

RESOLUTION ESTABLISHING
FINING COMMITTEE ("COVENANT ENFORCEMENT COMMITTEE") AND
CREATING VIOLATION AND FINING PROCESS

WHEREAS, the Chapel Trail Owners Association, Inc. ("Association") is the corporation charged with the operation, maintenance and management of the residential community in Broward County known as Chapel Trail ("Chapel Trail"); and

WHEREAS, the day-to-day affairs of the Association are administered by the Board of Directors of the Association ("Board"); and

WHEREAS, Section 720.305, Florida Statutes, authorizes the Association to levy reasonable fines, as applicable, for failure of the owner of the lot or its occupant, licensee, or invitee to comply with any provision of the Governing Documents of Chapel Trail, as defined in Section 720.301, Florida Statutes; and:

WHEREAS, the Board resolves to empower the Property Manager ("Manager") to initiate the violation and fining process for non-monetary violations by authorizing the issuance of the required notices and otherwise administering the violation and fining procedure; and

WHEREAS, the Board resolves to create a Covenant Enforcement Committee (the "Committee"), as contemplated by Section 720.305, Florida Statutes.

NOW, THEREFORE, it is hereby resolved as follows:

1. The above recitations are true and correct and are hereby incorporated into this Resolution.
2. The Committee shall consist of up to five (5) Members; only three (3) members are required to constitute a quorum of the Committee to take action and render decisions on behalf of the Committee. The decision of the majority of the Committee members present at a Committee meeting where a quorum has been obtained shall be the decision of the Committee. The initial/current members of the Committee are Nancy Waring, Robert Tapia, Paul Schue, Julie Rodriguez, and Felipe Ventura. The Committee members shall serve at the pleasure of the Board of Directors. The Committee members may be removed or replaced by resolution of the Board, documented in the minutes. The Committee members must be Owners in Chapel Trail, but may not be Board members or persons

residing in a Board member's household. The Board shall have the power to fill vacancies in the Committee and, at any time, remove any member of the Committee with or without cause. The Board shall also have the power to dissolve the Committee. The Committee members shall elect a Chair and a Vice-Chair from among its members.

3. The Manager shall have the discretion to initially address violations through the issuance of a "Notice of Violation" in the form attached to this Resolution as **Exhibit "1."**

The Manager may confer with the President and or legal counsel in attending to this function, but shall be delegated the general authority and responsibility to provide initial notices of violations of the Governing Documents as well as violations of any policies, resolutions or lawful orders of the Board of Directors or applicable provisions of law. It shall generally be the policy of the Association to issue a Courtesy Notice to first time offenders for minor violations. It shall generally be the policy of the Association that where a person sought to be fined has violated the Governing Documents in the past, or where the alleged violation is sufficiently serious, as determined by the Manager or the President, violation and fining procedure may be initiated without a prior warning/opportunity to cure.

4. If, after issuance of a Notice of Violation, the violation is not resolved to the satisfaction of the Manager, the Manager, on behalf of the Board, shall be empowered to continue the violation and fining process by placing on the agenda for a regular or special meeting of the Board of Directors consideration of levying a fine.

5. If, at the meeting of the Board of Directors, a majority of the Board votes to levy a fine, the Lot(s) and person(s) against whom the fine is levied shall be delivered written notice of the Board's action and shall be further notified of a hearing before the Committee where the fine shall be considered by the Committee for confirmation or rejection. The written notice shall be in the form of a "Notice of Hearing" attached to this Resolution as **Exhibit "2"** and shall be delivered by certified mail, return receipt requested, with an additional copy by regular mail. E-Mail copies may also be sent, but are not required. If the fine is confirmed by the Committee, the fine may be deemed imposed without further action of the Board of Directors unless a contrary intention is reflected in the minutes of the Board meeting where the fine is levied.

