and regulations, residents are responsible for their guests’ compliance with the rules and regulations. In situations where a guest is allegedly in violation of the Association’s rules and regulations or ARC Guidelines, the resident will be considered in violation and the violation notification will be sent to the resident. In situations where a lessee is allegedly in violation of Association’s rules and regulations and/or ARC Guidelines, the lessee will be considered in violation and the violation notification will be sent to the lessee with a copy sent to the owner.

“ARC” means the Association’s Architectural Review Committee.

“ARC Guidelines” means the Association’s Architectural Review Committee Guidelines and Community Standards.

“Association” means the Villa Borghese Homeowners Association.

“Board” means the Villa Borghese Association Board of Directors.

“Covenants” means the Declarations of Covenants, Restrictions and Easements for Villa Borghese.

“Guest” means a resident’s family members, invitees, contractors and other persons for whom the resident is accountable, or persons for whom the resident exercises control and supervision.

“Lessee” means a person(s) who is leasing a home from an owner.

“Owner” means an owner of a lot and home in the Villa Borghese community.

“Resident” means a Villa Borghese owner or lessee.

ARTICLE 2: ENFORCEMENT AUTHORITY

2.1 Authority for Compliance Committee and Compliance Program

In accordance with Florida State Statutes regarding Homeowner Associations, and Section 1 of Article IX of the Covenants, the Board has created a Compliance Committee and Compliance Program that will be uniformly enforced in dealing with violators of the Association rules and regulations. The Program was put into effect on March 21, 2016 by Board approval and resident notification at the March 21, 2016 Board meeting.

2.2 Association Rules and Regulations

The Association rules and regulations present a fair and balanced approach of what is required in order for all Villa Borghese residents to have a civil and well-functioning community. They explain how the

Villa Borghese community operates, define resident responsibilities, provide clarity and direction to residents as to what is permissible and what is not permissible, and address how and when penalties may be imposed if residents violate the rules.

The Association rules and regulations adopted by the Board are the rules and regulations that are referred to in this document. All sections of these rules and regulations are subject to resident compliance as of such date, except as may be exempted by the Board, including but not limited to:

ARC Guidelines. Any work application submitted and approved by ARC prior to the effective date of the updated rules and regulations shall be subject to the previous rules and regulations.

Leasing a Home/Selling a Home. Any sale documents or lease agreements entered into prior to the effective date of the updated rules and regulations shall be subject to the previous rules and regulations.

Pets. Pets acquired and brought into the Villa Borghese community before the effective date of the updated rules and regulations may remain in the community. However:

- a. In situations where a resident has more than one pet, when one of the pets dies, the resident will not be permitted to replace that pet.
- b. In situations where a pet that exceeded the permitted weight dies, a resident who decides to replace that pet must comply with the weight rules.

ARTICLE 3: VIOLATIONS CLASSIFIED

3.1 Violations That Have Already Taken Place

A resident or their guest may violate the Association's rules and regulations and/or ARC Guidelines based on behavior that has already taken place. Examples of these situations include but are not limited to, violations of the Association's rules and regulations regarding the following:

- *Clubhouse:* proper attire, smoking, resident/guest conduct, clean-up, access from pool and spa areas, vandalism, etc.
- *Clubhouse Card and Game Rooms:* card play rules, eating/drinking other than as permitted, moving furniture, residents/guests conduct, vandalism, etc.
- *Eating/Drinking in Clubhouse and Pool Area* other than as permitted.
- *Gym:* child and guest use, proper attire, leaving weights on the floor, residents/guests conduct, vandalism, etc.
- *Parking and Use of Vehicles:* parking on wrong side of street, overnight parking on street, parking on grass, commercial vehicle parking, etc.
- *Pets:* dog not on leash, excessive barking, pet clean-up issues, etc.
- *Pool, Spa, and Pool and Spa Areas:* age limit issues, use of breakable items, smoking, resident/guest conduct, vandalism, etc.
- *Tech Committee equipment:* handling or removal of equipment, vandalism, etc.
- *Trash, Recycling and other Refuse:* refuse not bagged; trash can without a lid; trash out early or on wrong pick-up day; late removal of empty trash cans and recycling bins from the street;

not placing trash can or recycling bins in the garage, home or birdcage after pick-up; storing lumber or other building materials, discarded furniture and other household items on Association property or outside a home or lot; landscaping debris out on wrong day, vandalism, etc.

- *Use of Association Property and Recreational Areas*: clean-up issues, excessive noise (construction and otherwise), vandalism, etc.
- *Use of Lakes*: access, swimming, etc.

3.2. All Other Violations

Residents or their guests may violate the Association's rules and regulations and/or ARC Guidelines and such violations are required to be rectified. Examples of these situations include, but are not limited to, violations of the Association's rules and regulations and ARC Guidelines regarding the following:

- ARC Guidelines for homes, lots, landscaping, improvements, hurricane shutters, etc.
- Pets: number and size issues
- Boat or recreational vehicle kept on resident's property.

ARTICLE 4: PROCESSING ALLEGED VIOLATIONS OF THE ASSOCIATION'S RULES AND REGULATIONS AND/OR ARC GUIDELINES

4.1 Reporting Alleged Violations of the Association's Rules and Regulations and/or ARC Guidelines

Alleged violations of the Association's rules and regulations and ARC Guidelines may be witnessed directly by the Property Manager or shall be reported to the Property Manager. The report shall be submitted on the required form and shall include the evidence needed to support the allegation.

4.2 Role of the Property Manager

a. The Property Manager shall investigate reported alleged violations to determine the validity of the allegation.

b. Prior to a sale or leasing of a home, the Property Manager shall inspect the home site to ensure that it is in compliance with all Association rules regulations and ARC Guidelines.

c. As the first stage of the Program, the Property Manager shall conduct a physical survey of all homes to identify violations of the Association's rules and regulations and ARC Guidelines. The survey may focus on:

- landscaping: dead trees, installations;
- mailboxes: peeling, dirty, moldy, etc.;
- accordion and other hurricane shutters;
- prohibited vehicles, such as trucks, boats, recreational vehicles, motorcycles; and

- improvements (additions, extensions, changes) to the home exterior and property: pools, patios, screening, fencing, etc.

In accordance with the Association's rules and regulations and ARC Guidelines, the Property Manager shall identify installations and improvements that are subject to the ARC Guidelines and review ARC records to ascertain if a resident secured a required ARC authorization and approval for the installation/improvement.

d. As an ongoing phase of the Program, the Property Manager will also conduct weekly inspections of the Association's common area property, as well as other inspections requested by the Compliance Committee and/or the Board.

All violations will follow the process specified in item 4.3 below.

4.3 Notification of an Alleged Violation and Right to a Hearing

a. For Violations That Have Already Taken Place:

If the allegation is validated, the Property Manager will:

(i) *for a first time violation(s)*, send a warning letter to the resident specifying the Association's rule(s) and regulation(s) and/or ARC Guideline(s) in violation, type of violation(s) and evidence of it, and notifying the resident that future violations of this type may be subject to penalties as specified in Article 6.

(ii) *for a second and repeated violation(s)*, ask the Board of Directors to approve the imposition of a penalty, and in the case of a fine impose one not to exceed \$1,000 and send a letter, certified and return receipt required, to the resident specifying the Association's rule(s) and regulation(s) and/or ARC Guideline(s) in violation, type of violation and evidence of it, advising that the violation is subject to a fine, suspension of the resident's right to use of Association property and/or other permissible sanctions under Article IX of the Association's Covenants, and notifying the resident that he/she has a right to appeal the violation(s) at a hearing with the Compliance Committee within fourteen (14) days of receipt of the violation letter.

The Property Manager will notify the resident of the date and time of the Committee hearing by a certified and return receipt required letter. If the resident fails to appear at the hearing, the Property Manager shall send a certified and return receipt required letter to the resident informing him/her of the Board approved penalty determined in accordance with Article 6 of the Compliance Program.

b. For All Other Violations

If the allegation is validated, the Property Manager will send a letter to the resident specifying the Association's rule(s) and regulation(s) and/or ARC Guideline(s) in violation, type of violation and evidence of it, what is required to rectify the violation(s), and the deadline for rectifying which will be twenty-five (25) days from the date of the letter.

If the Property Manager determines that the violation(s) is not rectified within the twenty-five (25) days, the resident will be sent a second letter, certified and return receipt required, notifying him/her that he/she continues to be in violation and that he/she is entitled to appeal the violation(s) at a hearing with the Compliance Committee.

The Property Manager will ask the Board of Directors to approve an imposition of a penalty, and in the case of a fine to impose one not to exceed \$1,000.

The Property Manager will notify the resident of the date and time of the Committee hearing by a certified and return receipt required letter. If the resident fails to appear at the hearing, the Property Manager shall send a certified and return receipt required letter to the resident informing him/her of the Board approved penalty determined in accordance with Article 6 of the Compliance Program.

ARTICLE 5: COMPLIANCE COMMITTEE

5.1 Purpose of the Compliance Committee

The purpose of the Committee is to conduct an impartial hearing of resident appeals of notices sent to them in writing by the Property Manager regarding alleged violation of the Association's rules and regulations and/or ARC Guidelines and either approve or disapprove the penalty, fine and/or suspension, as approved by the Board.

The Committee will not issue violations, assess fines, police the Association community or perform any compliance officer duties. These tasks will be performed by the designated Association Compliance Officer or designated Property Management staff.

5.2 Compliance Committee Members and Term of Appointments

The Committee shall consist of owners appointed annually by the current Board. There shall be a chair, two (2) other Committee members and two (2) alternates.