6. The Committee shall be empowered to conduct fining hearings. At least three (3) Committee Members are required for a quorum of the Committee. Actions of the Committee shall be by vote of a majority of the Committee Members present. At said hearings, the Committee shall be empowered to either confirm or reject the fine levied by the Board.
7. If the Committee confirms the fine, it will be deemed imposed upon Committee's confirmation of the fine, as provided above, and shall be imposed after the Committee's hearing unless the minutes of the Board meeting levying the fine state otherwise. Once the fine is imposed, the Manager shall deliver a "Notice of Imposition of Fine" in the form of **Exhibit "3"** to this Resolution.
8. The Committee hearing will be conducted by the Chairman of the Committee or the Manager. After the Committee hearing is held, the Committee shall send the Board a "Report of Covenant Enforcement Committee" ("Report") in the form of **Exhibit "4"** to this Resolution. The Chair or Vice-Chair of the Committee shall be required to sign the Reports, which signature shall be presumed to represent the decision of the Committee. If the Board meets simultaneously with the Covenant Enforcement Committee, no Report shall be required and the decision of the Committee shall be reflected in the minutes of the Board meeting.
9. The Board may delegate such other powers and duties to the Manager or to such other person as may be necessary or appropriate under the circumstances. The Board may adopt additional policies and procedures for the Manager or such other persons to follow, or to be utilized in connection with the violation and fining process, as the same may be amended from time to time.
10. General compliance with this Resolution shall be sufficient, it being intended that this Resolution be used as a guideline to ensure fairness in the violation and fining process. It is the intention of this Resolution and its exhibits that persons sought to be fined are given reasonable notice to be heard before the imposition of a fine of use rights. The Manager, in consultation with the President, where appropriate, shall have the authority to disregard the provisions of this Resolution in circumstances where the alleged behavior of

a person constitutes a violation of criminal law, or poses a threat to the health, peace, safety, or welfare of the residents of the Community, or in other circumstances where the Association believes such disregard is justified. Compliance with this Resolution and the imposition of fines shall not be deemed a prerequisite to the initiation of legal proceedings or other remedies to enforce the Governing Documents nor shall they constitute an election of remedies.

CHAPEL TRAIL OWNERS ASSOCIATION, INC.

BY: _____


Jacqueline Terrero, President

Date: _____

9-14-16

(CORPORATE SEAL)

NOTICE OF VIOLATION
FIRST AND ONLY PRIOR TO FINING

_____ [Date Sent]

FIRST CLASS MAIL

TO: [Lot owner Address of Record, Name All Record Owners Per Deed]

Dear Lot Owner:

The following violations of the Governing Documents of Chapel Trail Owners Association have been committed by you, your Lot's Occupants or Tenants:

[Insert and describe violation(s) in detail here including citation to Governing Documents.]

Please be advised that if this violation (*these violations*) is (*are*) not corrected by [date[□]], or if further violations occur, the Association reserves the right to take further action against you to enforce the Governing Documents. **THIS IS YOUR ONLY NOTICE PRIOR** to when fines will begin to accrue against your lot starting on [day after above to be corrected by date] in the amount of \$ 100 per day up to the maximum allowed by law. If fines are accrued against your lot, said fines will be levied against you by the Board. You will have the opportunity to appear before a committee of other unit owners to appeal the fine after at least fourteen (14) days' notice to you.

You are required to notify the Property Manager, preferably in writing once the items(s) have been corrected by e-mail at violations@chapeltrailfl.com or US mail at 9050 Pines Blvd. Suite 480, Pembroke Pines, Fl. 33024 or by calling 954-639-4505. Once the manager has verified completion, you will be sent a confirmation that the completion has been verified. Correction of the violation does NOT mean a fine will not / cannot still be imposed. You may still receive a Notice of Hearing with a fine amount. If you receive a Notice of Hearing you still must attend the hearing or a fine may still be imposed against you.

If you fail to comply, in addition to the above, further legal action may ensue without further notice or demand. Such legal action may include (but is not limited to): the filing of a lawsuit for damages in the court of appropriate jurisdiction and/or the filing of a lawsuit for an injunction in the court with appropriate jurisdiction. In the event the Association takes any of the foregoing legal actions, the association will seek to recover its attorney's fees and cost as permitted by the Governing Documents and Chapter 720, Florida Statutes. Moreover, fines of \$1,000.00 or more can become a lien against the Lot.

Very truly yours,

** In general, 30 days' notice will be given for correction of most violations. The Manager shall have the authority to require more timely compliance, including immediate compliance, in appropriate circumstances, as well as more liberal compliance deadlines, as determined in the discretion of the Manager in consultation with the President.*

[Association Manager]

On behalf of the Board of Directors

Exhibit 1

NOTICE OF HEARING

_____ [Date Sent – Should be at least 14 days before hearing, 20 days for out of state]

CERTIFIED MAIL # [Fill in Tracking Number from Green Card Here]

TO: [Lot Owner Address of Record, Name All Record Owners Per Deed]

Dear Lot Owner:

Section 720.305(3), Florida Statutes, and the Board's Resolution dated _____, 2016 authorize the Chapel Trail Owners Association, Inc. ("the Association") to levy fines for failure of the Owner of a Lot, its Occupants or Tenants to comply with any provision of the Governing Documents.

The violation described in the Association's Notice of Violation dated _____, 20____, has not been corrected based on and/or has resumed.