5.3 Role of the Compliance Committee Chair

The Committee chair shall establish the agenda, run the meetings, and along with the two other members, participate in the decisions regarding resident's appeals, and report the Committee's decisions and rationale to the Secretary of the Board.

5.4 Frequency of Compliance Committee Meetings Where Appeals Are Heard

The Committee shall meet on an as needed basis to ensure that all appeals are heard in a timely manner.

5.5 Compliance Committee Hearing

At the Committee hearing, the resident has the opportunity to provide information/evidence supporting his/her appeal of the violation(s). This may include why he/she believe a violation(s) has not occurred, why he/she are exempt from the particular requirement of the Association's rules and regulations and/or ARC Guidelines, what their solution is to rectify the violation(s), or other arguments to convince the Committee to overrule the violation(s).

5.6 Compliance Committee Decision

Based upon the information provided, the Compliance Committee will make a decision if there has been a violation of the Association's rule(s) and regulation(s) and/or ARC Guidelines that required the resident to take action and/or rectify the violation, and either approve or disapprove the penalty, fine and/or suspension, approved by the Board. The decision of the Committee will be made by a vote of its members and a report of the decision will be submitted in writing to the Property Manager. The

decision of the Committee is final and binding on the residents, as well as the Board as there is no further appeal process.

5.7 Notification of Compliance Committee Decision

The Property Manager shall send a certified and return receipt required letter to the resident informing him/her of the Compliance Committee's decision. If the Committee decides that a resident is in violation, the letter shall also include the Board's decision regarding the penalty to be imposed in accordance with Article 6.

ARTICLE 6: IMPOSING PENALTIES

6.1 Association Action To Recover From Resident Sums Due for Damages and/or Injunctive Relief

Article IX of the Covenants allows the Association to recover from a resident sums due for damages and/or injunctive relief if a resident or his/her guest fails to comply with the Covenants and/or the Association's rules and regulations.

6.2 Suspending a Resident's Use Rights to Association Property

Article IX of the Covenants allows the Board, at its sole discretion, to suspend a resident's use rights to Association property if such resident fails to comply with the Covenants and the Association's rules and regulations.

6.3 Fines

In accordance with Florida State Statutes regarding Homeowner Associations, and Section 1 of Article IX of the Covenants, each day a violation is not rectified may be treated as a separate violation, and the maximum fine per violation is \$50, not to exceed \$1,000 in the aggregate (for all days that a violation continues).

6.4 Fines to be Treated as Assessments

A fine shall constitute an assessment where allowable under Florida law.

6.5 Allocation of Fines Collected

All monies received from imposed fines shall be allocated as directed by the Board.

6.6 Fines for Violations That Have Already Taken Place

The first violation is subject to a warning. Repeated violations of the same type will be subject to \$50 for each occurrence.

6.7 All Other Fines

In accordance with Florida State Statutes regarding Homeowner Associations, and Section 1 of Article IX of the Covenants, each day a violation is not rectified may be treated as a separate violation, and the maximum fine per violation is \$50, not to exceed \$1,000 in the aggregate per violation (for all days that a violation continues).

ARTICLE 7: MAINTAINING RECORD OF VIOLATIONS AND THEIR DISPOSITIONS

7.1 Records of Violations and Their Dispositions to be Property of the Association

The records of violations and their dispositions shall be the property of the Association.

7.2 Role of Property Manager

The Property Manager shall maintain a record of all alleged and validated violations, including but not limited to:

- copies of letters sent to residents
- copies of information provided by residents in response to allegation of a violation
- copies of Compliance Committee decisions, if applicable
- record of the penalties imposed by the Board: assessments, liens, recovery of sums due for damages, injunctive relief, suspension of resident's use of right to Association property, as applicable, and
- record (date/amount) of resident's payment of fines imposed.

The Property Manager shall also maintain a record of all repeat violators.

7.3 Role of the Compliance Committee

The Compliance Committee shall receive from the Property Manager all documents and information necessary for its members to conduct an impartial hearing. Upon completion of the hearing, the Committee chair or his/her designee shall complete the required record of voting form and submit this form along with a written record of the hearing to the Property Manager. The written record shall include the identity of the resident, the date and time of the hearing, the members present, the nature of the violation, the essence of the deliberations, and the decision made by the Committee to either approve or disapprove the penalty, fine and/or suspension, by the Board.

7.4 Role of the Board

The Board shall maintain a record of all deliberations held with regard to resident violations (dates, times, members present, etc. and the decision it makes with regard to whether or not it imposed a penalty, and the amount and/or type of penalty).

7.5 Confidentiality of Violation Deliberations and Records

The Property Manager, the Compliance Committee and the Board shall be responsible for safeguarding the confidentiality of deliberations and records related to resident violations.