[Insert and describe violation(s) in detail here including citation to Governing Documents.]

Accordingly, the Association's Board of Directors has levied a fine against you in the amount of [insert **THE BOARD LEVIED AMOUNT** of fine]

If you have now resolved the violation(s), you are required to notify the Property Manager, preferably in writing by e-mail at violations@chapeltrailfl.com or US mail at 9050 Pines Blvd. Suite 480, Pembroke Pines, Fl. 33024 or by calling 954-639-4505. Once the manager has verified completion you will be sent a confirmation that the completion has been verified. Correction of the violation does NOT mean a fine will not / cannot still be imposed. Based on this Notice of Hearing a fine may still be imposed against you.

Pursuant to §720.305, Florida Statutes, a hearing before the Covenant Enforcement Committee (the "Committee," an impartial committee of Lot owners who are neither Board members nor persons residing in a Board member's household), will be held on the [day] day of [month] 20[year], at [time] at [place, include address] to determine whether to confirm or reject the fine levied by the Board of Directors.

You have a right to attend the hearing to respond, **to present evidence, and to provide written** or oral argument. You shall have an opportunity at the hearing to review, challenge, and respond to any material considered by the Association. You also have a right to be represented by counsel at the hearing. If you intend to appear with counsel, please notify the Association, in writing, no later than seven (7) days prior to the hearing so that the Association has sufficient time to arrange for its counsel to be present should it choose to do so.

If you fail to appear at the hearing, the hearing will proceed and the fine will, if confirmed by the Committee, be imposed after the hearing has been conducted in your absence. If you

have any questions about scheduling, please contact *[Association Manager]* at *[phone number]* or *[e-mail address]*.

In the event that the Committee confirms the fine levied by the Board of Directors, the fine will be imposed. If the Committee rejects the fine, it will not be imposed. You will receive written notice of any fine imposed. Moreover, fines of \$1,000.00 or more can become a lien against the Lot.

Very truly yours,

[Association Manager]

On behalf of the Board of Directors

cc: *[Lot Owner by regular mail w/ encl]*

EXHIBIT 2

NOTICE OF IMPOSITION OF FINE

_____ [Date Sent]

CERTIFIED MAIL # [Fill in Tracking Number from Green Card Here]

TO: [Lot Owner Address of Record, Name All Record Owners Per Deed]

Re: Notice of Violation Dated [Fill In]; Hearing Held [Fill In]

Dear Lot Owner:

The Covenant Enforcement Committee (the "Committee") confirmed the fine levied by the Board of Directors in the amount of \$ 1000 cumulative, as authorized by law. As such, the Board of Directors has imposed a fine in the total amount of \$ 1000.

Once the violation is cured, you **must** contact this office in writing at violations@chapeltrailfl.com or US mail at 9050 Pines Blvd. Suite 480, Pembroke Pines, Fl. 33024, so that completion can be verified. Once the manager has verified completion and you will be sent a confirmation that the completion has been verified.

[Insert and describe violation(s) in detail here including citation to Governing Documents.]

Payment of the fine is due (must be received by the Association) no later than fifteen (15) days from the date of this notice. You may remit payment of the fine at the Association office located at 9050 Pines Blvd. Suite 480, Pembroke Pines, Fl. 33024. Checks should be made payable to the Chapel Trail Owners Association, Inc.

If you fail to pay the fine, the Association reserves all rights available under law to collect the fine. These include (but are not limited to), additional fines and fees as may be permitted by law, filing an action in a court of competent jurisdiction to recover the fine. Pursuant to the Governing Documents and Section 720.305, Florida Statutes, the prevailing party in any action to collect a fine is entitled to recover their attorneys' fees from the non-prevailing party. Pursuant to Florida law, the prevailing party in other proceedings is likewise entitled to recover reasonable attorney's fees and costs. **Moreover, fines of \$1,000.00 or more can become a lien against the Lot.**

Thank you for your prompt attention to this matter.

Very truly yours,

[Association Manager]

On behalf of the Board of Directors

cc: [Lot Owner by regular mail]

EXHIBIT 3

Report of Covenant Enforcement Committee - For meeting of MM/DD/YYYY

Account #	Sub	Lot Owner	Address	Violation	Who appeared on behalf of Lot	List any mitigating circumstances provided	CEC Decision – with any notes	Dissenting votes – if not unanimous
							Impose Fine	
							Reject Fine	

Notice of Hearing verified for all (Other than Appeals) on list by Property Manager: _____ Date: _____

Signed: _____
Chair or Vice-Chair of Covenant Enforcement Committee

Print Name: _____

Date: _____

EXHIBIT 4